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**FILED**  
TEAM #1

JUL 14 2016

**SUPERIOR COURT OF NEW JERSEY**  
COUNTY OF HUDSON  
CIVIL DIVISION 4.5

BATCH #	_____
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CK/CG ACCT. #	_____
AMOUNT	_____
FAVOR	_____

**PATRICK J. LEONARD**

**Plaintiff,**

v.

**CITY OF BAYONNE; and**  
**JOSEPH DEMARCO, Individually;**  
**And JOHN DOES 1-5; and XYZ**  
**CORPORATIONS 1-3;**

**Defendants.**

**SUPERIOR COURT OF NEW JERSEY**  
**LAW DIVISION**  
**HUDSON COUNTY**

**DOCKET NO. L-2925-16**  
**CIVIL ACTION**

**COMPLAINT AND JURY DEMAND**

Plaintiff, Patrick J. Leonard, residing in the City of Bayonne, County of Hudson, and State of New Jersey, complaining of the Defendants, says:

**STATEMENT OF FACTS**

1. Patrick J. Leonard, a constituent and resident of the City of Bayonne, is an employee of the City of Bayonne. Defendant City of Bayonne is a body politic, Municipal Government, operating within the State of New Jersey. Defendant Joseph Demarco is a resident

of New Jersey, current Business Administrator for City of Bayonne with supervisory control over Plaintiff.

2. Patrick J. Leonard suffered retaliatory, discriminatory, and tortious conduct as an employee of the City of Bayonne. During his tenure, since August 2014, Plaintiff Leonard made several protected communications which constituted “whistleblower” activity

3. Patrick J. Leonard’s protected communications and alleged discrimination, and retaliation include, but are not limited to:

a). In violation of State of New Jersey Statute, N.J.S.A. 52:14-17.26, the City of Bayonne was providing illegal health benefits for three (3) council members, as well as several other part-time employees. Plaintiff Leonard reported this illegality to the State of New Jersey in June 2015. Thereafter, the Division of Local Government Services, Director Timothy J. Cunningham on July 21, 2015, ordered Defendants to cease providing health benefits.

b). Citing violations of State of New Jersey statutes, administrative codes, and Federal laws, Plaintiff Leonard complained to state and federal agencies regarding the real estate conflict of interest created by Director of Municipal Services.

c). In violation of anti-corruption statutes on both the state and federal levels, including Title 18 of the United States Code, Plaintiff Leonard made protected communications to federal agents regarding the illegal “kick-back” and conspiracy that he witnessed between Defendants and third parties.

d). In violation of Ordinance §20-16, Defendant Demarco, employees Coffey, Casais, Wondolowski, as well as several other non-residents were employed by Defendant City of Bayonne for which violation of the law did exist and the Defendant City of Bayonne failed to enforce.

4. Patrick J. Leonard complained to City of Bayonne officials-including Mayor James M. Davis and Councilmembers regarding inappropriate payment of his salary for which he detrimentally relied when assuming employment with the City of Bayonne (\$50,000 versus \$35,000 then \$38,000 with the step increase in January 2015). On several occasions Mayor James M. Davis advised Plaintiff he would be raised to the agreed upon \$50,000.00. Mayor Davis advised that the corrected salary would be in place after September 1, 2014, then December 1, 2014, then January 2015. In each instance, the corrected salary was never made; and
5. Patrick J. Leonard made protected communications to the regarding the UEZ's utilization of certain media outlets, i.e. HudsonCountyTV. Since July 2014, \$27,000.00 plus of Urban Enterprise Zone (UEZ) funding was directed by Joseph Demarco for Terrence Malloy to utilize UEZ funds for HudsonCountyTV. Leonard pointed out that this North Hudson outlet has never been utilized by the City of Bayonne previously. Leonard reported the measure was taken as "payback" for HudsonCountyTV be utilized as a favorable outlet during the campaign in 2014.

August 23, 2015. This facility has neither bathroom nor sidewalks to get to and from the building. The trailer was/is not OSHA/PEOSHA compliant and complaints were made internally, through the union, as well as through the government agencies. Defendants' moving of Mr. Leonard to the decrepit trailer was in retaliation for his protected acts.

