

**APR 17 2015**

**SUPERIOR COURT OF NEW JERSEY  
COUNTY OF HUDSON  
CIVIL DIVISION #7**

LOUIS A. ZAYAS, ESQ.  
LAW OFFICES OF LOUIS A. ZAYAS, L.L.C.  
8901 Kennedy Boulevard  
North Bergen, NJ 07047  
(201) 977-2900  
*Attorneys for Plaintiff*

MICHAEL FIGUEROA  
  
Plaintiff.

v.

THE CITY OF UNION CITY, BRIAN  
STACK in his individual and official capacity,  
BRIAN STACK CIVIC ASSOCIATION, and  
JOHN and JANE DOE (1-10) (fictitious yet to  
be identified persons)  
  
Defendants.

) SUPERIOR COURT OF NEW JERSEY  
) LAW DIVISION: HUDSON COUNTY  
)  
) Docket No.: HUD-L-3590-14  
)  
)  
)

**CIVIL ACTION  
AMENDED COMPLAINT**

Plaintiff, MICHAEL FIGUEROA, by and through his attorney, LOUIS A. ZAYAS of LAW OFFICES OF LOUIS A. ZAYAS, L.L.C, alleges the following based on information and belief:

**INTRODUCTION**

1. This civil action is brought by Plaintiff for damages under the New Jersey Civil Rights Act (“NJ CRA”) for failure to promote based on retaliation for political affiliation and association.

**PARTIES**

2. Plaintiff Michael Figueroa (hereinafter “Lt. Figueroa” or “Plaintiff”) is a citizen of the State of New Jersey residing in Old Bridge, New Jersey. Plaintiff is employed as a police officer of the Union City Police Department.

3. Defendant Brian P. Stack (hereinafter “Mayor Stack”) is the duly elected Mayor of Union City, New Jersey. Mayor Stack is sued to affect the full declaratory,

injunctive, and compensatory damages demands by the Plaintiff.

4. Defendant The City of Union City (hereinafter “Union City”), a municipality of the State of New Jersey, Hudson County, is sued to affect the full declaratory, injunctive, and compensatory damages demanded by the Plaintiff.

5. Defendant Brian Stack Civic Association (hereinafter “Civic Association”) is a 501(c)(3) non-profit organization founded by Mayor Stack. Defendant Civic Organization is sued to affect the full declaratory, injunctive, and compensatory damages demanded by Plaintiff.

6. John and Jane Doe (1-10) are yet to be identified persons acting as agents of Mayor Stack’s administration and/or the Civic Association.

#### **FACTS**

7. Defendant Mayor Stack is currently the Mayor of Union City and a New Jersey State Senator. Through the creation of the Mayor Brian Stack Civic Association, Mayor Stack has created a political machine to foster a “pay-to-play” culture in Hudson County with the primary purpose of promoting, protecting, and maintaining Mayor Stack’s political power in Union City and the 33<sup>rd</sup> District.

8. Mayor Stack utilizes the Civic Association as a barometer through which Mayor Stack measures political loyalty and patronage evaluated in terms of financial donations. Based on the financial donations given to the Civic Association, Mayor Stack directly and indirectly provides government benefits, such as jobs, government contracts, and other tangible benefits not otherwise available to non-contributors and non-supporters. The purpose of conferring these governmental benefits and privileges is to reward political patronage.

9. Despite the Civic Association's volunteer and civic efforts in the community, an additional purpose is to promote, protect, and maintain Mayor Stack's political power in the Union City Police Department.

10. On February 25, 2012, Joseph Blaettler, with relevant knowledge concerning the operations of the Civic Association filed a form complaint to the IRS outlining the improprieties of the Civic Association and its illegal and political connection to Mayor Brian Stack. (See attached).

11. In his complaint, Blaettler alleges that Mayor Stack rewards members of the Civic Association based on their political support and contributions with government employment at various government agencies controlled by Mayor Stack, including the Union City Board of Education, an organization controlled by Mayor Stack through his personal selection of trustees.

12. For example, Lucio Fernandez, a former president of the Civic Association, was rewarded for supporting Mayor Stack politically through his employment with the Union City Board of Education for a salary of \$99,006 per year.

13. Angelo Caliente, a former treasurer of the Civic Association, was also rewarded by Mayor Stack for his support and maintained a \$101,052 per year annual salary job with the Union City Board of Education. In addition, he also received a public pension.

