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_____	:	SUPERIOR COURT OF NEW JERSEY
ANTONIO MANATA,	:	LAW DIVISION -- UNION COUNTY
	:	
Plaintiff,	:	Civil Action
	:	
vs.	:	Docket No.: _____
	:	
TOWNSHIP OF CLARK,:	:	COMPLAINT AND DEMAND FOR JURY TRIAL
SALVATORE BONACCORSO,:	:	
JAMES ULRICH, PEDRO MATOS,:	:	
VINCENT CONCINA, JOSEPH:	:	PUNITIVE DAMAGES REQUESTED
TESTON, TRIARSI, BETANCOURT,:	:	
WUKOVITS & DUGAN, LLC,:	:	
MARK P. DUGAN, ESQ., JOSEPH J.:	:	
TRIARSI, ESQ., STEVEN F.:	:	
WUKOVITS, ESQ., MARC A.:	:	
SPOSATO, ESQ., JOHN DOES 1 to:	:	
50, JOHN DOES 51 to 100,	:	
	:	
Defendants.	:	
_____	:	

Plaintiff, ANTONIO MANATA, says:

**PARTIES**

1. Plaintiff is an individual. Plaintiff's address is being withheld due to qualification under Daniel's Law.

2. Defendant TOWNSHIP OF CLARK (also pleaded as "Township", "Clark Township", and "Clark") is a municipality within the County of Union and State of New Jersey.

3. Defendant SALVATORE BONACCORSO has been at all relevant times the Township's Mayor.

4. Defendant JAMES ULRICH has been at all relevant times the Township's Business Administrator following the death of former business administrator John Laezza.

5. Defendant PEDRO MATOS has been at all relevant times the Township's Police Chief.

6. Defendant VINCENT CONCINA has been at all relevant times a Township Police Department Captain.

7. Defendant JOSEPH TESTON has been at all relevant times a Township Police Department Internal Affairs Sergeant.

8. The Defendant law firm of TRIARSI, BETANCOURT, WUKOVITS & DUGAN, LLC, (f/n/a Triarsi, Betancourt & Wukovits, LLC; f/n/a Triarsi, Betancourt, Walsh & Wukovits, LLC; f/n/a/ Pisano, Triarsi & Betancourt, LLC); 186 North Avenue East, Cranford, NJ 07016 ("Law Firm") has been at all relevant times counsel for Clark Township.

9. Defendant MARK P. DUGAN, ESQ., a member at all relevant times of the Law Firm, commenced being Township's Director of Law per Township Resolution 20-01.

10. Defendant JOSEPH J. TRIARSI, ESQ., a member at all relevant times of the Law Firm, was at all relevant times the Township's Director of Law before Defendant MARK P. DUGAN, ESQ. assumed such position.

11. Defendant STEVEN F. WUKOVITS, ESQ. has been a member of the Law Firm at all relevant times .

12. Defendant MARC A. SPOSATO, ESQ. has been associated with the Law Firm at all relevant times.

13. JOHN DOES 1 to 50 are individuals and/or entities, fictitiously named per Rule 4:26-4, who/that have aided and abetted in the wrongs set forth herein.

14. JOHN DOES 51 to 100 are individuals and/or entities, fictitiously named per Rule 4:26-4, who/that had, at all relevant times, a principal/agent and/or employer/employee relationship with any of the Defendants, specifically named, and/or including but not limited to JOHN DOES 1 to 50, and/or are personally and/or vicariously responsible for the wrongs set forth herein.

### **FACTS COMMON TO ALL CLAIMS**

15. The violations Plaintiff describes herein are subject to the continuing violations doctrine and the discovery rule.

16. For a number of years, there had been a pattern and practice of discrimination and harassment at Clark Police Department.

17. This has led to prelitigation settlements with several of Plaintiff's colleagues, including but not limited to: Susan Ricci; Martin Venezia; Steven Francisco and Eric Richter.

18. Through evidence obtained by the aforementioned individuals, Plaintiff learned that he, too, was being targeted for discrimination by high-ranking members of the Clark Police Department.

19. In addition, Plaintiff suffered ongoing harassment at the hands of these same individuals.

20. Clark Township’s policy prohibiting discrimination, harassment, or hostile work environment in the workplace states “employees are expected to document all incidents of prohibited discrimination/harassment in order to provide the fullest basis for investigation.”

21. In order to document the incidents of prohibited discrimination and harassment, and thus prove his own discrimination claims, Plaintiff began recording his conversations with Clark Township officials BONACCORSO, MATOS, CONCINA, and TESTON.

22. Such comments by BONACCORSO, MATOS, CONCINA, and TESTON were racially, ethnically, and sexually derogatory.

23. In September 2019, Plaintiff contacted the professional standards unit of Union County Prosecutor’s Office (“UCPO”) and advised them of his intention to file a complaint.

24. In response, Plaintiff was cautioned against proceeding with a complaint against Clark Township or any of its officials.

25. More specifically, Plaintiff was advised that the UCPO could not promise confidentiality in the investigation, due to the personal relationship between the Chief of Detectives at UCPO and Township Police Chief PEDRO MATOS.

26. In light of this, Plaintiff had a well-placed fear of retaliation if he came forward.

27. Plaintiff therefore retained private counsel to protect his rights.

28. The Township’s policies and procedures manual (revised September 2018) stated that employees who observe actions they believe to constitute harassment, sexual harassment, or any other workplace wrongdoing should bring the matter to their own supervisor, or to the Business Administrator, or to the Municipal Attorney.

29. In accordance with this procedure, Plaintiff’s then-counsel contacted the Municipal Attorney (then, JOSEPH J. TRIARSI, ESQ.) to report Plaintiff’s discrimination claim.

30. The Township's policy prohibiting discrimination, harassment or hostile work environment in the workplace required such investigations to respect, to the extent possible, the privacy of the complaining party.

31. However, in this instance, Plaintiff was not afforded privacy.

32. During his first meeting with the Municipal Attorney at that time, JOSEPH J. TRIARSI, ESQ., Defendant Mayor SALVATORE BONACCORSO appeared at the meeting and began berating Plaintiff.

33. The next time Plaintiff appeared at Clark Police headquarters, Police Chief PEDRO MATOS directed that Plaintiff be escorted from the building and banned him from returning.

34. At the Township's request, prelitigation settlement discussions followed.

35. By letter dated November 5, 2019, Patrick P. Toscano, Jr., Esq., notified the Township through the Township Attorney (then, JOSEPH J. TRIARSI, ESQ.) that Plaintiff intended to assert claims by way of court action against the Township.

36. On January 29, 2000, Plaintiff entered into a Settlement Agreement with multiple parties. **(See Exhibit A)**

37. The Township Council approved the Agreement on February 3, 2000 by way of Resolution 20-34.

38. Per the settlement agreement, Plaintiff turned over the recordings he had made and other material to Clark Township via Township Attorney JOSEPH J. TRIARSI, ESQ.

39. Per the subject settlement agreement, Plaintiff remained a Township employee through February 28, 2022 -- his 25 years of service retirement date.

40. On or around July 23, 2020, the Union County Prosecutor's Office ("UCPO") exercised supersession authority to assume control of the law enforcement and internal affairs functions of Clark Police, which UCPO maintains to this day.

41. "Acting Prosecutor Ruotolo also announced that UCPO will conduct a full inquiry into credible allegations of misconduct involving the leadership of the Clark Township Police Department."<sup>1</sup>

42. "Attorney General Grewal pledged the full support of his office not only to assist with UCPO's inquiry, but also to work with UCPO to restore trust with local residents." Ibid.

43. "Upon completion of the investigation, acting Prosecutor Ruotolo will release a public report of the UCPO's findings." Ibid.

44. As of the time of this writing, no such report has been issued.

45. As of April 2022, the three Township officials about whom Plaintiff complained have been suspended with pay.

46. Through a source other than Plaintiff, the media obtained copies of said settlement agreement, some of the audio recordings made by Plaintiff and a draft complaint which was written but not filed on behalf of Plaintiff.

