

**IN UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ALEX NAVAS,

Plaintiff,

vs.

TOWN OF WEST NEW YORK,
JOHN DOES 1-50,

FELIX ROQUE, individually and as Mayor of
the Town of West New York.

MAYOR GABRIEL RODRIGUEZ, individually
and in his official capacity as Mayor and
Commissioner of Department of Public Works

SILVIO ACOSTA, individually and in
his official capacity as Supervisor of the
Department of Public Works/Deputy Mayor

Defendants.

CLERK
U.S. DISTRICT COURT
DISTRICT OF NEW JERSEY
RECEIVED
2020 JAN 29 P 12:59

Civil Action No.: 2:19-CV-17583-CCC-SCM

COMPLAINT AND JURY DEMAND
AMENDED

Plaintiff, Alex Navas, Pro Se, for his Complaint against Defendants and respectfully
alleges as follows:

INTRODUCTION

1. Defendant Felix Roque (“Roque”) former Mayor of the Town of West New York,
Gabriel Rodriguez (“Gabriel”) former Commissioner of the Department of Public Works and

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actual Mayor of the Town of West New York, and Silvio Acosta (“Silvio”), former Director/Supervisor of Department of Public Works (“DPW”) of the Town of West New York have been active or part of the political government of the town. In 2014, the West New York Board of Education (“BOE”) changed from appointed to elected. The defendants supported the Children First Team for the Board of Education elections since then. Although the Board of Education is supposed to be independent of any political influence, that has not been the case in the town. An investigation conducted by The Office of Financial Accountability of the state of New Jersey and multiple civil suits against the town and the board against public employees who have opted to support other than them and their political allies have proven to be a pattern and a common practice in the town. In 2016, Alex Navas, decided to run for the position of Trustee for the BOE which he lost after a recount and irregularities with election and the final results. Right after the election, he started being harassed, passed over for promotions, disciplined without just cause, suspended without pay, defamed, and finally fired on September 6, 2017. Accordingly, this is a lawsuit alleging retaliation for my exercise of my constitutional rights of speech and association under both the Federal and New Jersey State Constitutions.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction of this case under 28 U.S.C. § 1391 as it involves violation of the First Amendment rights of the Plaintiff, which can be vindicated pursuant to 42 U.S.C. § 1983. The Court has jurisdiction of Plaintiff’s state law claims under 28 U.S.C. § 1367. Alex Navas, is a citizen of New Jersey. His domicile is in New Jersey and resides in West New York, New Jersey. Plaintiff is subject to the jurisdiction and venue of this court.

2. All Defendants reside and are domiciled in New Jersey, therefore personal jurisdiction is appropriate in New Jersey.

3. Venue in this District is appropriate pursuant to 28 U.S.C. § 1391 (b)(1) and (2) because all defendants reside in New Jersey and events and omissions giving rise to this claim occurred in New Jersey.

FACTS

4. On or about May 2011, Plaintiff, Alex Navas, was hired as a full-time employee by the Town of West New York as a clerk under the Department of Safety. Plaintiff was never provided by Defendant Roque with new hire paperwork including but not limited to employee handbook, employee policy of his rights and responsibilities in violation of with N.J.A.C 12:2-1.3.

5. On or About January 2012, Plaintiff was transferred from the Mayor's office to Parks and Recreation Department as an aide to then Commissioner Ruben Vargas. Plaintiff was never furnished by Defendant Silvio with new hire paperwork.

6. On or about January 2012, Plaintiff joined the C.W.A local union 1045. Plaintiff was never furnished with union information or manual by Defendants in violation of the National Labor Relations Act.

7. On or about October 2012, Plaintiff was transferred from the Parks and Recreation Department to the Fire and Safety department. Plaintiff was told his new position would be a Fire Inspector. He was asked to go take the classes required for the position and to pay from his own monetary funds. Plaintiff went to take the classes but he was transferred before he could finish the certification. Plaintiff was never trained for said position in violation of Public Policy and was never provided new hire paperwork.