14. Maryury Bombino, as the board secretary of the Civic Association, is a full time employee with the Union City Board of Education, with an annual salary of \$75,834. In addition Ms. Bombino's husband Martin Martinetti was also employed by the City of Union City. Together they held six public sector positions for a combined

salary of \$217,000 a year. Both Bombino and her husband are political supporters of Mayor Stack and the Civic Association and were rewarded with lucrative government jobs controlled by Mayor Stack.

15. Currently Civic Association President Martha Urteaga and Secretary Jose Guareno are both employed by the Union City Board of Education and were hired under Mayor Stack's tenure as Mayor. Prior to their appointment to the Association they made no political donations to Mayor Stack or his organizations, but since their appointments they have begun to make contributions.

16. According to Blattler, two attorneys contributed to Mayor Stack's campaign and were rewarded with contracts as attorneys for the Union City Board of Education. Both Susanne Lavelle and Elise Dinardo contributed a combined \$74,500 to Mayor Stack's campaign and later personally benefitted by billing taxpayers between \$30,000 to \$55,000 a month in legal fees for the Board of Education, for a total of \$3.1 million over a five year period. Susanne Lavelle has supported the Civic Association with her services as an attorney in the past including the case of Mateo Perez v. Brian Stack et. al. HUD-L-1070-12.

17. Further evidence of the symbiotic and illicit relationship between the Civic Association and Mayor Stack in terms of political patronage consists of flyers and mailings for the Civic Association with the use of the official portrait of Mayor Brian Stack, thereby giving the impression to the public at large and political contributors in particular that Mayor Stack, Union City and the Civic Association are one single entity.

18. According to Blattler, in July 2009 in matter of United States of America v. Shimon Haber, it was stated that a Union City official received money during

a sting operation in the amount of four \$2,500 checks made payable to a civic association in the name of said Union City Official. On information and belief, this was Mayor Brian Stack, and the only Civic Association in the same name of a Union City Official is the Brian P. Stack Civic Association.

19. Mayor Stack utilizes his political status, his position as Director of Public Safety, as well as his Civic Association as a tool to incorporate “pay-to-play” tactics in the Union City Police Department where he rewards those police officers with promotions in exchange for political support and donations to his Civic Association.

20. Those officers who refuse to support Mayor Stack or his Civic Association are punished with adverse employment actions.

21. Plaintiff is employed as a police officer with the Union City Police Department.

22. Plaintiff joined the Union City Police Department in 1992.

23. In February of 1996, then Patrol Division Captain Michael Bergbauer asked Plaintiff if he would like to go to the Detective Bureau (“DB”). When Plaintiff affirmed that he would, he was told he should know there were “extra curricular activities involved.” Plaintiff understood this to mean that the change in position would require his political involvement in the form of campaigning for the mayor, participating in charitable events, and buying tickets to political fundraising events. Plaintiff understood that financial contributions would be required to show political support and affiliation with the mayor in exchange for the reward of promotions.

24. Plaintiff became politically active at this time, and would buy tickets to the smaller events, which ranged from \$150-\$250 a ticket. Plaintiff could never afford

the bigger ticket events, which cost \$1,000 or more.

25. Plaintiff also began campaigning by knocking on doors for voter registrations and participating in Holiday drives that bestow public good will upon the mayor.

26. When Mayor Stack was elected, Plaintiff continued offering his financial and political support to him.

27. Plaintiff studied for his Sergeant's exam and was promoted to Sergeant in 1999. Plaintiff placed rank #7 on the promotion list.

28. Emilio Gonzalez, who placed rank #8, was the political favorite at this time.

29. The top eight candidates on the Sergeant's promotion list, effectively up to Emilio Gonzalez and no further, were promoted. As a result of Plaintiff being rank #7, he was promoted to the rank of Sergeant. Plaintiff was a financial, political supporter of the mayor at this time.

30. Plaintiff sat for his Lieutenant test in or around 2004. The order of the promotion list was Sgt. Peer rank #1, Sgt. Gonzalez rank #2, Sgt. D'Andrea rank #3, Plaintiff rank #4, Sgt. Katseyeanis rank #5, and Sgt. Ortega rank #6.

31. Mayor Stack promoted the rank #1 and rank #2 Sergeants, Sgt. Peer and Sgt. Gonzalez, to Lieutenant rank. Both were political supporters.

