



sometimes referred to as “plaintiff”). He is an exceptional, outstanding first rate law enforcement officer in his own right. His professional reputation among law enforcement is essentially impeccable, unimpeachable, flawless and irreproachable, and his work record, along with his police Local union position, is fundamentally unblemished. He stays to himself, inconveniences no one on the job and is only concerned with both his subordinate officers (who he shows an implacable loyalty to) and being the finest law enforcement officer he can be. Additionally, he is well respected by all outside law enforcement agencies, both local and federal. Simply put, law enforcement officers do not come any better. Additionally, in his past capacity as a union representative for his Local also, he is/was under a fiduciary duty to be outspoken on behalf of the officers he represented and protect them all in terms of work conditions, work issues, work environment and other employer/employee relations.

3. Defendant City of Hoboken (hereinafter referred to as “City”) is a municipal corporation of the State of New Jersey located in Hudson County. It is governed under the Mayor/Council form of government, controlling the day-to-day operations of the Hoboken Police Department (hereinafter referred to as “HPD”) in terms of hiring, monitoring, checking, retention, training, watching over, terminating and ensuring that no officer within the HPD violates any rule, regulation or statute. That said, however, upon information and belief, defendant Hoboken has allowed defendant Kenneth Ferrante to utilize both the New Jersey State Civil Service Promotional process and the Internal Affairs process within the HPD to exist/function rife with inconsistencies, preferential treatment, perversion, irregularities, abnormalities, illegalities, manipulation, wrongdoings and misdeeds, and Hoboken has acted with unacceptable and abhorrent deliberate indifference to all Promotional and Internal Affairs issues, as well as Kenneth Ferrante’s vengeful motives, there in the HPD.

Additionally, Hoboken has allowed (and indeed fostered, promoted, adopted, ratified, and directly and/or indirectly approved) the within recited misgivings and unlawful actions of defendant Kenneth Ferrante within the HPD for a substantial number of years, and purposely does not fill certain promotional positions that it should promptly fill based on pure, unadulterated merit, albeit there is room on the HPD Table of Organization to do so and the HPD needs the position to be filled. Accordingly, Monell liability attaches herein.

4. Defendant Kenneth Ferrante (hereinafter referred to as “Ferrante”), is the Chief of the HPD who, upon information and belief, rules in a quasi-tyrannical fashion toward officers he personally does not like. As Chief of the HPD, Ferrante routinely makes it known that he exercises substantial influence among high-ranking City officials and enjoys significant, unheard of and unfettered autonomy within the HPD relative to all promotional and internal affairs decisions that are of any significance/moment. Indeed, Ferrante is of a reckless/vicious/discriminatory/vengeful/retaliatory mindset and has outward and obvious propensities within the HPD in this very same regard. Upon further information and belief, defendant Ferrante is also legendarily known for manipulating the HPD internal affairs and promotional examination process so as to enable him to hand pick some, bypass others, influence the governing body and convolute the procedure, practice and manner of/for promotion and discipline within the HPD. And again, upon further information and belief, Ferrante made it widely known within the HPD that he never liked plaintiff Gonzalez at all, the genesis of which the plaintiff or no other rational person can understand or comprehend.

#### RELEVANT FACTUAL AVERMENTS

5. In March, 2019, the plaintiff's nightmare inexplicably began. Prior to that time, the plaintiff was known to be outspoken about various customs, practices and goings-on in the HPD

which he believed to be in violation of certain statutes and/or Rules and Regulations of the HPD, as well as state law and the New Jersey State Attorney General Guidelines.

6. At that same time, a serious/staid/grave incident occurred there at the HPD involving then Captain Charles Campbell (now retired) of the HPD, an admitted very close friend/ally of defendant Ferrante. As a HPD Lieutenant, the plaintiff was under an obligation to (and indeed did) submit a memo regarding this incident up the chain of command (Exhibit A). The memo is self - explanatory, and complained about the exceedingly inappropriate conduct of both Campbell and defendant Ferrante. The plaintiff had an absolute right and indeed obligation to do so, pursuant to his NJ state Freedom of Speech rights, his NJCEPA rights and his NJCRA rights.
7. Defendant Hoboken was then constrained to investigate same, as the complaint was properly made in writing, albeit Hoboken never took any action prior thereto, all the while knowing that Ferrante and Campbell were essentially out of control. In essence, Hoboken previously turned a blind eye toward same, with an unashamed and deliberate indifference, but now had no choice but to commence an investigation into the alleged improprieties. Its hands were tied.
8. Upon information and belief, Hoboken then unilaterally chose an attorney to “investigate” the plaintiff’s complaints, and paid that same attorney, thereby de facto making that attorney their very own agent/representative/proxy. How Hoboken believed that this person would be entirely objective remains beyond belief, as no rational person would or could conceive that the same person hired and paid by Hoboken to do so would ever find that Hoboken did anything illegal, wrong, untoward or violative of any law, rule or regulation. Simply put, the eventual outcome of this sham/bogus “investigation” would undoubtedly result in a decision that Hoboken would assuredly be cleared of any wrongdoing, negligence or deliberate