47. In March 2022, the media released some of the alleged recordings.

48. Several national news outlets reported on the matter.

49. At least one Clark official attempted to retract and/or explain away his comments.

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<sup>1</sup> <https://ucnj.org/prosecutor/press-releases/prosecutor/2020/07/23/union-county-prosecutors-office-to-assume-control-of-clark-township-police-department-and-investigate-credible-allegations-of-misconduct/>

50. On June 20, 2022, Defendant SALVATORE BONACCORSO publicly discussed the settlement at a Clark Township council meeting, and stated he was only repeating what Plaintiff or someone else stated, which is a lie and can be clearly heard in the recordings.

51. Plaintiff and Clark Township have had an adversarial relationship since no later than 2019.

52. As stated, they are on opposite sides of a settlement agreement.

53. There are pending criminal and administrative investigations against Clark Township and/or its officials in which Plaintiff is a witness against Clark Township and its officials.

54. In April to May 2021, and as part and parcel of the continuing course of conduct/continuing wrongs perpetrated by Clark Township, its officials, its employees, the Law Firm and at least one of the Law Firm's attorneys -- Defendant MARK P. DUGAN, ESQ. -- refused to release Plaintiff 's Township employment records to a prospective employer upon Plaintiff 's request.

55. Said settlement agreement provided that Plaintiff's personnel and internal affairs files would not be released to any prospective employer or third party, absent a court order.

56. Nonetheless, there is nothing in said settlement agreement that barred Plaintiff from accessing copies of *his own* personnel and/or internal affairs files.

57. Plaintiff had to incur counsel fees to obtain his personnel file so he could forward it to awaiting prospective employers.

58. It was not until September 29, 2021 that Defendant MARK P. DUGAN, ESQ. released Plaintiff's Township personnel file to Plaintiff.

59. At about this time, Plaintiff discovered that said personnel file contained numerous falsified documents and/or statements made by Clark Township and its personnel.

60. One falsehood (found in two different locations of Plaintiff's personnel records) was that Plaintiff allegedly was terminated on March 12, 2020 -- when in fact the Agreement specifically states:

The employment of Manata by the Township, and the employment relationship between Manata and the Township, shall forever be terminated on and as of February 28, 2022 (his "Retirement Date"). Manata shall be on paid administrative leave commencing on the date hereof until the Retirement Date.

61. Up through February 28, 2022, Clark Township continued to pay Plaintiff as a township employee. He was not terminated.

62. Clark Township took the position that Plaintiff was a township employee in connection with W-2 forms issued to Plaintiff for the 2020, 2021, and 2022 tax years.

63. For the portion of the 2022 tax year before Plaintiff's employment ended per said Settlement Agreement, Clark Township made the usual withholdings from gross pay as would be the case for an employee.

64. Plaintiff's Clark Township employment/attendance records falsely show that Plaintiff incurred 28 "Unexcused Absences" from January 19<sup>th</sup> to March 10<sup>th</sup> 2022. Clark Township stated in Plaintiff's records he was terminated.

65. Logically, one cannot have unexcused absences if one was terminated approximately two years prior to the "absences". In this case neither inconsistent position was true because, per the Settlement Agreement, Plaintiff was employed/on administrative leave until February 28, 2022 when he voluntarily retired.

66. The claims of "UNEXCUSED ABSENCE" are also false because (1) the Township agreed that Plaintiff was barred from his place of employment and (2) Defendant JOSEPH J. TRIARSI, ESQ. instructed Plaintiff, via his attorney, to stay home during the negotiations that led to the Settlement Agreement.

67. Plaintiff uncovered another falsehood in his personnel file -- an email sent by Defendant MATOS on 3/12/2020 to 63 people, stating Plaintiff was no longer a member of the Clark Police Department.

68. Plaintiff's internal affairs records were tampered with and documents were destroyed, per a November 2, 2020 conversation between Plaintiff and Union County Prosecutor's Office Lt. Cassie Kim -- during which Lt. Kim told Plaintiff that she could not find some of the Internal Affairs matters (of which he was aware) in Plaintiff's personnel file.

69. Another "irregularity" was that said personnel file contained the results of four *other* Internal Affairs investigations as to Plaintiff which were never previously disclosed to him (contrary to the New Jersey Attorney General's Internal Affairs Policy and Procedures) -- one of which investigation files had been erased and/or deleted, with a finding of "SUSTAINED").

70. As part of the settlement agreement, Clark Township was to "notify the State of New Jersey Attorney General and the Union County Prosecutor's Office that it no longer has any interest in pursuing the extant Internal Affairs investigations of Manata." Clark Township failed to do so, which they admitted in a letter to Plaintiff's counsel and which was also confirmed to the Plaintiff by the UCPO.

71. As to the aforementioned four previously unknown (to Plaintiff) Internal Affairs investigations, on October 30, 2020, Plaintiff was contacted by the Union County Prosecutor's Office Internal Affairs unit, specifically Lt. Cassie Kim, who told him she needed to interview

Plaintiff for four outstanding Internal Affairs investigations she “found” in the Clark Police Department Internal Affairs files.

72. All of them were opened prior to the settlement agreement and were supposed to be closed *as part* of the settlement agreement.

73. Instead, contrary to the Agreement, the Clark Police did not close the Internal Affairs investigations, and left them pending.

74. The UCPO conducted the investigations in those four matters and cleared Plaintiff of any wrongdoing on all of them. It was also then that Plaintiff confirmed and informed the UCPO that his Internal Affairs folders had been tampered with and documents were missing or destroyed

75. Clark Township left these investigations open to interfere with Plaintiff's retirement and pension.

76. As a direct result of the false personnel records, Plaintiff was denied employment as a longshoreman -- causing severe and significant monetary damage to Plaintiff.

77. In the October 2021 to February 2022 period, Plaintiff was forced to incur counsel fees to attempt to correct the numerous falsehoods noted above.

78. During that time frame, Defendant MARK P. DUGAN, ESQ. wrote a letter sent via e-mail to Plaintiff's counsel stating that, although the Township was, in fact, obligated to keep personnel records -- the subject records are not required to be accurate.

79. New Jersey governments are required to maintain accurate records and not falsify the same. See e.g. N.J.S.A. 2C:28-7.

80. In addition, on 11/4/21, Mr. Dugan advised Plaintiff's counsel that Clark Municipal personnel have been instructed not to communicate with him. Said action caused the executive

board of the Clark Police PBA local 125 to remove Plaintiff from the email list and stopped all communication with him, interfering with union rights and privileges as a dues paying member. When Plaintiff contacted the executive board of the local to inquire why he was no longer receiving any communications from the local, he was advised they were instructed by the Township administration to do so. Plaintiff was the only then-active and is now the only retired member of Clark Police PBA Local 125 that does not receive any communication/email/mailings/etc. from the Local -- despite the Township taking union dues from his paychecks. The Settlement Agreement does not address this issue.

81. Mr. Dugan also advised Plaintiff's counsel that all communication between Plaintiff and municipal personnel shall be made "through counsel", therefore barring Plaintiff from conducting any business in the Township as a resident and taxpayer, and having to pay an attorney to conduct business that any other resident may conduct without an attorney.

82. On January 10, 2022, Plaintiff was officially notified he was the target of an Internal Affairs investigation for: 1) making the recordings in question, 2) failure to report the racist and sexist comments made by police and government officials; and 3) obtaining confidential information about an Internal Affairs investigation -- all of which acts and/or omissions the Clark Police Department had been aware for over two years -- due to the subject Settlement Agreement.

83. On January 26, 2022, Plaintiff gave a formal statement to the UCPO in which he again detailed allegations of criminal acts and civil rights violations committed by Township officials.

84. On February 24, 2022, Defendant MARK P. DUGAN, ESQ. wrote to counsel for Plaintiff claiming that Plaintiff allegedly violated said Settlement Agreement and demanded Plaintiff pay the Township \$275,000.00.

85. Defendant MARK P. DUGAN, ESQ. claimed that Plaintiff "appeared at Clark Police headquarters on February 22, 2022 during a meeting of the township council."

86. Plaintiff's presence on February 22, 2022 was to attend a public Township Council meeting.

87. In a February 28, 2022 letter, Defendant MARK P. DUGAN, ESQ. conceded that the Council chambers, municipal court, and the Police headquarters are in the same building but have separate entrances, and the entrance for the municipal court is unrestricted and not in a secure area of the building.

88. Defendant MARK P. DUGAN, ESQ. admitted that Plaintiff was attending a public Council meeting but frivolously argued that Plaintiff somehow waived his rights to attend public Council meetings per the January 29, 2020 Settlement Agreement.

