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*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

ALAIN GOMEZ

Plaintiff,

vs.

TOWN OF WEST NEW YORK, FELIX  
ROQUE, individually and in his official  
capacity as Mayor of the Town of West New  
York, FIORD' ALISA FRIAS, individually  
and in her official capacity as Commissioner  
of the Town of West New York, SILVIO  
ACOSTA, individually and in his official  
capacity as Deputy Mayor of the Town of  
West New York, JOSEPH ROQUE, ABC  
CORPORATIONS 1-10 (names being  
fictitious), and JOHN DOES 1-10 (names  
being fictitious),

Defendants.

Civil Action No.

**COMPLAINT AND JURY DEMAND**

**PRELIMINARY STATEMENT**

1. This is an action brought by the Plaintiff against his employers, the Town of West New York, DR. FELIX ROQUE, in his official capacity as Mayor of West New York and

individually, and JOSEPH ROQUE. Plaintiff seeks judgment of this Court against Defendants for relief permitted under the New Jersey Civil Right Act, N.J.S.A. 10:6-1 et seq. (“NJCRA”), Civil Rights Violations under 42 U.S.C. Section 1983 (“Section 1983”), the Conscientious Employees Protection Act, N.J.S.A. 34:19-1 et seq. (“CEPA”), and violations of Plaintiff’s Due Process rights under the Federal and State Constitutions.

### **PARTIES**

2. Plaintiff ALAIN GOMEZ (“Gomez” or “Plaintiff”) was and is a resident of the State of New Jersey, residing in the County of Hudson, Town of West New York.

3. Gomez was at all relevant times herein an employee of the Town for the purposes of the NJCRA, Section 1983, and CEPA.

4. At all relevant times, Gomez was employed by the Town as a data processing clerk, the Urban Enterprise Zone (“UEZ”) Coordinator, the Deputy Director of the Department of Parks and Public Property (the “Parks Department”), or a laborer.

5. Defendant, the TOWN OF WEST NEW YORK (the “Town” or “West New York”) is a Municipal Corporation incorporated under the laws of the State of New Jersey and located in the County of Hudson.

6. Defendant DR. FELIX ROQUE (“Mayor Roque”) is being sued individually and in his official capacity. At all relevant times herein, Mayor Roque was the Mayor of West New York serving as the chief policy and decision maker for the Town as well as Plaintiff’s supervisor. Mayor Roque was also a licensed doctor operating the Pain Relief Center, a medical practice, and another medical office, located in West New York and Union City.

7. Defendant FIORD' ALISA FRIAS ("Commissioner Frias") is being sued individually and in her official capacity. At all times relevant to the claims alleged herein, Commissioner Frias served as Commissioner of the Town.

8. Defendant SILVIO ACOSTA ("Deputy Mayor Acosta") is being sued individually and in his official capacity. At all times relevant to the claims alleged herein, Deputy Mayor Acosta served as the Deputy Mayor and Chief of Staff for the Town.

9. Defendant JOSEPH ROQUE, son of Mayor Roque, is being sued individually. He is currently a Commissioner for the Planning Board of the Town. Upon information and belief, he resides in East Meadow, New York.

10. Defendants ABC Corporations 1-10, John Doe 1-10 are fictitious parties who are unknown to Plaintiff at this time but who may be identified during discovery in this matter.

### **JURISDICTION**

11. This action arises under the First, Fifth Fourteenth Amendments to the United States Constitution and under 42 U.S.C. Section 1983.

12. Jurisdiction is properly laid in this Court pursuant to 28 U.S.C. Sections 1331, 1332, 1343(a) (3) and 1343(a) (4). Plaintiff invokes the pendent jurisdiction of this Court to consider claims arising under State law.

13. The amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

14. Venue is proper pursuant to 28 U.S.C. Section 1391(b).

**FACTS COMMON TO ALL CAUSES OF ACTION**

15. Gomez was raised and spent his adult life in the Town and as such, Gomez and his family are well known, popular, and politically prominent individuals in the Town.

16. Plaintiff was particularly active in local politics. He participated on a campaign during every single election since 1995, when he was eighteen years old.