indifference. Although Hoboken should have ensured that any Internal Affairs matter involving its Chief of Police was handled by the Hudson County Prosecutor's Office, it never was.

9. Upon information and belief, the above-mentioned "investigation" was then conducted, wherein myriad HPD officers were interviewed and, upon further information and belief, a large majority of those officers spoke about the hostile atmosphere created and lingering in the HPD, which atmosphere was created by Campbell and allowed to exist, unchecked, by defendants Ferrante and Hoboken.
10. Again, upon information and belief, this "investigation" resulted in the allegations against Campbell apparently being overwhelmingly sustained (and likely facing a 180 day suspension), yet no wrongdoing was found to have taken place by either defendants Ferrante or Hoboken. This investigative determination not finding any wrongdoing by Ferrante was absurd, bizarre, quizzical and bemusing.
11. As a result, and to the chagrin, astonishment and amazement of many, Campbell was allowed to retire from the HPD in good standing, and no administrative/internal affairs charges were brought against him, a direct violation of the New Jersey State Attorney General Guidelines dealing with Internal Affairs Policies and Procedures (NJSAGG, IAPP's).
12. Thereafter, and as the plaintiff had expected, he was summonsed to a Captain's office, and was "thanked" for making/registering his complaint with the HPD. This congratulatory meeting, for want of a better word, was ludicrous/vacuous, as the real gist of the complaint was made as against defendant Ferrante for allowing Campbell to act unchecked and with Ferrante's tacit approval. The plaintiff was told at that time that "the city decided not to charge Ferrante and Campbell" - nothing whatsoever was done to Ferrante, despite

overwhelming/clear and convincing proof that he allowed, was aware of and fostered that horrible work atmosphere. The plaintiff literally scoffed at this pretextual “thank you”, knowing that defendant Ferrante would then make it his life’s mission to make the plaintiff’s work life miserable within the HPD and would eventually find a way to retaliate against the plaintiff for complaining about him and his very close friend, Campbell. In short, the plaintiff was waiting for the proverbial shoe to drop.

13. And indeed it did. After Campbell was allowed to retire in good standing, the resounding word around the HPD was that defendant Ferrante would assuredly target and retaliate against those who spoke out against both he and Campbell. The plaintiff was walking on eggshells for weeks upon weeks.
14. During roll call on July 19, 2019, the plaintiff, as a HPD superior officer and Lieutenant, addressed his officers present, stating, in words or substance, that based upon the written complaint he previously made, Campbell was found to be in violation of HPD rules and regulations (which is exactly what the plaintiff was already told by his superior officers), that if it was thereafter found out that any of the HPD officers lied when they were spoken to, he would have to, pursuant to HPD protocol, urge their termination from the HPD to his superiors and that he was going to consult legal counsel to get a true and accurate copy of the investigative report (which was in fact an OPRA-able document in the first instance in any event).
15. The plaintiff further stated to his officers that no one in the HPD was beyond the law or reproach and that no one was immune from discipline, including defendant Ferrante. The plaintiff went on to say that the officers at all times had to remember their oath of office, and that they all worked for the HPD, not the “Ferrante” police department, so as to allow

his officers to operate and perform their law enforcement duties absent fear of any retaliation or abuse.