89. There is no such language in said Settlement Agreement and if there had been any such language in the Agreement – in all likelihood it would have been unenforceable as against public policy.

90. Government cannot attempt to bar a member of the public, especially a Township resident, from attending public governmental meetings.

91. Plaintiff was forced to incur additional counsel fees to respond to the above baseless accusations.

92. On January 10, 2022, the New Jersey Police and Fire Retirement System ("PFRS") approved Plaintiff's pension commencing on March 1, 2022.

93. In Defendant MARK P. DUGAN, ESQ.'s February 28, 2022 letter, Defendant MARK P. DUGAN, ESQ. advised Plaintiff's attorney that "your client is under a *new* internal

affairs investigation which recently was initiated by the Union County Prosecutor's Office." (emphasis added.)

94. However, a follow up letter sent by Plaintiff's attorney to the UCPO was promptly answered by Union County AP David Hummel, advising that he was not aware of "any new internal affairs investigation."

95. Moreover, Dugan could not have been referring to the aforementioned Internal Affairs investigation begun two months before on January 10, 2022 -- because he was notified about it via e-mail by Plaintiff's counsel on January 12, 2022.

96. Notably, in his February 28, 2022 letter Defendant MARK P. DUGAN, ESQ. referred to Plaintiff as "your client" -- not "our client" nor "my client" -- thus indicating that clearly Plaintiff was not a client of Defendant MARK P. DUGAN, ESQ. or the law firm.

97. Also in the subject February 28, 2022 letter, Defendant MARK P. DUGAN, ESQ. stated, "I am further told that in view of the ["new Internal Affairs investigation]," [Plaintiff] is not in good standing, and as such, presently is ineligible to receive the retired police officer's identification card or the permit for a weapon he seeks, and cannot receive pension benefits."

98. As a result, to this day Plaintiff's monthly pension and medical benefits have been suspended.

99. On or about September 20, 2020 Plaintiff submitted to Clark Police a private resident application to purchase a firearm (confirmation number 20264243043)("20264243043 application").

100. While Plaintiff's attorney was attempting to amicably resolve Plaintiff's issues with Clark through Defendant MARK P. DUGAN, ESQ., she and Plaintiff discovered that the Township's Police Department falsified the 20264243043 application.

101. By way of brief background, in order for any resident of Clark Township to purchase a firearm, the resident must access the NJ State Police website and submit a firearms purchasing permit application, which Plaintiff did.

102. The State Police then sends the application to the local police agency where the applicant resides -- here, Clark Township -- for that agency to complete the background check and either issue or deny the permit.

103. After submitting his application to the NJ State Police per the above process, months went by -- so long that Plaintiff completely forgot about it.

104. However, during her dealings with Defendant MARK P. DUGAN, ESQ. regarding Plaintiff's other issues described above -- Plaintiff's attorney inquired about the 20264243043 application.

105. She and Plaintiff then discovered that the Clark Township Police falsified Plaintiff's 20264243043 application by falsely notifying the NJSP that Plaintiff had *withdrawn* his application on January 26, 2021.

106. This representation was completely false.

107. No one from Clark Township ever contacted Plaintiff about the firearm purchasing permit at all -- much less to follow up with the required background investigation.

108. As a matter of routine practice, every time a detective conducts a background investigation for a firearms purchasing permit, the Clark Township Police Department creates an investigating folder and reports are generated by the detective handling such permits.

109. On or about January 9, 2023 Clark Township provided Valerie Palma Deluise with various documents regarding Plaintiff's firearms applications.

110. In and amongst the documents that Clark Township provided pertaining to the 20264243043 application, the only information as to why Plaintiff's application was not fully processed is a January 26, 2021 entry by Clark employee Deborah DeAngelo stating: "Reason: Application withdrawal requested by the applicant."

111. In addition, per Ms. DeAngelo's subsequent August 8, 2022 (at 3:53 PM) e-mail to Sophia Santos, Lieutenant at the UCPO, Deborah DeAngelo recounted:

September of 2020 [Plaintiff] made application for a pistol permit. The same information as above was supplied. All paperwork was turned over to the OIC because of the discrepancy. I was later advised [By Defendant JOHN DOE 1] to withdrawal this application.

In the above referenced email, Deborah DeAngelo also recounted:

Past practice, we would contact the applicant to either do a change of address on their DL or re-apply in the town in which they. FID must match the DL.

112. Here, due to Plaintiff's residential property lot straddling municipal lines, Plaintiff's (sole) residence at the time was known by two addresses.

113. More specifically, Plaintiff's residence was on a lot that was partially in the City of Linden, under address 1715 Crescent Parkway, Linden; and partially in Clark Township under address 1 Crescent Parkway, Clark.

114. Most of the lot was in Clark Township.

115. Per official tax maps, the lot owner paid all their property taxes solely to Clark Township.

116. Plaintiff's New Jersey driver's license listed his MAILING address as being 1715 Crescent Parkway, Linden (Linden Block 411, Lot 10.02) while listing his residential address as 1 Crescent Parkway Clark. The NJ Motor Vehicle Commission allows a person to have two

addresses -- one residential and one mailing. Clark Township considered Plaintiff's residential address as 1 Crescent Parkway Clark (Clark Block 191, Lot 1).

117. This is evident by multiple documents the Township has issued, including Clark's Federal Tax information returns as to Plaintiff, which are made under federal penalty of perjury, and the Settlement Agreement itself, which recites Plaintiff as "residing at 1 Crescent Parkway, Clark, New Jersey, 07066."

118. Multiple other documents within Clark Township's possession, custody, and control -- including but not limited to property tax records, firearms records and employment records from 2008 until 2022-- show that Plaintiff's residential address is in Clark Township.

119. Clark Township has, for years, received property tax payments from Plaintiff and therefore is well aware that he resided in Clark Township at the time.

120. Clark Township is well aware of Plaintiff's former residential mailing address because, *inter alia*, Clark Township was Plaintiff's employer for many years.

121. Public records, including his registered deed with the County of Union, indicate that Plaintiff's residential lot has a (less than one-half) portion that physically lies within Linden.

122. Additional public records also indicate that Clark Township collects property taxes for the entire parcel.

123. A survey of the subject lot indicates that most of the residence sits within Clark Township and it appears that almost all the living space is within Clark Township.

124. When Plaintiff reconstructed the house in 2017, the Township of Clark's Construction Department was the only agency that oversaw and inspected the build.

125. To further prove that Plaintiff's residence is in Clark, he was issued a recycling bin that is only given and assigned to Township residents, which showed a Clark Township LOGO from the Township's DPW and which is tracked via its engraved serial number.

126. Regardless of post office address, which may not necessarily follow municipal lines -- when a person owns a lot and home, the majority of which are located in Clark Township; pays property taxes to Clark Township (only); and possesses a driver's license listing one's residential address as within Clark Township -- that person is a Clark Township resident. Contrary to DUGAN -- that person "resides" in Clark Township.

127. Furthermore, Clark Township knows that Plaintiff's residence is in Clark Township because Clark Township and its Police Department conducted an Internal Affairs investigation initiated by the Clark Township Police Department's Internal Affairs Unit in September 2019 -- the subject of which was Plaintiff's "dual address" issue. Said investigation, which included consideration of numerous documents issued by other governmental agencies, ultimately cleared Plaintiff of any criminal and departmental violations, and its final disposition was: EXONERATED.

128. This Internal Affairs investigation accused Plaintiff of theft of services because he went to the City of Linden DPW to ask them if they would pick up Plaintiff's recycling because Clark Township would not do so -- despite Plaintiff's countless good faith efforts making the Township administration aware of the issue over the course of numerous years.

129. When interviewed by the Union County Prosecutor's Office on November 2, 2020, Plaintiff gave them a recording of a telephone call he had with the Clark DPW director, Scott McCabe, during which McCabe advised Plaintiff that he lived in Linden and should go to Linden to ask them to pick up Plaintiff's recycling. After Plaintiff followed McCabe's directions in good

faith -- the Clark Police then used this as a pretext to open an Internal Affairs investigation against Plaintiff.

130. As to the Clark Township's aforementioned "past practice" as described by Deborah DeAngelo regarding the firearms permitting issue -- nobody ever contacted Plaintiff as to the address issue, even though Clark Township knew full well that there really was no discrepancy and even if there was, it could be easily cleared up by Plaintiff showing that his residential address of record with NJ MVC was in Clark -- not Linden.