11. After failing to receive proper compensation, as well as being transferred in retaliation for making protected communications, Plaintiff Leonard appeared at the October 23, 2015 public meeting and spoke of the violations of law, retaliation taken by the Defendants, as well as informed the public of the fraud, waste, and abuse which was being perpetrated by Defendants, specifically Mr. Demarco.
12. Not coincidentally, the attorney for the Defendant City of Bayonne read aloud a statement at the October 23, 2015 public meeting prior to Mr. Leonard speaking, which basically warned Plaintiff Leonard that he would be reprimed and retaliated against for his public speech.
13. Thereafter, Plaintiff Leonard was reprimed and retaliated against for speaking publicly about violations of law, brought up on allegations of "cursing" in work. Defendants utilized a law firm Roth D'Aquanni, LLC, 150 Morris Avenue, Ste 206 Springfield, New Jersey 07081, which had a previous relationship with Defendant Demarco in West New York. The law firm billed over \$30,000 in representing the Defendant City of Bayonne, and their attempt to prove Plaintiff Leonard "cursed" in the workplace. The hearing was fraught with witnesses who were not even City of Bayonne employees. Several City of Bayonne employees refused to participate in

the retaliatory charade, which cost taxpayers tens of thousands of dollars in order to reprise against Plaintiff Leonard.

14. Plaintiff Leonard suffered from a debilitating and disabling medical condition.

Defendant City of Bayonne, and Defendant Demarco were certainly aware of the disabling condition, as Plaintiff Leonard was out on several occasions for medical procedures and rehabilitation from those procedures. The actions of reprisal and retaliation further exacerbated the disabling medical conditions, causing flare ups and discomfort.

15. Plaintiff Leonard's conditions-both physical and mental worsened to the point he was required to take a "Leave of Absence" which is allowable under the City of Bayonne Employee Handbook, Family Medical Leave Act, and the union-management collective bargaining agreement.

16. Defendant City of Bayonne, and specifically Defendant Demarco treated younger female employees, who had not made public communications, more favorable in the workplace. Raises were given to female employees without rationale or reason-since Defendant Demarco had certified to the State of New Jersey that the City of Bayonne was having financial difficulties.

17. Even after Plaintiff Leonard took a leave of absence and was on Family Medical Leave Act, Defendants attempted to punish Plaintiff Leonard in absentia in retaliation and reprisal for making the public disclosures of the blatant violations of state and federal laws committed by the Defendants.

**FIRST COUNT  
CIVIL RIGHTS ACT, 42 U.S.C. §1983  
FIRST AND FOURTEENTH AMENDMENTS**

1. Plaintiff hereby repeats and re-alleges all of the allegations set forth above as if set forth at length herein.

2. The federal first amendment as enforced under §1983, prohibits an employer from taking retaliatory action against an employee because the employee objects to any activity, policy or practice that “the employee reasonably believes ... is in violation of a law, or a rule or regulation promulgated pursuant to law.”

3. Because Plaintiff made the above stated protected communication, his actions were protected by the first and fourteenth amendment.

4. Defendants unlawfully retaliated against plaintiff.

5. Because, in relevant part, federal law defines an employer to be “any individual ... or any person or group of persons acting directly or indirectly on behalf of or in the interest of an employer with the employer's consent”, City of Bayonne and Joseph DeMarco are “employers” as defined by federal law.

6. As a proximate result of defendants’ retaliatory actions against plaintiff, he has suffered economic and emotional damages and has otherwise been harmed.

**WHEREFORE**, Plaintiff Patrick J. Leonard demands judgment against Defendants City of Bayonne and Joseph DeMarco on the first count and seeks the following relief: (i) compensation for lost wages, benefits and other remuneration pursuant to 42 U.S.C. §1983; (ii) front pay; (iii) additional compensatory damages; (iv) punitive damages; and the common law; (v) payment by defendants of plaintiff’s reasonable costs and attorney's fees pursuant to 42

U.S.C. §1988(b); (vi) pre-judgment interest; and (vii) such other relief as this Court deems just and proper.