17. In or about February of 1998, the Town hired Gomez to work as a clerk for the Public Affairs Department.

18. During the subsequent years, Gomez earned several promotions.

19. In 2008, the contract for his then position as fire official expired.

20. In May of 2011, he was re-hired by the Town as a data processing clerk.

21. In June of 2011, Plaintiff was promoted to the position of UEZ Coordinator. Prior to and at the time of his appointment, the UEZ Coordinator's offices were then located at 440 60<sup>th</sup> Street, West New York, New Jersey.

22. Plaintiff's father, Mr. Rolando Gomez, has also been employed with the Town since 1998 as a health inspector with the Department of Public Works.

23. With the exception of a period of less than one year when their relevant contracts expired, Gomez and his father were continuously employed with the Town. Neither was seriously disciplined or faced any adverse employment actions by the Town or their supervisors.

24. In 2011, Mayor Roque ran for office against the incumbent mayor, Mr. Silverio Vega.

25. During Mayor Roque's campaign, Gomez volunteered as a political advisor and fundraiser.

26. Due to Gomez's community roots, he was able to raise significant funds and gather substantial support for Mayor Roque's campaign.

27. In the May 2011, during the municipal election, the challenger, then "Dr. Felix Roque," upset the incumbent to become Mayor of the Town.

28. Soon after taking office, Mayor Roque began to face resistance and disillusionment from members of his administration, employees, and his constituents who once supported Mayor Roque as a reformer.

29. Mayor Roque resorted to desperate efforts to root out political enemies. This included removing Commissioner Count J. Wiley as the Director of the Department of Public Works, firing various Town employees without cause, threatening to report individuals for tax audits, and making false statements to news agencies regarding municipal employees.

30. By the fall of 2011, Mayor Roque continued to lose support, but was insistent on maintaining the same level of patronage by threats, coercion, and intimidation.

31. In mid-November of 2011, Mayor Roque made frantic attempts to gather support for his non-profit charitable organization, West New York Forever, that was hosting a Christmas party and toy drive.

32. On December 5, 2011, an organizational meeting was held by Mayor Roque using public resources. He required Gomez to secure significant contributions from merchants that are part of the UEZ.

33. Mayor Roque called Gomez in early December to assess Gomez's progress in securing donations. When he learned that Gomez had made no progress, he harassed and intimidated him to secure donations. In reference to Gomez, Mayor Roque said: "you are a fat, out of shape piece of shit and I am going to buy you a treadmill for your birthday." He ordered

him to go out immediately, during normal work hours, to secure contributions. Gomez expressed his reservation of doing so during work hours and under the auspices of his office, but Mayor Roque demanded that he do so immediately.

34. Mayor Roque and his office made several harassing and intimidating calls during the next several days demanding that Gomez, using public resources, during work hours, and under the auspices of his office, pick up toy boxes and money from the businesses in the UEZ.

35. Again, using public resources, Mayor Roque demanded that Gomez provide information on the merchants located in the UEZ.

36. Gomez specifically advised Mayor Roque during a telephone conversation that he would not fulfill the Mayor's demands using public resources, during work hours, and under the auspices of his office because he knew it was illegal.

37. Gomez, knowing the impropriety of Mayor Roque's demands, did not fulfill the request during work hours and did not use any public resources.

38. Gomez immediately experienced retaliatory conduct.

39. By the end of the month, he and his staff of two were all moved into a closet-sized office, which immediately raised health and safety concerns for Gomez.

40. The space lacked any windows or ventilation. Gomez and his staff immediately began to experience trouble breathing.

41. Gomez complained to the Public Employees Occupations Safety and Health Department ("PEOSHA") regarding the unsafe and unhealthy working conditions of the new office space.

42. Beyond Plaintiff and his staff's own personal safety, Plaintiff's complaint raised a matter of public concern, as the location of the UEZ Office did not contain any windows and

posed a general health threat since it was not a place suitable to maintain a proper work environment or atmosphere.

43. Gomez along with other members of Mayor Roque's administration were present for an inspection of the workspace by PEOSHA on January 24, 2012.

44. On January 31, 2012, PEOSHA issued a Notice of Order to Comply to the Town with ten items to be abated.

45. Contemporaneously, Gomez became interested in the "www.recallroque.com" website advocating for a recall election to unseat Mayor Roque.