131. Moreover, the New Jersey State application form facially contemplates that some applicants may have different addresses for their motor vehicle license as opposed to their residential address.

132. Notably, N.J.S.A. 2C:58-3(c), which specifies disqualifiers and disabilities with regard to the approval of such firearms applications makes no mention whatsoever of any required "match" of a NJ MVC address and a residential address.

133. Moreover, as a governmental unit, Clark Township is presumed to have knowledge of the physical lots within its borders and also to have knowledge about lots that straddle Township borders.

134. Public tax maps of Linden show multiple lots that straddle the border between these two municipalities, some taxed by Clark and some taxed by Linden.

135. In 2009, the Clark Police Department approved Plaintiff's application to change his firearm identification card address from Garwood, NJ to his then-new residence at 1 Crescent Parkway, Clark Township, NJ.

136. Accordingly, Clark Township was well aware that 1715 Crescent Parkway, Linden; and 1 Crescent Parkway, Clark was, in fact, the same lot and that Plaintiff's address was 1 Crescent Parkway, Clark.

137. The subject Settlement Agreement stated that "[u]ntil the date of his retirement, Plaintiff's authority to own and carry a [police] firearm or other weapon is, by the authority of this agreement, revoked until his retirement at which time he shall be free to apply for the requisite authority to own and carry the same."

138. The Agreement does not contain a waiver of Second Amendment rights nor does it prevent Plaintiff from obtaining a Retired Police Officer carrying permit ("RPO").

139. Clark Police knew Plaintiff owned and possessed handguns during this entire timeframe when the Settlement Agreement was signed, because Clark Police issued Plaintiff the permits in the past and held (still do) said past records, as Plaintiff was a resident of Clark Township.

140. Clark Township never had an issue with addresses before. Nowhere on the Settlement Agreement does it state that Plaintiff had to sell his firearms nor did Clark Township ever contact Plaintiff's attorney after the Settlement Agreement was signed for Plaintiff to do so.

141. The 20264243043 application issue described above is separate and apart from the issue as to an application for a Retired Law Enforcement Officer Permit to carry a handgun ("RPO").

142. On October 23, 2021, and pursuant to N.J.S.A. 2C:39-6(1), Plaintiff applied for an RPO to be able to carry a weapon as a retired law enforcement officer in NJ, and for the specific purpose of continuing his employment as a security officer for Security Industries Specialists, Inc.

143. Pursuant to N.J.S.A. 2C:39-6(1), an RPO application is made to the NJSP, which in turn forwards it to the former employing agency – here, the Clark Township Police Department – so that one of its representatives can sign and return an acknowledgment that Plaintiff worked as a law enforcement officer, after which the NJSP can issue Plaintiff the RPO.

144. The NJSP sent the RPO application to the Clark Police Department on or about November 16, 2021.

145. Through Defendant MARK P. DUGAN, ESQ., Plaintiff's attorney inquired about the RPO application and the fact that it needed to be signed by a Township Police representative.

146. Defendant MARK P. DUGAN, ESQ. acknowledged receiving the RPO paperwork from the NJSP, and represented to Plaintiff's attorney that the Clark Police were going to sign it once Plaintiff retired on March 1, 2022.

147. Plaintiff's attorney explained to Defendant MARK P. DUGAN, ESQ. that the applications are routinely submitted 90 days in advance so as to give the NJSP time to issue the permit by the time the subject officer retires -- but Defendant MARK P. DUGAN, ESQ. insisted the Township would only sign it on or after March 1, 2022.

148. Defendant MARK P. DUGAN, ESQ.'s representation turned out to be a false representation.

149. Contrary to Defendant MARK P. DUGAN, ESQ.'s representation, Clark Township failed to fill in and return the RPO application to the State Police.

150. On August 11, 2022 NJSP followed up with Clark Township via email to a Clark Police administrative clerk regarding the need for Clark Township to fill out page two of Plaintiff's RPO application, noting: "This is the information needed so the former employee can obtain a RPO license within the State of NJ."

151. On August 11, 2022, Defendant Clark Police Captain CHRISTIAN LOTT advised said administrative clerk: "I believe that this should be forwarded to the Township Attorney for guidance."

152. This was despite the fact that the Settlement Agreement required Clark Township and/or its employees to provide the information required to complete page two of Plaintiff's RPO application.

153. On August 11, 2022, Defendant MARK P. DUGAN, ESQ. wrote to the Union County Prosecutor:

Kindly recall that I am Township Attorney for Clark, and that your office earlier this year assumed and continues to control of the Clark Police Department. As such, I have enclosed a partially-completed Initial Application for a Retired Law Enforcement Officer Permit to Carry a Handgun by [Plaintiff] for completion and response. It is the Township's position that the Prosecutor's office should complete and respond to the application.

154. On August 26, 2022, MARK P. DUGAN, ESQ. wrote to the Union County Prosecutor:

Kindly recall that I am Township Attorney for Clark, and that your office earlier this year assumed and continues to control of the Clark Police Department. As such, I have enclosed the following documents, as a supplement to that which was sent with my August 11, 2022 letter:

1. a[n approved by Clark Police 2009] Application for Duplicate Firearms Purchaser Identification Card by [Plaintiff to change the address on his then-existing card in Garwood, NJ to his then-new address of 1 Crescent Parkway, Clark, NJ];
  2. a Firearms History search for [Plaintiff];
  3. the Application Details sheet for the Firearms Purchaser Identification Card and/or Handgun Purchase Permit application; and
  4. the CJIS 2000 DMV Response search results for [Plaintiff].
- It is the Township's position that the Prosecutor's office should complete and respond to the application.

155. As of the date of this writing in the spring of 2023 -- Clark Township Police have refused to sign the application.

156. As a result, Plaintiff is not allowed to carry a weapon nor is he allowed to work for Security Industries Specialists, Inc., which has caused Plaintiff to lose a substantial source of income.

157. Clark Township refused to process a third firearms application.

158. On or about August 3, 2022 Plaintiff submitted to Clark Police a private resident application to purchase a firearm (confirmation number 22215623490)("22215623490 application").

159. Relative to the 22215623490 application, and in an email dated August 8, 2022 (at 3:53 PM) to Sophia Santos, Detective at the UCPO, Deborah DeAngelo recounted:

Attached is a Firearms Application for [Plaintiff]. There are a few things that need clarification.

\* Firearms application states his residential address is 1 Crescent Parkway, Clark.

\* DL states he resides at 1715 Crescent Parkway, Linden.

\* In April of 2009 [Plaintiff] applied for an address change from Garwood to 1 Crescent Parkway, Clark. [Plaintiff's] Firearms History also shows his Firearms ID Card reflects an address of 1 Crescent Parkway, Clark.

All Documents reflecting the above are attached to this email.

\* September of 2020 [Plaintiff] made application for a pistol permit. The same information as above was supplied. All paperwork was turned over to the OIC because of the discrepancy. I was later advised to withdrawal this application.

Past practice, we would contact the applicant to either do a change of address on their DL or re-apply in the town in which they. FID must match the DL.

160. On September 1, 2022, MARK P. DUGAN, ESQ. wrote Plaintiff's attorney, returning to her Plaintiff's application for a RPO and the 22215623490 application.

161. As to the 22215623490 application, MARK P. DUGAN, ESQ. claimed that Clark would not process it because a search as to [Plaintiff's] driver's license information allegedly indicated that he "resides" in the City of Linden -- not in Clark Township, which is false.

162. More specifically, Plaintiff's driver's license records with the NJ MVC show that his residential address was in Clark but his mailing address was in Linden, just like his voting records with the Union County "voting authority". Plaintiff always voted in Clark with respect to municipal elections. Plaintiff's children attended the Clark's public school system from 2011 to 2022 with the knowledge of the Clark Township's administration -- which could not be done unless the Plaintiff was a resident of Clark.

163. Said refusal to process the 20264243043 and 22215623490 applications are a violation of N.J.S.A. 2C:58-3(c), because Plaintiff was entitled to the issuance of such permits because he had no disqualifiers or disabilities that would warrant the denial of a permit.