**SECOND COUNT  
VIOLATIONS OF ART 1, THE CONSTITUTION  
OF THE STATE OF NEW JERSEY  
(NJCRA; Free Speech, Retaliation & Chilling Effect)**

1. Plaintiff hereby re-alleges and incorporates by reference previous paragraphs as fully set forth herein. This cause of action is pled against Defendant City of Bayonne.
  
2. Plaintiff belongs to a class protected by the Constitution of the State of New Jersey and Civil Rights Act, as a Citizen, as well as an employee of the City of Bayonne.
  
3. Defendant City of Bayonne is an employer and as such is prohibited in retaliating in employment due to an employee disclosing or coming forth with inappropriate or illegal actions of an employer, employee, or third party doing business with the Defendant City of Bayonne.
  
4. Plaintiff possesses a prima facie case as he engaged in an activity protected by State of New Jersey Constitution, CRA which promptly caused several retaliatory actions. Then Defendants retaliated and reprised against Plaintiff when they affected his constitutionally protected rights.

5. Under the State of New Jersey Constitution Plaintiff is entitled to report methods and manners being utilized by the City of Bayonne or its employees that he believes are not proper or appropriate and he must be protected from any retaliatory actions. Plaintiff spoke out about the hostility, discrimination and harassment he experienced from his superiors. These complaints were met with retaliation and increased hostility, and harassment.

6. The aforesaid actions of the Defendants along with such others as may be disclosed in discovery violated the Plaintiff's Free Speech Rights under the constitution of the State of New Jersey.

7. As a result of the aforementioned violation of the Plaintiffs' State Constitutional Rights, plaintiff sustained the previously described injuries, pursuant to N.J.S.A. §10:6-2, the Plaintiff is entitled to attorney's fees, costs and expenses in the event they prevail on this claim. Defendants were "acting under color of law" when they violated Plaintiff's civil rights, §N.J.S.A. 10:6-2(c).

8. Plaintiff is entitled to trial by jury. Plaintiff has suffered damages due to the Defendants' actions awarding his compensatory damages, including but not limited to front pay, back pay, the value of health insurance and other benefits, bonuses and vacation, damages for his mental injuries, damages for emotional distress, punitive damages, pre- and post-judgment interest, counsel fees, costs of litigation and such other relief as the Court may deem just and appropriate under the circumstances.



WHEREFORE, Plaintiff, Patrick J. Leonard demands judgment against the Defendants, the City of Bayonne, together with the costs and disbursement of this action.

**THIRD COUNT**  
**NEW JERSEY LAW AGAINST DISCRIMINATION, N.J.S.A. § 10:5 et seq.**  
**N.J.S.A. 10:5-1 to -42—Disability & Hostile Work Environment)**

1. Plaintiff hereby repeats and realleges all of the allegations set forth above as if set forth at length herein.

2. In relevant part, the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 to -42 (“NJLAD”), prohibits a hostile work environment.

3. The hostility and harassment to which Plaintiff was subject was sufficiently severe or pervasive that a reasonable person would have deemed it to be hostile, abusive, intimidating, or offensive.

4. This harassment would not have occurred but for plaintiff’s protected class(es), i.e. medical disability.

5. Defendant City of Bayonne’s above-described actions constitute unlawful employment actions in violation of NJLAD including, inter alia, N.J.S.A. § 10:5-12a.

6. In taking actions that he knew were a breach of Defendant City of Bayonne's duty under NJLAD, and knowingly giving substantial assistance or encouragement to the unlawful conduct of his employer, Defendant Demarco violated NJLAD.

7. As a direct and proximate result of defendants' discriminatory actions, plaintiff has suffered economic and emotional damages.

WHEREFORE, Plaintiff Patrick J. Leonard demands that a judgment be entered against Defendants City of Bayonne and Defendant Demarco awarding i) compensatory and punitive damages; ii) a reasonable attorney's fee pursuant to N.J.S.A. § 10:5-27.1; and iii) such other relief as this Court deems just and proper.