32. Neither Sgt. D'Andrea nor Sgt. Katseyeanis was politically supportive of the mayor in any way.

33. Sgt. Ortega was the political favorite of the administration.

34. For the first time ever, the promotional list was not followed. Sgt.

D'Andrea and Sgt. Katseyeanis were both skipped over. As a result, Plaintiff and Sgt. Ortega were promoted to lieutenant. If the promotional list had been followed, Plaintiff would have been promoted because he was rank #4. Upon information and belief, the promotion list was skipped by Mayor Stack to reward political supports and punish political non-supporters.

35. Plaintiff was politically supportive of the mayor at the time he was promoted to the rank of Lieutenant as he provided financial contributions via purchasing of tickets for political fundraising events.

36. Plaintiff was promoted to Lieutenant in 2006.

37. Sgt. D'Andrea and Sgt. Katseyeanis filed lawsuits and were awarded the rank of lieutenant a year and a half later.

38. Upon information and belief, no person has been skipped on the promotional list since this lawsuit.

39. Plaintiff stopped politically supporting Mayor Stack and the Civic Association in at the end of 2012.

40. Upon information and belief, Mayor Stack and the Civic Association became fully aware that Plaintiff no long affiliated himself politically with Mayor Stack and the Civic Association. As a consequence of Plaintiff's lack of continued political support, Plaintiff was targeted for retaliation and non-promotion.

41. Plaintiff took his Captain's Exam in or about October of 2011. The results were Lt. Gonzalez rank #1, Lt. Luster rank #2, Lt. Wolpert rank #3, and Plaintiff rank #4.

42. This Captain's promotion list was extended for one year and dies at the end of 2014.

43. At the time Plaintiff was rank #4 on the promotion list for Captain, the Union City Police Department's Table of Organization called for four (4) Captains.

44. The Union City Police Department has always had four (4) Captains since, at least, 1992.

45. Lt. Gonzalez and Lt. Luster, both political supporters, were promoted almost immediately to the rank of Captain.

46. After Plaintiff had already placed rank #4 on the promotion list for Captain, the Department's Table of Organization was amended on May 21, 2013 to require three (3) Captains instead of four. Mayor Stack, acting in concert with Defendants JOHN and JANE DOE (1-10) and his other political supporters, changed the Table of Organization to prevent Plaintiff from being promoted to Captain.

47. Lt. Wolpert was promoted to Captain in June of 2014.

48. Plaintiff's Captain spot was eliminated from the Table of Organization on or about May 21, 2013 in order to create another spot in the Table of Organizations for another supporter. This was done intentionally to retaliate against Plaintiff for not continuing to offer political support to Mayor Stack and the Civic Association. By altering the Table of Organization, Mayor Stack and his administration further obtained the ability to reward other political supporters.

49. A new list for promotion of Lieutenants came out in early 2012. The top seven ranking persons were Sgt. Laurencio rank #1, Sgt. Hernandez rank #2, Sgt. Vasquez rank #3, Sgt. Fachinni rank #4, Sgt. Perez rank #5, Sgt. Loaces rank #6, and Sgt. Sierra rank #7. At this time, there were only five (5) lieutenant spots available in the then Table of Organization. This necessitated the manipulation of the Table of Organization



in order to promote Sgt. Loaces, who was a favored political supporter.

50. Mayor Stack, acting in concert with Defendants JOHN and JANE DOE (1-10) and other political supporters, wanted to promote Sgt. Loaces because he was the biggest political supporter.

51. Sgt. Laurencio and Sgt. Sierra were both non-supporters and not politically affiliated. All other Sergeants on the promotion list for Lieutenant are political supporters of Mayor Stack and the Civic Association.

52. The Lieutenant's promotional list was certified for six (6) positions. As a result of the newly amended Table of Organization, Defendants were now able to certify six (6) positions, which allowed for Sgt. Loaces, a political favorite, to be promoted.

53. Upon information and belief, six positions were certified in order to promote Sgt. Loaces to reward his political support for Mayor Stack's administration.

54. Subsequently, however, Sgt. Perez encountered a disciplinary issue and was not eligible for promotion. This effectively slid Sgt. Loaces to the rank #5 spot and Sgt. Sierra to the rank #6 spot.

55. Although the top six of the Lieutenant list were certified for promotion, which should have resulted in Sgt. Sierra being promoted, only the top five—up to and including Sgt. Loaces—were promoted in June of 2013.

56. The next promotional exam for Captain is in October of 2014. Due to the timing of the recent lieutenant promotions, Plaintiff will not have to compete with Lt. Loaces and the other political supporters of Mayor Stack and the Civic Association on this next promotion exam for Captain. Plaintiff sits for this test, he will compete with Sgt. Loaces and the other politically affiliates of Mayor Stack and the Civic Association.