8. On or about October 2012, Defendants, Town of West New York, and then Deputy Mayor, Silvio Acosta, ordered Plaintiff to spy on the employees of the Fire and Safety Department and report to him all activities. Plaintiff found said Defendant's order to be unethical and refused to abide by Defendant's wishes, however, Plaintiff was not aware he can report same. As a result, Plaintiff was targeted, suspended without pay, mocked, humiliated, and almost fired by Defendant Acosta. Plaintiff had evidence that he was being falsely accused and show it to the town attorney Joseph DeMarco. He then told him that he was just going to be suspended for 2 weeks so they could appease the Fire & Prevention department and he was going to be transferred to a new position. At this time, Plaintiff started to experience depression and stress.

9. On or about November 2012, Plaintiff was then transferred to the Health Department. Plaintiff was promised a position as a health inspector. Plaintiff started attending Hudson Community College to fulfill the requirement of the position. By the time he had completed the required certification course, he could not proceed to finish because again he was notified that he would be transferred to the DPW. This aggravated his ongoing depression and stress.

10. On or about December 2013, Plaintiff was transferred from the Health Department to the Department of Public Works as an assistant to then Commissioner Ruben Vargas and also as a Sanitation Inspector.

11. On or about July 2014, Plaintiff was appointed as an assistant to the Right to Know Coordinator and as such a Town Resolution was introduced and Plaintiff was sworn in.

12. On or about November 2014, the employee, David Hepperle, Assistant to the Director/ Right to Know Coordinator left the position. Defendant Silvio told Plaintiff that he would get the position as soon as it gets approved by the Department of Revenue & Finance.

13. On May 2015, the term for Mayor and Commissioners was up for election. Defendant Silvio said we would have to wait after the election to do any type of changes or promotions.

14. On or about May 2015, Defendant Gabriel became Commissioner of DPW. Plaintiff continued working as a Sanitation inspector without any issues.

15. On or about November 2015, Plaintiff spoke to Defendant Roque regarding his pending promotion and salary raise. Defendant Roque told plaintiff to speak to Commissioner Gabriel.

16. On or about December 2015, Plaintiff spoke to Commissioner Gabriel regarding his pending promotion and salary raise. Defendant Gabriel replied that there were many employees and there was a long waiting list plus the people who was working close to him. This situation created animosity and discontent among employees.

17. On or about July 2016, Plaintiff filed to run as a Trustee for the West New York Board of Education. When Defendants Roque, Silvio, and Gabriel were made aware of same, they began to harass and retaliate against Plaintiff because he was running with a candidate whom Defendant Silvio considered a personal enemy. This caused Plaintiff's depression, stress and suffering to resurface.

18. On or about February 2017, Plaintiff was asked by Defendant Silvio to fulfill a quota of 30 summonses per month. Plaintiff spoke to Supervisor Arnold Hernandez who was also a Union Representative regarding this situation. Then, Mr. Hernandez spoke to Defendant Silvio Acosta and explained to the Defendant that if he imposed a quota to the Plaintiff, he also must do the same to the other Sanitation Inspector, Andy Garcia.

19. On or about March 2017, then Defendant, Silvio Acosta, demanded that the Plaintiff issue and serve summonses to selected town residents from a box filled with pieces of paper containing residents addresses which Defendant Silvio handed to Plaintiff. According to

procedure, Plaintiff is supposed to investigate violations therefore he seeks advice from the Union because he felt said action was illegal and unethical because he never investigated selected properties and would have to testify in court committing perjury. Plaintiff requested Defendant Silvio to please provide him with something in writing that an investigation had been conducted. Defendant Silvio replied that he was the boss and he didn't need to provide anything in writing. Plaintiff requested that the Union intervene in the matter. Then, the Union advised Plaintiff to "include the supervisor or director's name on the summons." Defendant Silvio refused to have his name on the summons and he did not ask Plaintiff for the summonses again.

20. On or about April 2017, Plaintiff was approached by Defendant Silvio and asked Plaintiff if he would run again for the BOE. Plaintiff replied that he had decided to run again. Defendant Silvio proceeded to tell Plaintiff that the Commissioners were not happy with him running again and warned Plaintiff that he was not responsible for any actions against Plaintiff for such decision because the order was coming from above him.