16. Immediately thereafter, Ferrante seized upon the opportunity, and the plaintiff was illegally, improperly, illegitimately and indecorously charged with a multitude of internal affairs charges, which he knew would eventually happen because of his initial written complaint about Campbell and defendant Ferrante. Defendant Ferrante utilized the internal affairs process and blatant adverse employment action in a convoluted and perverted fashion, so as to specifically target the plaintiff for his March 2019 complaint about him (Ferrante) and Campbell. This action by Ferrante was puerile, silly, childish and inane, merely meant to be retaliatory and vengeful, thereby ruining the plaintiff's future within the HPD and stymieing his ability to be promoted any further. Same was also meant to humiliate the plaintiff in front of all his subordinate officers, so as to lessen his respect and effectiveness within the HPD.
17. In order to be able to continue working there at the HPD with a clear head, and because defending against those internal affairs charges would prove futile and would increase Ferrante's wrath toward the plaintiff, the plaintiff was constrained to accept a "plea deal" that Ferrante authorized, accepting a ten (10) day suspension. Although the plaintiff voluntarily accepted this deal, he truly had no other choice (it was nothing other than a "Hobson's Choice") as, if he did not accept same, Ferrante would have either sought his termination or sought a substantially worse/longer suspension period.
18. Defendant Hoboken never stepped in at any time to curb this absurd internal affairs debacle, displayed a deliberate indifference to and indeed joined with defendant Ferrante in authorizing his action and mandating that the plaintiff accept the above-mentioned "plea deal".



19. As a result, any future promotional opportunity the plaintiff may have had to obtain the rank of Captain or above has now been eviscerated by defendant Ferrante, with the imprimatur of defendant Hoboken.
20. As is clearly evidenced by the above, the plaintiff has suffered, at the hands of the defendants, a severe/drastring adverse employment action, merely because he properly exercised his NJSC, NJCEPA and NJCRA rights afforded to him.

**COUNT ONE**

**(N.J. CONSCIENTIOUS EMPLOYEE PROTECTION ACT)**

21. Plaintiff repeats the allegations set forth in all preceding paragraphs.
22. During the relevant time period mentioned herein, all procedural prerequisites of N.J.S.A. 34:19-1 et seq were satisfied.
23. Plaintiff Gonzalez was at all relevant times and “employee” within the meaning of N.J.S.A. 34:19-2(b).
24. Each defendant was at all relevant times an “employer” as defined in N.J.S.A. 34:19-2(a). Ferrante was also a “supervisor” within the meaning of N.J.S.A. 34:19-2(d).
25. As aforescribed, the plaintiff reasonably believed that the actions and conduct of Ferrante and Campbell, done in the course of their employment, were practices of his employer done in violation of the New Jersey Constitution and/or laws, rules or regulations promulgated pursuant to law, established codes of conduct and ethics, a clear mandate of public policy, or were criminal and unethical.
26. Plaintiff Gonzalez objected to and complained about such conduct and practices, and refused to participate in same, as aforementioned, and thereby performed protected employee “whistle-blowing” activities pursuant to N.J.S.A. 34:19-3.



27. As set forth above, systematic and continued adverse employment action was taken against the plaintiff, and there was a direct causal connection between the plaintiff's protected whistle-blowing activities and the adverse employment action taken by both defendants.
28. Defendants do not have any legitimate, non-discriminatory or non-retaliatory reason or justification for the adverse employment action taken against the plaintiff, and any reason defendants may advance is mere pretext.
29. As the direct and proximate result of defendants' unlawful retaliation in violation of N.J.S.A. 34:19-1, et seq., the plaintiff has been and will continue to be substantially damaged as aforesated.

**WHEREFORE**, plaintiff Gonzalez demands judgment in his favor and against Hoboken and Ferrante as follows:

- (a) for compensatory damages, as well as all statutorily allowable damages and enhancements;
- (b) for punitive damages pursuant to the NJPDA;
- (c) for interest;
- (d) for attorneys' fees and costs of suit; and
- (e) for such other and further relief as the Court deems equitable and just.

**COUNT TWO**

**(NEW JERSEY CIVIL RIGHTS ACT- 10:6-1, ET SEQ – AS AGAINST ALL DEFENDANTS)**

30. As is laid out above specifically and with particularity, defendants Ferrante and Hoboken acted separately and/or in concert to deprive plaintiff Gonzalez of the privileges or immunities secured by the Constitution and/or laws of the State of New Jersey, specifically, NJSC Article I, Section 6, and interfered with or attempted to interfere with, by threats,

intimidation or coercion, under color of state law, Gonzalez's rights thereunder, as well as his rights under the NJCEPA.