46. Gomez frequently visited the website and was a contributor to its contents.

47. Gomez also decided to run for Vice-President of his local union, CWA Local 1045, to eradicate these and other abuses on Town employees. During the campaign, Gomez ran and spoke out about various abuses including: age discrimination, various violations of the union contract, and misuse of public resources.

48. Gomez was harassed as to his campaign platform by Deputy Mayor Acosta.

49. On or about the same time, Gomez complained to Ms. Carmela Riccio, who is the Town Clerk and at the time was the Town Administrator, about Mayor Roque's inappropriate demands to further fundraise for West New York Forever during work hours and using public resources. At that time, Gomez also complained about Mayor Roque's earlier orders that Gomez fundraise for the holiday toy drive.

50. Ms. Riccio agreed with Gomez's concerns and immediately set up a meeting to further discuss Gomez's complaint with Commissioner Frias, the Commissioner charged with overseeing the UEZ Department.

51. During this meeting for which Gomez was a participant, Ms. Riccie advised Commissioner Frias that Gomez was not to fundraise during work hours.

52. Commissioner Frias and Mayor Roque were politically aligned.

53. Shortly after this meeting, Mayor Roque called Gomez, referenced the conversation with Commissioner Frias, expressed his displeasure and threatened to terminate Gomez.

54. Two days later, on February 3, 2012, Gomez was terminated from his position.

55. Gomez was not provided any warning, notice, or opportunity for a hearing as required for public employees but, as a pretext for his firing, was accused of forging Commissioner Frias's signature.

56. Gomez's firing was done without any closing paperwork. He never received any additional compensation for time he had already worked or time he had accrued, retroactive pay, nor information about any of the funds and benefits he contributed to over the course of his employment with the Town.

57. A couple of weeks later, Mayor Roque and Gomez had a telephone discussion. Concerned that the line was "not a secured line" and in an attempt to conceal the illegal firing, Mayor Roque sought an in-person meeting to discuss Gomez's employment with the Town.

58. Gomez and Mayor Roque, along with Deputy Mayor Acosta, met at the latter's medical office and discussed rehiring Gomez provided that Gomez supplied Mayor Roque with information on [www.recallroque.com](http://www.recallroque.com). Mayor Roque showed Gomez a stack of papers and, in a threatening and intimidating manner, demanded answers with regards to [www.recallroque.com](http://www.recallroque.com).

59. Upon arriving at Mayor Roque's medical office, Mayor Roque asked Gomez if he was "wired." Gomez understood this to mean being wired by law enforcement agents in order to



capture Mayor Roque's statements in a recorded manner for the purpose of criminal prosecution against Mayor Roque.

60. Mayor Roque and Deputy Mayor Acosta showed Plaintiff a stack of documents and stated that the documents were proof that Gomez and others created a website in opposition to Mayor Roque in an effort to create a petition to recall him as Mayor of the Town.

61. Mayor Roque further threatened and intimidated Gomez by stating that Mayor Roque had emails of recorded conversations between Gomez and others involved in the political campaign to recall Mayor Roque as Mayor of the Town.

62. At the end of the meeting, Mayor Roque and Deputy Mayor Acosta offered to rehire Gomez as the "Deputy Director of the Parks Department."

63. Gomez, not having found other employment in the interim, accepted the invitation and reported to work with the understanding that he would be appointed to the aforementioned position with the Parks Department.

64. The next day, during a cabinet meeting in front of various department heads and other public officials, Gomez was publicly humiliated by Mayor Roque demoting him to a laborer as a garbage collector and threatening Gomez to "take it or leave it."

65. Gomez was constructively discharged by being humiliated, harassed and having his job designation changed with such an extreme demotion that also entailed a significant pay cut.

66. The rehiring and demotion was accomplished not according to protocol, without any paperwork, and without any opportunity to be heard as required for public employees.

67. Upon information and belief, at about the same time, Mayor Roque and his co-conspirators illegally hacked the recall website and discovered the extent of the support for the recall of Mayor Roque.

68. Mayor Roque and/or his co-conspirators illegal hacked into Gomez personal email accounts for the purposes of quelling his rights to free speech, association, and to organize and submit grievances and proposals through representatives.