164. Said refusal to process the 20264243043 and 22215623490 applications are a violation of N.J.S.A. 2C:58-3(d), N.J.A.C. 3:54-1.4(i), and N.J.A.C. 13:54-1.12 because N.J.S.A. 2C:58-3(d), N.J.A.C. 3:54-1.4(i), and N.J.A.C. 13:54-1.12 provide a process of approval or denial and appeal that Plaintiff should have been afforded. But instead of following the law, MARK P. DUGAN, ESQ. and the Township simply returned the applications.

165. As stated, the Clark Township DPW has also been retaliating against Plaintiff despite the fact that Plaintiff pays all of his property taxes to Clark Township and clearly is a resident of Clark Township. More specifically, the Clark Township DPW refuses to provide recycling and bulk pick up services to Plaintiff despite the fact he followed the proper procedure for bulk pick up by e-mailing the Township's department of public works, setting an appointment and confirming the appointment -- after which Township personnel never appeared for Plaintiff's

appointment. When Plaintiff followed up, he was simply told that Clark Township did not appear "because" Plaintiff filed a complaint with the township business administrator. Plaintiff never received a response acknowledging the receipt of the complaint or the result of their investigation.

166. As stated, according to Clark Township DPW Director, Scott McCabe, Clark Township contends that Plaintiff should get Linden to pick up his recycling because Clark Township falsely states that Plaintiff resides in Linden.

167. Given all of the above, there can be no doubt that Plaintiff has had an adversarial position and/or relationship with the Township, its Law Firm, and its attorneys since at least 2019.

168. The Settlement Agreement provided:

Upon receipt of a written or oral request of a prospective employer for information about Manata as a prospective employee, the Township shall state only that Manata was employed by the Township from July 1, 2007 until his Retirement Date, indicating his last, most recent job title, and if asked by any third-party about his employment by the Township, Manata shall state only that he was employed by the Township from July 1, 2007 until his Retirement Date, indicating his last, most recent job title.

169. Plaintiff has two documents which provide examples of Defendants' violation of the Settlement Agreement, as a result of which Plaintiff lost prospective jobs. One such prospective job position was the Assistant Director of Security for the Bloomberg organization in New York City, and the other was as a longshoreman at Port Newark.

170. As to the longshoreman prospective job, Plaintiff was forced to hire an attorney and spend approximately \$7,500.00 in order to obtain copies of his own employment records because Clark Township refused to reply to the Waterfront Commission. More specifically, the Waterfront Commission sent a July 13, 2021 request for Plaintiff's employment records, with a release authorization signed by Plaintiff. MARK P. DUGAN, ESQ. refused to release Plaintiff's employment records until September of 2021. Moreover, when finally released to the

Commission, the records falsely indicated that Plaintiff had been fired by Clark Township (rather than having retired). Clark Township and MARK P. DUGAN, ESQ. caused Plaintiff to lose that prospective longshoreman job due to the delay in supplying the requested employment records and due to the blatant, egregious misrepresentations contained therein.

171. To verify whether Clark Township was accurately confirming Plaintiff's employment as required by the Settlement Agreement, Plaintiff then hired a private company to pose as a potential employer. The private company contacted the Township and the Clark Police Department thirteen (13) times in order to verify Plaintiff's employment with Clark Township/the Clark Police Department – however, not one of the calls were ever returned.

172. The Settlement Agreement also provided that "[t]he Township shall issue to Manata a retired identification card upon his retirement." This is done for every retired police officer in the Clark Police Department and the State of New Jersey. Yet, to date Clark Township has refused to issue the subject retired identification card – which is mandatory for a retired police officer to have in his/her possession when carrying a firearm after retirement per an RPO permit.

173. On or about October 27, 2020, Monica Solarska-Gnat and Swalomir Gnat ("the Gnats") commenced a personal injury/motor vehicle action within the Law Division of the Superior Court of New Jersey, Union County, bearing docket number UNN-L-3547-20 ("personal injury suit").

174. The Gnats named Clark Township, the Clark Police Department, Clark Police Officer McKeon and Plaintiff as party defendants.

175. However, it was not until June 14, 2022 (20 months later) that the Law Firm, via its attorney, SPOSATO, notified Plaintiff through his personal attorney that the Law Firm was representing Plaintiff in the above referenced personal injury suit.

176. The Law Firm never sought Plaintiff's consent or permission to represent him in the personal injury suit. Moreover, upon information and belief, The Law Firm never sought to have conflict counsel represent Plaintiff in the personal injury suit.

177. Without Plaintiff's prior knowledge, consent, or permission, from approximately October 27, 2020 to June 14, 2022, the Law Firm, Clark Township and/or its employees:

- Accepted service of the Complaint on behalf of Plaintiff on or about 11/3/2020 in the personal injury suit;
- Failed to advise Plaintiff of the Complaint filing or acceptance of service on his behalf;
- Failed to discuss with Plaintiff whether conflict counsel should represent Plaintiff in the personal injury suit;
- Failed to have conflict counsel represent Plaintiff in the personal injury suit;
- While representing to the Superior Court that the Law Firm represented Plaintiff, on 1/8/2021 the Law Firm filed an Answer, affirmative defenses, and a third party complaint on behalf of the personal injury suit defendants, including Plaintiff.
- In said third party complaint the Law Firm named, without Plaintiff's permission, knowledge or consent, Plaintiff as a third party plaintiff;
- Failed to advise Plaintiff of the filing of the Answer and commencement of litigation against third parties with Plaintiff named as a third party plaintiff;
- On or about 2/2/2021, entered into a stipulation on behalf of third party plaintiffs, including Plaintiff, extending the time for third party defendants to answer said third party complaint;

- Failed to advise Plaintiff that, on 2/25/2021, said third party defendants filed an answer to said third party complaint and also filed counterclaims against third party plaintiffs, including Plaintiff, for contribution and indemnification;
- Failed to advise Plaintiff that, on 3/5/2021, said third party defendants filed a summary judgment motion;
- On 3/24/2011 filed with Superior Court Judge Walsh a request for an adjournment of said summary judgment motion;
- Failed to advise Plaintiff that, on 3/24/2011, said Law Firm filed with Superior Court Judge Walsh a request for an adjournment;
- On 3/31/2021 filed a motion for summary judgment on behalf of said defendants and third party plaintiffs;
- Failed to advise Plaintiff that, on 3/31/2021, the Law Firm filed a motion for summary judgment;
- On 4/8/2021 entered into a proposed consent order with third party defendants on behalf of said third party plaintiffs, including Plaintiff;
- On 4/8/2021 filed said proposed consent order with Superior Court Judge Lesnewich. The filing cover letter falsely represented "the parties have reached an agreement relative to the pending motion for summary judgment, which is outlined in the consent order attached hereto."
- On April 20, 2021 filed a letter with Judge Lesnewich of the Superior Court advising that third party plaintiffs sought to withdraw their summary judgment motion.

- Failed to advise Plaintiff that, on July 28, 2021, plaintiffs in the personal injury suit filed a discovery motion compelling the prosecutor's office to turn over certain material, apparently as to third party defendant Downey;
- Failed to advise Plaintiff that, on 8/27/2021, Judge Walsh granted said motion to compel;
- Failed to advise Plaintiff that, on 8/30/2021, the court issued a discovery end date reminder;
- Failed to advise Plaintiff that, on 10/20/2021, third party defendants substituted counsel in the personal injury suit;
- On 12/15/2021 entered into a proposed consent order on behalf of defendants/third party plaintiffs, including Plaintiff, to extend the period of discovery;
- Failed to advise Plaintiff that, on 12/21/2021, Judge Lesnewich executed said consent order extending discovery;
- Failed to advise Plaintiff that, on 4/25/2022, the court issued a discovery end date reminder;
- Continued to represent Plaintiff in the personal injury suit up through at least June 14, 2022 when Law Firm attorney Sposato was forced by necessity to disclose to Plaintiff's personal attorney on such date that Plaintiff would need to appear for an oral deposition in the subject suit -- with only seven days advance notice. June 14, 2022 is the date that Plaintiff began to discover the unauthorized "representation."
- After discovering that said Law Firm was "representing" him without his knowledge or consent, on 6/20/2022 Plaintiff caused to be filed a letter to Superior Court Judge Walsh explaining the Law Firm's fraudulent representation of him.