31. Prior to the relevant/above mentioned dates, Hoboken developed, cemented, engrained and maintained policies or customs exhibiting deliberate indifference to the NJ State Constitutional rights of HPD officers, which eventually caused the appalling violations of the plaintiff's NJ State Constitutional freedom of speech and NJCEPA rights by defendant Ferrante.
32. Additionally, defendant Hoboken was deliberately indifferent and failed to use reasonable care in the selection of Ferrante as Chief, failed to properly train and/or supervise him in the area of the NJSAGG, IAPP's, and failed to prevent the promotional abuses and state civil rights violations and/or collective violations of the plaintiff's rights.
33. Further, Hoboken, under color of state law, directly or indirectly approved or ratified the unlawful, malicious and wanton conduct of Ferrante herein.
34. Moreover, Hoboken failed to properly train Ferrante regarding the NJSAGG, IAPP's, which defendant Ferrante continuously misused.
35. Unequivocally, Hoboken knew or should have known that Ferrante would eventually cause serious state civil rights violations to be visited upon Gonzalez caused by Hoboken's deliberate indifference.
36. Indeed, the lack of training of defendant Ferrante led to his violating the plaintiff's NJ State Constitutional rights.
37. Notwithstanding the above, Hoboken's governing body refused to retain, teach or properly train Ferrante in how to follow the NJSAGG, IAPP's and/or properly promote/treat/act toward Gonzalez.

38. The lack of training and/or the inadequate training in these areas is surely tantamount to a custom and/or policy that encourages and indeed, as occurred herein, caused the violation of these human rights, specifically, Ferrante purposely retaliating toward Gonzalez simply because Gonzalez properly spoke out pursuant to the NJCEPA, NJCRA and NJSC.
39. Hoboken's blatant and deliberate indifference herein led to the inescapable fact that if it trained Ferrante properly, then the within repugnant and illegal NJ State Constitutional (and other) deprivations would never have taken place.
40. Additionally, Ferrante himself purposely, intentionally, illegally, improperly, dishonestly, illicitly and fraudulently utilized the internal affairs process to retaliate against the plaintiff for the plaintiff's proper invocation/usage of his rights under the NJCEPA, NJCRA and NJSC.

**WHEREFORE**, plaintiff Gonzalez demands judgment in his favor and against

Hoboken and Ferrante as follows:

- (a) for compensatory damages, as well as all statutorily allowable damages and enhancements;
- (b) for punitive damages pursuant to the NJPDA;
- (c) for interest;
- (d) for attorneys' fees and costs of suit; and
- (e) for such other and further relief as the Court deems equitable and just.

### **COUNT THREE**

#### **(NJSC ARTICLE I, SECTION 6 - FREEDOM OF SPEECH)**

41. At all relevant times mentioned herein, the plaintiff had the absolute/inviolable right to speak out the way he did regarding the above-mentioned wrongs, pursuant to his NJSC freedom of speech protections.

42. Although the plaintiff had that right, both defendants penalized him brutally for doing so, in direct violation of the NJSC.

**PRAYER FOR RELIEF**

**WHEREFORE**, plaintiff Gonzalez prays that this honorable Court:

- (a) accept jurisdiction over this matter;
- (b) empanel a jury to hear and decide this matter;
- (c) award against defendants compensatory and punitive damages in a manner determined by the jury, as well as issuing a direct Order and/or legal finding as to the defendants to cease and desist from engaging in any further malicious, instigating, illegal and/or improper manner toward the plaintiff as a result of his exercising his constitutionally protected state rights;
- (d) award to plaintiff the reasonable attorneys' fees, interest and costs of this litigation; and
- (e) for such/any other relief that this Court deems equitable and just.

**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 4:35-1, the plaintiff herein demand a trial by jury on all counts.

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-4 and Rule 4:5-1(c), Patrick P. Toscano, Jr., is hereby designated trial counsel for the plaintiff.

**DEMAND FOR DISCOVERY OF INSURANCE INFORMATION**

Pursuant to Rule 4:10-2(b), please comply with plaintiff's request for all insurance information.

**CERTIFICATION**

I hereby certify, upon information and belief, that the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding.

I also certify, upon information and belief, that at the present time no other action or arbitration with respect to the matter in controversy is contemplated. On the basis of the present knowledge, I am aware of no other party or parties who should be joined in this action.

Dated: March 3, 2020

By: s/ Patrick P. Toscano, Jr.  
Patrick P. Toscano, Jr.