21. On or about May 2017, Plaintiff was on the job when Secretary Mari Baldeo called Plaintiff on the Radio and told Plaintiff that Defendant Silvio requested that the Plaintiff investigate black bags in front a property. Plaintiff went to said property and investigated with the resident about the black bags. Plaintiff asked the resident why were all those black bags outside his property? Resident went on to explain Plaintiff that he changed his bathroom floor because it was ripped and the previous night, he placed the bags out because it was garbage pick-up night. However, the workers told him that the bags were going to be picked up the following morning. Plaintiff explained to the resident that the bags posed a hazard to the residents and as a courtesy Plaintiff would remove the garbage bags from the sidewalk as the owner was suffering from a fractured foot but not to place any more bags out on the sidewalk. As a sworn in

Sanitation Inspector, Plaintiff had the authority to: 1. Remove the bags 2. Send the laborers to pick it up 3. Issue a warning and give resident time to remove the bags 4. Issue a summons 5. Do a courtesy pick up. As a result, on or about June 2017, disciplinary charges were brought against Plaintiff resulting in a suspension without pay for 30 days and later terminated.

22. On or about July 21st, plaintiff returned to work after the suspension. Plaintiff was approached by supervisor/shop steward Nelson Rodriguez and told plaintiff that as per Director Acosta and Commissioner Rodriguez, he had been removed of his Sanitation Inspector duties and he was going to be a street sweeper from now on.

23. On or about July 21st, plaintiff was approached by supervisor Rodriguez again who advised him to not sign anything that defendants ask him to sign. When plaintiff finished his shift later that day, he was called to the office and asked to sign a letter stating and accepting that he was a laborer. Plaintiff requested to be given a copy of the letter and time to review it until Monday.

24. On or about July 24th, plaintiff returned to work and he was approached again by supervisor Rodriguez who asked him if he had reviewed the letter. Plaintiff responded that his title was not Laborer 1 and to please make the correction according to his title in order to sign the letter. Plaintiff was told to sit down and wait for human resources department to make the changes.

25. On or about July 24, plaintiff was approached by human resources department employee, Kelly Schweitzer, and hand in a new notice of discipline for another 30 days suspension without pay and told that he will not be able to work unless he signs the letter accepting to be a Laborer 1.

26. On or about July 27th, plaintiff filed a grievance requesting clarification of his duties and title from the defendants and also to be returned to work accordingly. The grievance was never answered by the defendants.

27. On or about August 2017, the Town of West New York accused plaintiff of illegal dumping and was cited to court in Union City Municipal Court. The case was dismissed for lack of prosecution after defendants fail to appear (show cause) 3 times.

28. On or about October 2017, plaintiff was brought to West New York Municipal Court on the same charges of illegal dumping but the judge refused to hear the case alleging conflict of interest.

29. On or about November 2017, plaintiff was brought to Secaucus Municipal Court on the same charges of illegal dumping. Secaucus' Prosecutor dismissed the case and noted that it would be considered double jeopardy.

30. On or about September 5th 2017, plaintiff returned to work after his 2nd 30 days suspension and again was approached by supervisor Rodriguez and was told that he will not be allowed to work unless he signs the letter. Plaintiff was given the letter again without any changes being made. Plaintiff did not sign the letter and he was given another notice of discipline removing him from his employment with the town of West New York.

31. On or about October 2017, Plaintiff filed a complaint with the Civil Service Commission.

32. Pursuant to a decision issued by the Civil Service Commission In the Matter of Alex Navas Town of West New York, the Civil Service reversed the 30 working day suspension and ordered the Alex Navas be granted 30 days back pay, benefits, and seniority. It is further ordered that if said dispute cannot be resolved, then plaintiff shall be able to pursue the discipline actions against him in the Superior Court of New Jersey, Appellate Division for further review.

OTHER MISCONDUCT

33. On or about February 2018, plaintiff and other employees were interviewed by Univision Channel 41 and made public plaintiff unfair employment situation and defendants lack of implementation of town law and ordinances. It showed how the Department of Public works of West New York, picked up debris from Commissioner Gabriel Rodriguez father's house, Mr. Israel Rodriguez, and from a neighbor's house.

34. On or about March/April 2018, the town of West New York responded to the employee allegations and Univision report by attacking plaintiff publicly in a commissioner's meeting. Mr. Israel Rodriguez spoke publicly about plaintiff discipline and personnel record with information allegedly obtained by unknown sources and which is supposed to be protected by privacy laws and it is unavailable through the Open Public Records Act's request.