178. Even though the Law Firm was in close contact with two of Plaintiff's attorneys, who were handling ongoing disputes between Plaintiff and Clark Township -- neither the Law Firm nor any of its attorneys disclosed to Plaintiff's attorneys that it was "representing" Plaintiff in the personal injury lawsuit.

179. In fact, the aforementioned reference in DUGAN'S February 28, 2022 letter to "your client" would lead any reasonable recipient attorney to believe that DUGAN, and the Law Firm, made no claim to somehow be representing Plaintiff.

180. In attempting to defend the indefensible, DUGAN wrote a letter to Judge Lesnewich on June 22, 2022 in which DUGAN represented to the Court:

- "First, please note that the matter has settled, subject to council approval, the exchange of consideration, and execution and delivery of a release and a stipulation of dismissal with prejudice and its filing. Valerie Palma Deluisi, Esq., independent personal counsel to Mr. Manata, has approved the settlement on his [Manata's] behalf." While this may have an air of truthfulness, it is misleading because Ms. Palma Deluisi had no involvement in the case until after her June 2022 discovery that the Law Firm was "representing" Plaintiff without his knowledge or consent. It does not remove the taint of the Law Firm's conduct.
- "The township's interests and those of Mr. Manata were fully aligned at all times during plaintiffs' prosecution of their action. At no time did they diverge. Not once." Given all of Plaintiff's aforementioned allegations above, DUGAN'S representation as to lack of conflicts is completely false.
- "From inception our goal was to settle the matter on reasonable terms or prevail in the adjudicative process by avoiding or at least minimizing any damage award for which the township would indemnify Mr. Manata. He would not have paid anything in either event.

Moreover, no secrets or confidences have been shared. We know no more about Mr. Manata now than we did before the subject action was commenced." Again, this does not remove the taint of the Law Firm's conduct.

- "Due to the township's obligation to indemnify Mr. Manata, and the absence of any ongoing matter in which the township and Mr. Manata are directly adverse or any risk that our representation would be materially limited by our responsibilities to another client, a former client, or a third person, or by our own personal interest, we maintain that our representation of Mr. Manata was entirely proper." The factual predicate to Dugan's opinion is false and thus the opinion has zero weight. It also fails to account for the fact that DUGAN and the Law Firm never sought and obtained Plaintiff's permission to represent him.

- "Immediately upon Ms. Palma Deluisi's demand, we requested that the JLF and M.E.L. assign separate counsel for Mr. Manata, which ultimately was rendered unnecessary due to the settlement." Again, this does remove any taint. DUGAN, Clark Township, its agents and employees were fully aware from the date the lawsuit Complaint was filed that Plaintiff had ongoing adversarial issues with the Township and its personnel. It was DUGAN's duty to retain independent counsel for Plaintiff at the beginning of the case – instead of waiting nearly two years until confronted by Plaintiff's personal attorney about the issue.

- "We regret that the court had to become involved in this controversy." Ordinarily, this would be a non-substantive closing to an attorney letter to the court. But this is different - - because it conveys the distinct impression and/or position that *Plaintiff* somehow did something wrong -- and that DUGAN "came to the rescue" to avoid judicial intervention. However, nothing could be further from the truth. It was DUGAN and The Law Firm who

were wrong -- and they took action only after being discovered by Plaintiff's personal attorney.

181. Defendant attorneys and Law Firm chose to "represent" Plaintiff, without conflict counsel, to cover up for the fact that Clark Police, per the directive of Defendant MATOS, falsified police reports as to the accident because they feared that, had they not done so, Plaintiff might have disclosed the false police reports in discovery.

182. As a result of said Law Firm's unauthorized "representation" in the civil lawsuit, Plaintiff unknowingly gave incorrect statements under oath on three separate occasions: 1) in a civil deposition; 2) per his formal statement under oath during an investigation conducted by a government agency; and 3) per an employment background investigation conducted by a government agency – in each of which proceedings he swore under oath that he was not a defendant in any ongoing civil action.

183. The Law Firm failed to properly supervise its individual attorneys and engaged in fraud. The Township failed to supervise the Law Firm. Instead, the Township, the Law Firm and the Law Firm attorneys were accomplices as to this unauthorized "representation."

184. The Law Firm acted as agent of Clark Township and/or its employees to "represent" Plaintiff without his knowledge or consent in an attempt to control Plaintiff's role in the aforesaid personal injury litigation and to: 1) prevent Plaintiff from disclosing that documents produced by said Law Firm in the personal injury litigation were false and/or altered; and 2) to cover up and avoid disclosure of the recordings/items Plaintiff turned over to the Township per the subject January 29, 2020 Settlement Agreement.

185. Equally if not more egregious than the above conflicts and ethical violations is the following – in the course of “representing” Plaintiff without his knowledge, DUGAN (acting as

Township Attorney) also met several times with representatives of the UCPO to discuss the ongoing investigation *into Plaintiff* that the UCPO was conducting with regard to his recordings of Township officials (and other possible Township issues presently unknown to Plaintiff). According to obtained billing records, the subject of the meetings was “MANATA”. In short, despite being well aware of Plaintiff’s adversarial relationship with the Township, DUGAN did not hesitate to simultaneously represent both of them, which constituted an egregious and irreconcilable conflict of interest.

186. The Township was well aware that the Law Firm was "representing" Plaintiff. Even though Plaintiff was still an employee of the Township for a significant part of the personal injury litigation, the Township never disclosed to Plaintiff that he was a named party to the litigation, nor that the Law Firm was "representing" Plaintiff without his knowledge and consent.

187. In or about August of 2022, and as a result of all of the retaliation and harassment from Clark Township and others towards his family, Plaintiff decide to sell his house in Clark Township and move elsewhere.

188. The sales process required that Plaintiff obtain a certificate of occupancy. Plaintiff notified Clark Township. Clark Township Building Subcode Official Michael Khoda refused to perform the inspection and instead simply provided Plaintiff with a certificate of occupancy -- his reason being “because of the ongoing investigation” being conducted by the County and the State. Khoda subsequently attempted to cause trouble for Plaintiff by performing an after the fact inspection for unpermitted work. At or around the same time, Khoda called Plaintiff trying to elicit a statement from Plaintiff that the aforementioned certificate of occupancy was issued pursuant to an inspection conducted over the Facetime platform. Plaintiff immediately called out

Khoda on that lie. Said telephone call, which occurred on February 9, 2023, was recorded by Plaintiff.

189. Plaintiff thereafter informed and turned over evidence regarding Khoda to the appropriate authorities. Plaintiff understands that Khoda was recently removed from his position and offered a deal to retire in exchange for "something" and/or in lieu of discipline for his illegal acts.

190. As evidence of their breaches of their duties of care, Defendants TRIARSI, BETANCOURT, WUKOVITS & DUGAN, LLC, MARK P. DUGAN, ESQ., JOSEPH J. TRIARSI, ESQ., STEVEN F. WUKOVITS, ESQ., and MARC A. SPOSATO, ESQ. violated, at a minimum, the following New Jersey Rules of Professional Conduct 1.1, 1.2(a), 1.3, 1.4 (a), (b) & (c), 1.7, 1.10, 1.16, 2.1, 3.2, 3.3, 3.4, 4.1, 5.1, 5.2, and 8.4.

191. On or about September 13, 2022, Plaintiff timely served New Jersey Tort Claim Act notices on multiple Defendants. "Service of the notice ... upon the public entity shall constitute constructive service upon any employee of that entity." N.J.S.A. 59:8-10.

192. More than six months have passed since Plaintiff caused his notices of claim to be presented with no claims being granted, denied, nor other action being taken as known to Plaintiff or his attorneys. Nonetheless, the New Jersey Tort Claims Act does not apply to constitutional causes of action or causes of action arising under federal law. See Fuchilla v. Layman, 109 N.J. 319 (1988).

193. Plaintiff timely files this action under the New Jersey Tort Claims Act and applicable statutes of limitations.

**CAUSES OF ACTION**

**COUNT I: BREACHES OF FIDUCIARY DUTY**

194. Plaintiff realleges and reincorporates the above allegations as if set forth herein.

195. By assuming the representation of Plaintiff as to the aforementioned Gnat personal injury suit, Defendants TRIARSI, BETANCOURT, WUKOVITS & DUGAN, LLC, MARK P. DUGAN, ESQ., JOSEPH J. TRIARSI, ESQ., STEVEN F. WUKOVITS, ESQ., and MARC A. SPOSATO, ESQ. created a heightened fiduciary relationship with Plaintiff.