69. During Gomez's employment, Mayor Roque's retaliatory conduct also included, but was not limited to: continuously threatening Gomez's employment, calling him disparaging names like "fat ass," making disparaging remarks about Gomez's work ethic to the public and the media, threatening Gomez's father's employment with the Town, constantly keeping him under surveillance, and uttering humiliating, intimidating and threatening remarks.

70. Mayor Roque's pattern of retaliatory conduct against Gomez was continuous, vindictive and pervasive since December of 2011 through the present.

71. Mayor Roque's retaliation, vindictiveness and harassment also included his and the Town's failure to adequately compensate Gomez for work performed and benefits earned.

72. As a result, Mayor Roque, Commissioner Frias, Deputy Mayor Acosta, Joseph Roque, and the Town caused Gomez grave emotional, physical, and economic damages.

### **COUNT ONE**

73. Plaintiff reasserts and realleges each and every allegation contained above as if fully set forth herein.

74. Defendants' actions are in violation of the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et seq.

75. Defendants' collective actions as enumerated above violate Plaintiff's rights to freedom of speech, freedom of association, freedom of assembly, and the right to organize and submit grievances and proposals through representatives in violation of the New Jersey State Constitution of 1947, including Article I, (1), (5), (6), (18) and (19).

76. Defendants deprived Plaintiff of rights, privileges and/or immunities secured by the New Jersey State Constitution. Through Defendants' illegal acts, Plaintiff's exercise and/or enjoyment of these rights, privilege and/or immunities have been interfered with or attempted to be interfered with by threats, intimidation, harassment, or coercion by a person acting under color of law. Defendants also imposed adverse employment actions against Plaintiff such as: baseless accusations, demotions, harassment, terminations, hostile work environment, and denial of benefits in retaliation for his having engaged in protected activities.

77. The foregoing actions were taken pursuant to an official and extant policy and practice of Defendants, and were taken by individuals with final policymaking authority over such actions.

78. The foregoing violations of law were overseen by agents, officials, employees and/or other individuals acting on Defendants' behalf, who ratified such violations by Defendants' actions, which were retaliatory and violations of law, and being in a position to stop the illegal behavior, Defendants failed to take remedial action in willful indifference to the violations of Plaintiff's civil rights.

79. Plaintiff's constitutionally protected activities, as aforementioned, were the substantial or motivating factors for Defendants' retaliatory conduct.

80. As a direct and proximate result of Defendants' illegal and wrongful actions, described herein, Plaintiff suffered economic, non-economic, and emotional distress damages,

anxiety, ridicule, public humiliation, indignity, loss of compensation, fringe and other benefits, loss of earning power, loss of self-esteem, loss of standing in the community, physical injury, mental anguish, the loss of opportunities for prospective employment, and is incurring legal expenses and other expenses as a result of Defendants' actions.

81. The foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiff's civil rights, and Plaintiff is therefore entitled to punitive damages under applicable law.

WHEREFORE, Plaintiff, Alain Gomez, respectfully requests this Honorable Court:

- a. Enter a declaratory judgment that Defendants' unlawful conduct complained of herein violated and continues to violate Plaintiff's rights as secured by the New Jersey Constitution;
- b. Enjoin Defendants from continuing their unlawful conduct;
- c. Award Plaintiff compensatory damages including, but not limited to, Plaintiff's economic, non-economic, and emotional distress damages for anxiety, ridicule, public humiliation, indignity, loss of compensation, fringe and other benefits, loss of earning power, loss of self-esteem, loss of standing in the community, physical injury, mental anguish and loss of opportunities for prospective employment;
- d. Award reasonable costs and attorneys' fees;
- e. Award punitive damages; and
- f. Grant any other relief this Court deems just and proper under the circumstances.

**COUNT TWO**

82. Plaintiff reasserts and realleges each and every allegation contained above as if fully set forth herein.

83. The foregoing actions of Defendants, acting under the color of law, subjected Plaintiff to deprivation of his constitutional rights of freedom of speech and freedom of association in violation of 42 U.S.C. § 1983, the First and Fourteenth Amendments of the United States Constitution.