COUNT I

(Free Speech Retaliation-Federal Constitution and §1983)

Plaintiff repeats and realleges all the foregoing paragraphs.

35. Plaintiff was engaged in speech protected under the First Amendment, which included, among other things, running for the position of Trustee of the West New York Board of Education against the stated desires of municipal officials then in power, and cooperating with investigative reporters seeking to reveal corruption in the West New York Department of Public Works.

36. Defendants subsequently took adverse or retaliatory action against Plaintiff Navas.

37. There is a causal connection between Plaintiff's free speech and Defendants' adverse or retaliatory action, in that the protected speech and associational action taken by Navas was a substantial or motivating factor in the adverse or retaliatory actions, ultimately resulting in Plaintiff's termination from municipal employment.

38. The retaliation against Plaintiff was a municipal custom, pattern, practice or policy, in that the retaliation was conducted by or at the behest of the Town's chief executive and members of its highest-level governing board, the Board of Commissioners.

39. Defendants' conduct against Plaintiff Navas violate his free speech and associational rights under the First Amendment and his substantive due process rights under the Fourteenth Amendment, which is redressable pursuant to 42 U.S.C. §1983.

COUNT II

(Free Speech Retaliation-State Constitution and N.J.S.A. 10:6-2)

40. Plaintiff Navas repeats and realleges all the foregoing paragraphs.

41. The New Jersey Constitution, Art. 1, §§6 and 18, guarantees individuals the right to free speech, to assemble, to participate in elections as a candidate, and to speak out about matters of public concern, such as corruption in municipal services.

42. The New Jersey Civil Rights Act, N.J.S.A. 10:6-2 prohibits persons acting under the color of state law from depriving or interfering with an individual's exercise or enjoyment of their substantive rights under the Federal and State Constitutions.

43. Plaintiff, and other members of Local 1045 in the classified Civil Service have a substantive right to be free of reprisals, discipline or political coercion on the basis of their electoral or speech activities, such as running for office against the political status quo or

cooperating with news media concerned about municipal corruption, a clear matter of public concern.

44. Defendants' conduct as aforesaid violated, deprived and interfered with Plaintiffs' exercise or enjoyment of substantive rights, privileges, and immunities under the State Constitution and the New Jersey Civil Rights Act.

45. Defendants' discipline actions, ultimately resulting in his termination from his position in the Department of Public Works, constitute a deprivation of, or an attempt to interfere with Plaintiff's exercise or enjoyment of substantive rights under the State Constitution and laws, by threats, intimidation, coercion and unfair and unreasonable discipline.

COUNT III
(Fundamental Fairness and Violation of Public Policy Under the New Jersey
Constitution)

46. Plaintiff repeats and realleges all the foregoing paragraphs.

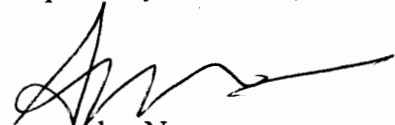
47. Defendants' conduct as aforesaid violated Plaintiff's right to fundamental fairness under Art. 1, §1 of the State Constitution, and his termination in retaliation for his electoral and public speech activity constitutes a blatant violation of public policy.

WHEREFORE, Plaintiff demands judgment in his favor and against Defendants:

- a. Adjudging and declaring that Defendants violated Plaintiff's rights under the First and Fourteen Amendments to the United States Constitution, under 42 U.S.C. §1983, under Article 1 §§ 1, 6 and 18 of the State Constitution and the New Jersey Civil Rights Act;
- b. Adjudging and declaring that Defendants deprived or interfered with the Plaintiff's exercise or enjoyment of substantive rights under the Federal Constitution and the State Constitution, contrary to N.J.S.A. 10:6-2.

- c. Adjudging and declaring that Defendants attempted to interfere with the Plaintiff's exercise or enjoyment of substantive rights under the Federal Constitution, and the State Constitution, contrary to N.J.S.A. 10:6-2.
- d. Enjoining Defendants from further violations of the above-cited constitutional provisions and state law, and compelling Defendants to rehire Plaintiff Navas, with full seniority, back pay and other benefits;
- e. Awarding Plaintiff all compensatory and punitive/exemplary damages;
- f. Awarding court and expert fees and cost of suit pursuant to 42 U.S.C. §1988 and N.J.S.A. 10:6-2(f); and
- g. For such and further legal and equitable relief as is just and proper.