**FOURTH COUNT**  
**(New Jersey Law Against Discrimination**  
**N.J.S.A. 10:5-1 to -42—Age & Gender)**

1. Plaintiff hereby repeats and re-alleges all of the allegations set forth above as if set forth at length herein.

2. Defendants created and sustained a hostile work environment regarding Plaintiff's employment. Plaintiff Leonard, an older gentleman, was mocked, ridiculed, intimidated, and mistreated because of his age and gender. Defendant Demarco hires and coddles young female employees and has a history of being sued for such activities while in government service. Defendant Demarco would have the younger female employees "spy" on Plaintiff Leonard, report his activities, who visited his office, and what was being said in Leonard's office. Trecia

Henry, an unqualified employee, who often reeks of marijuana and posts lascivious pictures on the web's social applications, is one of the similarly situated younger female employees who receives favorable treatment by Defendant Demarco for sneaking around and reporting.

3. Without cause or rationale, Plaintiff Leonard was denied the salary for which he was hired and promised on multiple occasions, and such a raise, salary, stipends, etc. was directed by Defendant Demarco to younger female employees, who lacked experience.

WHEREFORE, Plaintiff demands that a judgment be entered against Defendant Bayonne and Defendant Demarco awarding i) compensatory and punitive damages; ii) a reasonable attorney's fee pursuant to N.J.S.A. § 10:5-27.1; and iii) such other relief as this Court deems just and proper.

**FIFTH COUNT**  
**(NJLAD— Retaliation)**

1. Plaintiff hereby repeats and re-alleges all of the allegations set forth above as if set forth at length herein.

2. In objecting to Defendants' unequal treatment, hostility, and harassment, plaintiff engaged in an activity that is protected under the NJLAD ("the Protected Activity").

3. As a direct result of the Protected Activity, Plaintiff's employment was targeted ("the Retaliation").

4. The Retaliation was an unlawful employment action taken in violation of the NJLAD; because it occurred due to the substantial assistance and encouragement of Defendant Demarco, he is subject to individual liability under the NJLAD.

WHEREFORE, Plaintiff Patrick J. Leonard demands that a judgment be entered against Defendants City of Bayonne and Defendant Demarco awarding the following: i) compensatory and punitive damages; ii) a reasonable attorney's fee pursuant to N.J.S.A. § 10:5-27.1; and iii) such other relief as this Court deems just and proper.

#### **SIXTH COUNT COMMON LAW CLAIMS**

1. Plaintiff hereby re-alleges and incorporates by reference previous paragraphs as if fully set forth herein. This count is alleged against Defendants City of Bayonne, Defendant Demarco, John Does 1-5 and the XYZ Corps 1-3. The harassment and retaliatory acts that Plaintiff is subjected to are often a source of emotional distress and embarrassment to Plaintiff, both in public and at home.

2. The requirements of collective bargaining, civil service employment, employee handbook, and the actual documents created a contract between Plaintiff and Defendant City of Bayonne because the documents' plain language led him to reasonably believe that the City of Bayonne's policies regarding, *inter alia*, job ability and security would be honored.

3. In failing to inform Plaintiff of his statutory rights under the law, countenance of allowing third parties to interfere with the employment of Plaintiff, Defendant City of Bayonne failed to discharge its contractual duties as set forth in the Manual, Rules, Agreement and Handbook. Similarly, Defendant City of Bayonne committed and allowed additional breaches when, in contravention of the Manual's mandate, it failed to "to look after Plaintiff's interests" and make a good faith effort to accommodate Plaintiff after he suffered the ailments described herein due to the actions of Defendant Demarco, Defendant John Does 1-5, and Defendant XYZ Corporations 1-3. Further, Defendant City of Bayonne failed to adhere to the contract with respect to allowing Plaintiff to independently perform the functions of his employment without interruption, intimidation, reprisal, and retaliation in actions orchestrated by Defendants Demarco, John Does 1-5, and XYZ Corporations 1-3.

4. Due to these aforementioned breaches of contract, Plaintiff was damaged. Plaintiff demands judgment against Defendants and seeks the following relief: (i) compensatory damages; (ii) pre-judgment interest; and (iii) such other relief as this Court deems just and proper.

5. Under New Jersey law, all contracts contain an implied covenant of good faith and fair dealing ("the Implied Covenant").