84. Plaintiff's constitutionally protected activities, as aforementioned, were the motivating factor for Defendants' retaliatory conduct.

85. Defendants intentionally, willfully and recklessly retaliated against, harassed, demoted, and terminated Plaintiff to deny Plaintiff his First Amendment rights to freedom of speech and freedom of association.

86. As a direct and proximate result of Defendants' illegal and wrongful actions, described herein, Plaintiff suffered economic, non-economic, and emotional distress damages, anxiety, ridicule, public humiliation, indignity, loss of compensation, fringe and other benefits, loss of earning power, loss of self-esteem, loss of standing in the community, physical injury, mental anguish, the loss of opportunities for prospective employment, and is incurring legal expenses, and other expenses as a result of Defendants' actions.

87. The foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiff's civil rights, and Plaintiff is therefore entitled to punitive damages under applicable law.

WHEREFORE, Plaintiff, Alain Gomez, respectfully requests this Honorable Court:

- a. Enter a declaratory judgment that Defendants' unlawful conduct

complained of herein violated and continues to violate Plaintiff's rights as secured by the United States Constitution and the New Jersey Constitution;

- b. Enjoin Defendants from continuing their unlawful conduct;
- c. Award Plaintiff compensatory damages including but not limited to Plaintiff's economic, non-economic, and emotional distress damages for anxiety, ridicule, public humiliation, indignity, loss of compensation, fringe and other benefits, loss of earning power, loss of self-esteem, loss of standing in the community, physical injury, mental anguish and loss of opportunities for prospective employment;
- d. Award reasonable costs and attorneys' fees;
- e. Award punitive damages; and
- f. Grant any other relief this Court deems just and proper under the circumstances.

**COUNT THREE**

88. Plaintiff reasserts and realleges each and every allegation contained above as if fully set forth herein.

89. Mayor Roque and the Town are employers under the Conscientious Employee Protection Act, N.J.S.A. 34:19-1 et seq.

90. As alleged in the foregoing paragraphs, Plaintiff reasonably believed that Defendants' conduct was violating either a law, rule, or regulation promulgated pursuant to law, or a clear mandate of public policy.

91. Plaintiff engaged in "whistle-blowing" activities by complaining and/or refusing to participate in unlawful activities engaged in by Mayor Roque. Particularly by complaining of

the conditions of his office to PEOSHA and reporting to several public officials Defendants' inappropriate use of public resources.

92. As a result of Plaintiff's protected activities, Defendants engaged and continue to engage in retaliatory conduct against Plaintiff including but not limited to: baseless accusations, demotions, harassment, terminations, hostile work environment, and denial of benefits in retaliation for his having engaged in protected activities.

93. Defendants' adverse employment actions against Plaintiff were without any legitimate and/or lawful purpose. The purported rationale for Defendants' adverse employment actions were pretextual and were advanced to mask Defendants' retaliatory intent.

94. As a direct and proximate result of Defendants' actions in violation of CEPA, Plaintiff's statutory rights have been violated and his protections under the law have been eviscerated, specifically causing Plaintiff to suffer economic, non-economic, and emotional distress damages, anxiety, ridicule, public humiliation, indignity, loss of compensation, fringe and other benefits, loss of earning power, loss of self-esteem, loss of standing in the community, physical injury, mental anguish, the loss of opportunities for prospective employment, and is incurring legal expenses, and other expenses as a result of Defendants' actions.

95. The foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiff's statutory rights, and Plaintiff is therefore entitled to punitive damages under applicable law.

WHEREFORE, Plaintiff, Alain Gomez, respectfully requests this Honorable Court:

- a. Enter a declaratory judgment that Defendants' unlawful conduct complained of herein violated and continues to violate Plaintiff's rights as secured by CEPA;

- b. Enjoin Defendants from continuing their unlawful conduct;
- c. Award Plaintiff compensatory damages including but not limited to Plaintiff's economic, non-economic, and emotional distress damages for anxiety, ridicule, public humiliation, indignity, loss of compensation, fringe and other benefits, loss of earning power, loss of self-esteem, loss of standing in the community, physical injury, mental anguish and loss of opportunities for prospective employment;
- d. Award reasonable costs and attorneys' fees;
- e. Award punitive damages; and
- f. Grant any other relief this Court deems just and proper under the circumstances.