Respectfully submitted,



Alex Navas

Pro Se

Dated: January 29, 2020

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ALEX NAVAS,
Plaintiff

V.

SUMMONS IN A CIVIL CASE

TOWN OF WEST NEW YORK, ET AL.,
Defendant

CASE
NUMBER: **2:19-CV-17583-CCC-SCM**

TO: *(Name and address of Defendant):*

Mayor Gabriel Rodriguez
428 60th Street
West New York, NJ 07093

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States Agency, or an office or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:


If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

s/ WILLIAM T. WALSH

CLERK



ISSUED ON 2019-09-05 08:42:50, Clerk
USDC NJD

RETURN OF SERVICE		
Service of the Summons and complaint was made by me(1)	DATE	12/5/19
NAME OF SERVER (PRINT) Anabela Pinto	TITLE	Process Server
<i>Check one box below to indicate appropriate method of service</i>		
<input type="checkbox"/> Served personally upon the defendant. Place where served: _____ _____		
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.		
<input checked="" type="checkbox"/> Name of person with whom the summons and complaint were left: Louis Baez, Asst. Business Admin.		
<input type="checkbox"/> Returned unexecuted: _____ _____		
<input type="checkbox"/> Other (specify) : _____ _____ _____		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL
DECLARATION OF SERVER		
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.		
Executed on	12/05/19 at 4:00 PM Date	 Signature of Server
		P.O. Box 25066 Newark, NJ 07102 Address of Server
Served upon Mayor Gabriel Rodriguez. Address of Service: 528 60th Street West New York, NJ 07093 Approximate Description of Service: Sex: Male, Race: Hispanic, Age: 25-30s, Hair: Brown, Wt: 150 lbs, Ht: 6'0", Other: Brown Eyes		

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

ALEX NAVAS,
Plaintiff

V.

SUMMONS IN A CIVIL CASE

TOWN OF WEST NEW YORK, ET AL.,
Defendant

CASE
NUMBER: 2:19-CV-17583-CCC-SCM

TO: *(Name and address of Defendant):*

Dr. Felix Roque, MD
543 45th Street
Union City, NJ 07087

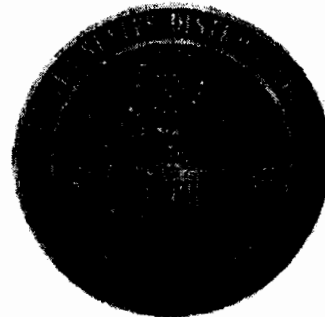
A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States Agency, or an office or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

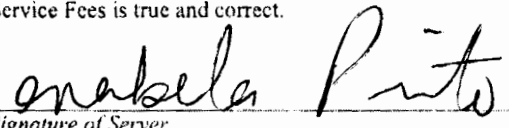
If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

s/ WILLIAM T. WALSH

CLERK



ISSUED ON 2019-09-05 08:42:50, Clerk
USDC NJD

RETURN OF SERVICE		
Service of the Summons and complaint was made by me(1)	DATE 12/11/19	
NAME OF SERVER (PRINT) Anabela Pinto	TITLE Process Server	
Check one box below to indicate appropriate method of service		
<input type="checkbox"/> Served personally upon the defendant. Place where served: _____ _____		
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.		
<input checked="" type="checkbox"/> Name of person with whom the summons and complaint were left: Rakesh Desai, Custodian of Records		
<input type="checkbox"/> Returned unexecuted: _____ _____		
<input type="checkbox"/> Other (specify) : _____ _____		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL
DECLARATION OF SERVER		
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.		
Executed on	12/9/19 at 3:50 PM Date	 Signature of Server
		P.O. Box 25066, Newark, NJ 07102 Address of Server
Address of Serve: 543 45th St, Union City, NJ 07087		
Approximate Description of Receipt: Sex: Male, Race: Indian, Age: 40s, Hair: Black, Weight: 180 lbs, Height: 5'10", Other: Brown Eyes, Glasses		
Documents served: Summons, Complaint and Jury Demand		