6. Under the Implied Covenant, neither party may do anything that will thwart the other party's expectation or purpose under the contract and/or deprive that party of the benefit of the contract.

7. In retaliating and reprising against Plaintiff notwithstanding its knowledge that good cause for Defendants' actions did not exist, in failing to inform him of his statutory rights, and in neglecting to make a bona fide attempt to accommodate Plaintiff's requests for a hostile free environment, Defendant City of Bayonne breached the Implied Covenant.

8. As a direct and proximate result of Defendant City of Bayonne's breach of the Implied Covenant, Plaintiff has been damaged.

WHEREFORE, Plaintiff, Patrick J. Leonard demands judgment against the Defendants together with the costs and disbursement of this action.

**SEVENTH COUNT  
REHABILITATION ACT OF 1973  
29 U.S.C. § 701, et seq.**

1. Plaintiff hereby repeats and realleges all of the allegations set forth above as if set forth at length herein.

2. Plaintiff belongs to a class protected under the Rehabilitation Act of 1973 by virtue of the fact Plaintiff is a qualified person, as he suffers physical disabilities. The Rehabilitation Act of 1973, Section 504, forbids organizations and employers from excluding or denying individuals with disabilities an equal opportunity to receive program benefits and services. It defines the rights of individuals with disabilities to participate in, and have access to, program benefits and services. Plaintiff is otherwise qualified to perform the essential functions of his position.

3. Plaintiff is a qualified person with a disability under the Rehabilitation Act of 1973, Section 504, as individuals with disabilities are defined as persons with a physical or mental impairment which substantially limits one or more major life activities. For purposes of employment, qualified individuals with disabilities are persons who, with reasonable accommodations, can perform the essential functions of the job for which they have applied or have been hired to perform. Reasonable accommodation means an employer is required to take reasonable steps to accommodate an employee's disability unless it would cause the employer undue hardship. Defendant City of Bayonne failed to take such steps.

4. Plaintiff requested temporary, reasonable, and minimal accommodations, and Defendant retaliated against Plaintiff for these requests. Defendants moved Plaintiff Leonard from a white-collar workplace to a demeaning, OSHA/PEOSHA challenged workplace, for which there was no bathroom, sidewalks, and was 2 miles away from the main building.

5. Defendant wrongly discriminated against Plaintiff because of his disability and recovery. Through this illegal discrimination, Defendant City of Bayonne violated the Rehabilitation Act of 1973.

### **PRAYER**

WHEREFORE, the plaintiff Patrick J. Leonard demands judgment against the Defendants City of Bayonne and Defendant Joseph DeMarco for damages, together with interest and costs of suit and the following relief:

- a. A clean personnel file; and
- b. A Professional Reference Letter signed by the Mayor; and
- c. A scripted Reference Call for Personnel to answer when and if subsequent employers call for references; and
- d. Payment of compensatory damages in the amount of \$775,000; and
- e. Agreement of non-retaliation by City of Bayonne, Personnel employed or associated with the City of Bayonne;
- f. Costs, expenses, and attorney's fees as a result of the defendants' discriminatory and retaliatory acts, as provided under statute.
- g. any and all other general or specific relief, both at law and equity, to which Plaintiff may be justly entitled.

### **JURY DEMAND**

The plaintiff hereby demands trial by jury as to all issues in the above matter.



**DEMAND FOR DISCOVERY OF INSURANCE INFORMATION**


Pursuant to New Jersey Court Rule 4:10-2(b), demand is made that defendant disclose to plaintiff's attorney whether or not there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or indemnify or reimburse for payments made to satisfy the judgment and provide plaintiff's attorney with true copies of those insurance agreements or policies, including, but not limited to, any and all declaration sheets. This demand shall include and cover not only primary coverage, but also any and all excess, catastrophe and umbrella policies.

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-4, Peter J. Cresci, Esq., is hereby designated as trial counsel for the plaintiff, in the above matter.

Dated: July 13, 2016

CRESCI LAW FIRM, LLC  
Attorneys for Plaintiff

By:   
Peter J. Cresci, Esq.  
For the Firm 