#### **COUNT FOUR**

96. Plaintiff reasserts and realleges each and every allegation contained above as if fully set forth herein.

97. Defendants' actions are in violation of the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et seq. and 42 U.S.C. § 1983.

98. Defendants deprived Plaintiff of his procedural due process rights under N.J.S.A. § 11A:2-13-14, N.J.A.C. 4A:2-2.1 et seq., and the Fifth Amendment of the United States Constitution.

99. Plaintiff had sufficient liberty and property interests in his employment. The Town and Mayor Roque failed to terminate Plaintiff for sufficient cause or afford him the proper notice and hearing procedures as required under the New Jersey Civil Service Act.

100. Defendants' acts of retaliation are a violation of state and federal law and run



afoul of the public policy of the State of New Jersey.

101. As a direct and proximate result of the Defendants' wrongful actions, Plaintiff has suffered economic, non-economic, and emotional distress damages, anxiety, ridicule, public humiliation, indignity, loss of compensation, fringe and other benefits, loss of earning power, loss of self-esteem, loss of standing in the community, physical injury, mental anguish, the loss of opportunities for prospective employment, and is incurring legal expenses, and other expenses as a result of Defendants' actions.

102. The foregoing actions were knowing, willful and deliberate violations of law and deprivations of Plaintiff's statutory rights, and Plaintiff is therefore entitled to punitive damages under applicable law.

WHEREFORE, Plaintiff, Alain Gomez, respectfully requests this Honorable Court:

- a. Enter a declaratory judgment that Defendants' unlawful conduct complained of herein violated and continues to violate Plaintiff's Federal and State Due Process rights;
- b. Enjoin Defendants from continuing their unlawful conduct;
- c. Award Plaintiff compensatory damages including but not limited to Plaintiff's economic, non-economic, and emotional distress damages for anxiety, ridicule, public humiliation, indignity, loss of compensation, fringe and other benefits, loss of earning power, loss of self-esteem, loss of standing in the community, physical injury, mental anguish and loss of opportunities for prospective employment;
- d. Award reasonable costs and attorneys' fees;
- e. Award punitive damages; and



**CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2**

Plaintiff, by their attorneys, hereby certifies that to the best of their knowledge, the matter in controversy is not related to any other action. Plaintiff is not currently aware of any other party who should be joined in this action.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: February 4, 2013

**LITE DEPALMA GREENBERG, LLC**

          /s/ Victor A. Afanador            
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*Attorneys for Plaintiff*

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
(b) County of Residence of First Listed Plaintiff
(c) Attorneys (Firm Name, Address, Telephone Number, and Email Address)

DEFENDANTS
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT
PERSONAL INJURY
REAL PROPERTY
CIVIL RIGHTS
PRISONER PETITIONS
FORFEITURE/PENALTY
LABOR
IMMIGRATION
BANKRUPTCY
SOCIAL SECURITY
FEDERAL TAX SUITS
OTHER STATUTES

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Brief description of cause:

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$
CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example: U.S. Civil Statute: 47 USC 553  
Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

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*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

ALAIN GOMEZ

Plaintiff,

vs.

TOWN OF WEST NEW YORK, FELIX  
ROQUE, individually and in his official  
capacity as Mayor of the Town of West New  
York, FIORD' ALISA FRIAS, individually  
and in her official capacity as Commissioner  
of the Town of West New York, SILVIO  
ACOSTA, individually and in his official  
capacity as Deputy Mayor of the Town of  
West New York, JOSEPH ROQUE, ABC  
CORPORATIONS 1-10 (names being  
fictitious), and JOHN DOES 1-10 (names  
being fictitious),

Defendants.

Civil Action No.

**CERTIFICATE OF  
NON-ARBITRABILITY**

VICTOR A. AFANADOR, of full age, certifies that pursuant to L. Civ. R. 201.1 the  
within matter is not arbitrable, being that the Complaint seeks damages that are in an excess of

\$150,000.00.

Date: February 4, 2013

/s/ Victor A. Afanador  
Victor A. Afanador