57. Plaintiff is the most senior Lieutenant in the Union City Police.

Department with 22 years on the force.

58. In April of 2013, Plaintiff requested to work the power shift hours, from 7pm-3am, in order to assist his wife with child care issues because she was starting a new job. Due to the upcoming surgery of an officer, a lieutenant was required to go to the Midnight Shift. Plaintiff requested that he be assigned to the Night Shift if the Power Shift was not available. Nonetheless, in mid-May of 2013, Plaintiff was transferred to the Midnight Shift while a junior lieutenant was put on the Night Shift.

59. Lt. Loaces was placed in charge of the DB, even though Plaintiff has more experience in the DB and is the most senior lieutenant.

60. Defendants failed to promote Plaintiff and refused him other fringe benefits in the form of favorable assignments in retaliation for his lack of political affiliation with Mayor Stack and the Civic Association, while in turn rewarding political supporters.

61. This unlawful retaliation has resulted in proximately causing Plaintiff to lose monetary compensation, pension benefits at the rate of a Captain, and vacation days. Furthermore, Plaintiff has suffered anxiety, emotional distress, and issues with his family as a result of Defendants' adverse employment actions.

**COUNT I**  
**NEW JERSEY CIVIL RIGHTS ACTS**  
**N.J.S.A. 10:6-2, *et seq.***  
**("NJCRA")**  
**POLITICAL AFFILIATION**

62. Plaintiff repeats and realleges the allegations set forth above as fully set forth herein.

63. Plaintiff refused to participate in Mayor Stack's "pay-to-play" culture within the Union City Police Department. After Plaintiff stopped supporting Mayor Stack politically, and stopped buying Mayor Stack's fundraising tickets, including tickets for his Civic Association, Mayor Stack considered Plaintiff a non-supporter. In turn, Mayor Stack utilized his political status to retaliate against Plaintiff for no longer supporting his political affiliation.

64. As alleged above, Mayor Stack knew or perceived that Plaintiff was no longer a political affiliate when he stopped purchasing fundraising tickets to his political fundraising events and/or fundraising events of the Civic Association.

65. As a result, Mayor Stack, acting in concert with Jane and John Does (1-10), amended the Union City Police Department's Table of Organization to deprive Plaintiff of a rightful promotion in retaliation of his lack of political affiliation. This further permitted Mayor Stack to reward other political supporters.

66. By failing to promote Plaintiff on the basis of his political affiliation, or lack thereof, Defendants retaliated against him in violation of his civil rights.

67. Defendants, acting under color of law, and pursuant to official policy, deprived Plaintiff of his constitutional right to freedom of political association in violation of the Article 1, Section 18 of the New Jersey Constitution and the NJCRA, N.J.S.A. 10:6-2, et seq.

68. As a direct and proximate result of Defendants' actions, Plaintiff has and will continue to suffer economic and emotional demands in an amount to be determined by a jury.

#### **PRAYER FOR RELIEF**


WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, for the following relief:

- a. Compensatory Damages;
- b. Punitive Damages;
- c. Attorney's fees and costs of suit;
- d. Such other and further relief as the Court deems equitable and just.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a jury trial as to all issues so triable.

Dated: March 13, 2015

  
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LOUIS A. ZAYAS, ESQ.

**DESIGNATION OF TRIAL COUNSEL**

LOUIS A. ZAYAS, ESQ., is designated as trial counsel in this matter.

Dated: March 13, 2015


  
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LOUIS A. ZAYAS, ESQ.

**DEMAND FOR PRODUCTION OF INSURANCE AGREEMENTS**

Pursuant to R. 4:10-2(b), demand is hereby made that you disclose to the undersigned whether there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy all or part of a judgment which may be entered in the action or to indemnify or reimburse for payment

made to satisfy the judgment. If so, please attach a copy of each, or alternative state, under oath and certification: (a) policy number; (b) name and address of insurer; (c) inception and expiration date; (d) names and addresses of all persons insured thereunder; (e) personal injury limits; (f) property damages limits; and (g) medical payment limits.

Date: March 13, 2015

  
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LOUIS A. ZAYAS, ESQ.

**CERTIFICATION PURSUANT TO R. 4:5-1**

I certify that the matters in controversy in this action are not subject of any other action pending in any other court or of a pending arbitration proceeding, and that no other action or arbitration proceeding is contemplated.

Dated: March 13, 2015

  
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LOUIS A. ZAYAS, ESQ.