196. "The attorney-client relationship is a fiduciary one, involving the highest trust and confidence." In the matter of Callis N. Brown, 88 N.J. 443 (1982). An attorney must look out for the best interests of the client. Estate of Spencer v. Gavin, 400 N.J.Super. 220 (App. Div. 2008).

197. Although New Jersey law imposes duties of fairness, good faith, [undivided loyalty], and fidelity upon all fiduciaries, "an attorney is held to an even higher degree of responsibility in these matters than is required of all others." Id.

198. Due to their actions and inactions set forth above as to the Gnat personal injury suit, Defendants TRIARSI, BETANCOURT, WUKOVITS & DUGAN, LLC, MARK P. DUGAN, ESQ., JOSEPH J. TRIARSI, ESQ., STEVEN F. WUKOVITS, ESQ., and MARC A. SPOSATO, ESQ. breached their heightened fiduciary duties owed to Plaintiff.

199. As a result Plaintiff sustained damages.

WHEREFORE, Plaintiff demands judgment for damages generally against Defendants individually, jointly, severally, or in the alternative for:

- A. Compensatory damages.
- B. Punitive damages.
- C. Costs of suit and counsel fees.

- D. Prejudgment and post judgment interest.
- E. Injunctive relief.
- F. For such further relief as is fair and equitable.

**COUNT II: AIDING AND ABETTING BREACHES OF FIDUCIARY DUTY**

200. Plaintiff realleges and reincorporates the above allegations as if set forth herein.

201. All the Defendants aided and abetted the above alleged breaches of heightened fiduciary duty by: directing the undertaking of the above stated conduct and omissions; knowing that the other's conduct constituted a breach of duty and gave substantial assistance or encouragement to the other; acting in concert with the other or pursuant to a common design with him; and/or giving substantial assistance to the other in accomplishing a tortious result and his own conduct, separately considered, constituted a breach of duty to Plaintiff.

202. As a result Plaintiff sustained damages.

203. As aiders and abettors, all Defendants are individually, jointly, severally, or in the alternative liable to Plaintiff.

WHEREFORE, Plaintiff demands judgment for damages generally against Defendants individually, jointly, severally, or in the alternative for:

- A. Compensatory damages.
- B. Punitive damages.
- C. Costs of suit and counsel fees.
- D. Prejudgment and post judgment interest.
- E. Injunctive relief.
- F. For such further relief as is fair and equitable.

**COUNT III: ATTORNEY MALPRACTICE**

204. Plaintiff realleges and reincorporates the above allegations as if set forth herein.

205. As Plaintiff's attorneys, Defendants TRIARSI, BETANCOURT, WUKOVITS & DUGAN, LLC, MARK P. DUGAN, ESQ., JOSEPH J. TRIARSI, ESQ., STEVEN F. WUKOVITS, ESQ., and MARC A. SPOSATO, ESQ. owed Plaintiff a duty of care.

206. Defendants TRIARSI, BETANCOURT, WUKOVITS & DUGAN, LLC, MARK P. DUGAN, ESQ., JOSEPH J. TRIARSI, ESQ., STEVEN F. WUKOVITS, ESQ., and MARC A. SPOSATO, ESQ. breached their duty of care.

207. Defendants TRIARSI, BETANCOURT, WUKOVITS & DUGAN, LLC, MARK P. DUGAN, ESQ., JOSEPH J. TRIARSI, ESQ., STEVEN F. WUKOVITS, ESQ., and MARC A. SPOSATO, ESQ.'s breaches caused Plaintiff to suffer economic and non-economic damages.

WHEREFORE, Plaintiff demands judgment for damages generally against Defendants individually, jointly, severally, or in the alternative for:

- A. Compensatory damages.
- B. Punitive damages.
- C. Costs of suit and counsel fees.
- D. Prejudgment and post judgment interest.
- E. Injunctive relief.
- F. For such further relief as is fair and equitable.

**COUNT IV: COMMON LAW FRAUD**

208. Plaintiff realleges and reincorporates the above allegations as if set forth herein.

209. Defendants TRIARSI, BETANCOURT, WUKOVITS & DUGAN, LLC, MARK P. DUGAN, ESQ., JOSEPH J. TRIARSI, ESQ., STEVEN F. WUKOVITS, ESQ., and MARC A.

SPOSATO, ESQ. made material false representations and/or omissions of presently existing or past facts.

210. Said representations and/or omissions were made with knowledge of their falsity and with the intention that the Plaintiff would rely thereon.

211. Plaintiff did rely upon said false representations and/or omissions to his detriment.

212. As a result of said false representations and/or omissions, the Plaintiff suffered damages.

WHEREFORE, Plaintiff demands judgment for damages generally against Defendants individually, jointly, severally, or in the alternative for:

- A. Compensatory damages.
- B. Punitive damages.
- C. Costs of suit and counsel fees.
- D. Prejudgment and post judgment interest.
- E. Injunctive relief.
- F. For such further relief as is fair and equitable.

**COUNT V: AIDING AND ABETTING FRAUD**

213. Plaintiff realleges and reincorporates the above allegations as if set forth herein.

214. All the Defendants aided and abetted the above alleged frauds by: directing the undertaking of the above stated conduct and omissions; knowing that the other's conduct constituted a breach of duty and gave substantial assistance or encouragement to the other; acting in concert with the other or pursuant to a common design with him; and/or giving substantial assistance to the other in accomplishing a tortious result and his own conduct, separately considered, constituted a breach of duty to Plaintiff.

215. As a result Plaintiff sustained damages.

216. As aiders and abettors, all Defendants are individually, jointly, severally, or in the alternative liable to Plaintiff.

WHEREFORE, Plaintiff demands judgment for damages generally against Defendants individually, jointly, severally, or in the alternative for:

- A. Compensatory damages.
- B. Punitive damages.
- C. Costs of suit and counsel fees.
- D. Prejudgment and post judgment interest.
- E. Injunctive relief.
- F. For such further relief as is fair and equitable.

**COUNT VI: NEGLIGENT MISREPRESENTATION (Pleaded in the Alternative to Counts IV & V)**

217. Plaintiff realleges and reincorporates the above allegations as if set forth herein.

218. Defendants TRIARSI, BETANCOURT, WUKOVITS & DUGAN, LLC, MARK P. DUGAN, ESQ., JOSEPH J. TRIARSI, ESQ., STEVEN F. WUKOVITS, ESQ., and MARC A. SPOSATO, ESQ. negligently made material false representations and/or omissions of presently existing or past facts as set forth herein.

219. Plaintiff justifiably relied upon said false representations and/or omissions to his detriment.

220. As a result of said false representations and/or omissions, Plaintiff suffered damages.

WHEREFORE, Plaintiff demands judgment for damages generally against Defendants individually, jointly, severally, or in the alternative for:

- A. Compensatory damages.
- B. Punitive damages.
- C. Costs of suit and counsel fees.
- D. Prejudgment and post judgment interest.
- E. Injunctive relief.
- F. For such further relief as is fair and equitable.

**COUNT VII: TORTIOUS INTERFERENCE**

221. Plaintiff realleges and reincorporates the above allegations as if set forth herein.

222. Plaintiff had the right to pursue his business and a post-retirement career free from undue influence or molestation by Defendants.

223. Defendants maliciously interfered with Plaintiff's right to pursue his business and post-retirement career.

224. As a result, the Plaintiff suffered damages.

WHEREFORE, Plaintiff demands judgment for damages generally against Defendants individually, jointly, severally, or in the alternative for:

- A. Compensatory damages.
- B. Punitive damages.
- C. Costs of suit and counsel fees.
- D. Prejudgment and post judgment interest.
- E. Injunctive relief.

F. For such further relief as is fair and equitable.

**COUNT VIII: NEGLIGENT HIRING, RETENTION AND SUPERVISION**

225. Plaintiff realleges and reincorporates the above allegations as if set forth herein.

226. Defendants breached their duty of care to Plaintiff: (a) in giving improper or ambiguous orders or in failing to make proper work rules and/or regulations; (b) in the hiring, employment, and retention of improper persons or instrumentalities in work involving risk of harm to Plaintiff; and/or (c) in permitting, or failing to prevent, negligent or other tortious conduct by persons, whether or not Defendants' servants or agents, upon premises or with instrumentalities under Defendants' control.

227. As a direct result of the negligence and breach of the standard of care, Plaintiff suffered damages.

WHEREFORE, Plaintiff demands judgment for damages generally against Defendants individually, jointly, severally, or in the alternative for:

- A. Compensatory damages.
- B. Punitive damages.
- C. Costs of suit and counsel fees.
- D. Prejudgment and post judgment interest.
- E. Injunctive relief.
- F. For such further relief as is fair and equitable.

**COUNT IX: AIDING AND ABETTING TORTIOUS INTERFERENCE**

228. Plaintiff realleges and reincorporates the above allegations as if set forth herein.

229. All the Defendants aided and abetted the above alleged tortious interference by: directing the undertaking of the above stated conduct and omissions; knowing that the other's conduct constituted a breach of duty and gave substantial assistance or encouragement to the other; acting in concert with the other or pursuant to a common design with him; and/or giving substantial assistance to the other in accomplishing a tortious result and his own conduct, separately considered, constituted a breach of duty to Plaintiff.

230. As a result Plaintiff sustained damages.

231. As aiders and abettors, all Defendants are individually, jointly, severally, or in the alternative liable to Plaintiff.

WHEREFORE, Plaintiff demands judgment for damages generally against Defendants individually, jointly, severally, or in the alternative for:

- A. Compensatory damages.
- B. Punitive damages.
- C. Costs of suit and counsel fees.
- D. Prejudgment and post judgment interest.
- E. Injunctive relief.
- F. For such further relief as is fair and equitable.

**COUNT X: FIRST AMENDMENT RETALIATION UNDER NJ CIVIL RIGHTS LAW**

232. Plaintiff realleges and reincorporates the above allegations as if set forth herein.

233. As to this claim, the individual Defendants are sued in their individual capacities.

234. The First Amendment of the U.S. Constitution provides for free speech. The 1947 New Jersey Constitution at Article I, section 6 provides in pertinent part, "[e]very person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right."

235. N.J.S.A. 10-6-2(c) provides in pertinent part:

Any person who has been deprived of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State, or whose exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with or attempted to be interfered with, by threats, intimidation or coercion by a person acting under color of law, may bring a civil action for damages and for injunctive or other appropriate relief.

236. As to the New Jersey Civil Rights Act, " 'New Jersey courts “have consistently looked to federal § 1983 jurisprudence for guidance' and have 'repeatedly interpreted NJCRA analogously to § 1983.' " Ingram v. Twp. of Deptford, 911 F. Supp. 2d 289, 298 (D.N.J. 2012).

237. Defendants are persons amenable to suit under the New Jersey Civil Rights Act. Estate of Lagano v. Bergen Cnty. Prosecutor's Office, 769 F.3d 850 (3rd Cir. 2014);

238. Defendants acted under the color of law and their wrongs constituted state action.

239. As to Defendant attorneys, they were acting under color of law by going beyond the traditional activities of counsel, illegally masterminding the deprivation of Plaintiff's rights, and perpetrating frauds and/or advising others to do so.

240. The actions of the Township of Clark, the Clark Police Department, and the individual Defendants were a result of municipal policy, practice, or decision of a final municipal policy maker; the failure to intervene; inadequate training and/or supervision with a deliberate indifference that inaction would result in the violation of Plaintiff's rights; and/or inadequate screening with a deliberate indifference that the hiring decision(s) would result in the violation of Plaintiff's rights.

241. The individual Defendants personally participated in and/or personally approved of the retaliatory and harassing conduct against Plaintiff and/or with deliberate indifference to the consequences, established and maintained policies, practices or customs which directly caused the harms to Plaintiff.

242. In addition to their personal participation, the individual Defendants who had supervisory roles set forth in motion a series of acts by subordinates that the supervisor(s) knew, or reasonably should have known, would cause the subordinates to violate the Plaintiff's rights, and/or the individual Defendants who had supervisory roles had actual knowledge of their subordinate's violations of Plaintiff's rights and that said supervisor(s) acquiesced in those violations.

243. The Township of Clark, the Clark Police Department, and the individual Defendants have no qualified or absolute immunity.

244. Since the signing of the Settlement Agreement, Plaintiff has exercised constitutionally protected conduct protected by the U.S. Constitution, First Amendment; the New Jersey constitution Article I, Section 6; Article I, Section 18, some of which speech and petition activity being mandatory as part of his status from the execution of the Settlement Agreement to his retirement.

245. To the extent that Plaintiff's activities occurred while he was still an employee, his activities were protected to the extent of citizen speech. Lane v. Franks, 573 U.S. 228 (2014). To the extent that Plaintiff's activities occurred after his employment, those activities constituted citizen speech.

246. Defendants have engaged in retaliatory action sufficient to deter a person of ordinary firmness from exercising his constitutional rights.

247. There is a causal link between the constitutionally protected conduct and the retaliatory action.

WHEREFORE, Plaintiff demands judgment for damages generally against Defendants individually, jointly, severally, or in the alternative for:

- A. Compensatory damages.
- B. Punitive damages.
- C. Costs of suit and counsel fees.
- D. Prejudgment and post judgment interest.
- E. N.J.S.A. 10:6-2(e) civil penalties.
- F. Injunctive relief.
- G. For such further relief as is fair and equitable.

#### **COUNT XI: CIVIL CONSPIRACY**

248. Plaintiff realleges and reincorporates the above allegations as if set forth herein.

249. Defendants entered into an agreement and/or confederation with a common design to perpetrate wrongful acts for an unlawful purpose or for a lawful purpose to be achieved by unlawful means.

250. Defendants committed said wrongful acts in furtherance of said agreement and/or confederation.

251. Plaintiff suffered damages as a result of said wrongful acts.

252. Therefore, Defendants are equally and vicariously liable to Plaintiff.

WHEREFORE, Plaintiff demands judgment for damages generally against Defendants individually, jointly, severally, or in the alternative for:

- A. Compensatory damages.
- B. Punitive damages.
- C. Costs of suit and counsel fees.
- D. Prejudgment and post judgment interest.
- E. Injunctive relief.
- F. For such further relief as is fair and equitable.

**COUNT XII: PRINCIPAL/EMPLOYER LIABILITY**

253. Plaintiff realleges and reincorporates the above allegations as if set forth herein.

254. To the extent that the Defendants are servants, agents, and/or employees of other Defendants, whether by express, implied, apparent, or any other forms of agency and/or master servant relationship, the principal/employer/supervisor Defendants are vicariously and/or directly liable for the acts and/or omissions of said servants, agents, and/or employees acting within the scope of their employment and/or agency.

255. In the alternative, to the extent that the individual Defendants are servants, agents, and/or employees of the principal/employer Defendants, whether by express, implied, apparent, or any other forms of agency and/or master servant relationship, the principal/employer Defendants are vicariously and/or directly liable for the acts and/or omissions of said servants, agents, and/or employees acting outside the scope of their employment because the principal/employer Defendants were negligent and/or reckless and/or the principal/employer Defendants owed a non-delegable duty to protect Plaintiff from the above described conduct.

#### **DESIGNATION OF TRIAL COUNSEL**

Anthony P. Kearns III, Esq. is hereby designated as trial counsel in this matter.

#### **DEMAND FOR TRIAL BY JURY**

Please take notice that Plaintiff hereby demands a Trial by Jury on all issues so triable in the within matter.

#### **RULE 4:5-1(B)(2) NOTICE OF OTHER ACTIONS AND POTENTIALLY LIABLE PERSONS**

The Plaintiff hereby certifies that the matter in controversy is not the subject of any other action pending in any Court and is likewise not the subject of any pending arbitration proceeding. Nonetheless, Plaintiff advises the Court that he has commenced an action, Manata v. Union County Prosecutor's Office in the District of New Jersey federal court bearing case number 22-cv-02005. The Plaintiff further certifies that he has no knowledge of any contemplated action or arbitration

proceeding which is contemplated regarding the subject matter of this action and that he is not aware of any other parties who should be joined in this action.

**CERTIFICATION OF COMPLIANCE WITH RULE 1:38-7(C)**

I hereby certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

Dated: June 30, 2023

**KEARNS ROTOLO LAW**

By:

  
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Anthony R. Kearns III, Esq.