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Attorneys for Plaintiff,
Christie Ohlendorf

CHRISTIE OHLENDORF,

Plaintiff,

v.

TOWNSHIP OF WAYNE,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – PASSAIC COUNTY

Civil Action

**COMPLAINT, JURY DEMAND,
DESIGNATION OF TRIAL COUNSEL,
DEMAND FOR DISCOVERY OF
INSURANCE INFORMATION, AND
CERTIFICATION**

Plaintiff, Christie Ohlendorf, by and through her attorneys, The Toscano Law Firm, LLC,
by way of this Complaint, alleges as follows:

PARTIES

1. The plaintiff, Christie Ohlendorf (hereinafter, “Ohlendorf”), at all times relevant herein, was and is an employee (of some 8.5 years) of defendant, Township of Wayne, currently serving as a Patrol Officer for the Wayne Police Department (hereinafter, the “department” or “WPD”). Her reputation is pristine, second-to-none, and virtually unblemished. Prior to the events described hereinbelow, she was never suspended, is highly decorated, and is held in high esteem within the law enforcement community, as well as numerous outside law enforcement agencies/entities. As such, Ohlendorf consistently receives exceptional performance reviews. Moreover, prior to the events described hereinbelow, Ohlendorf regularly received recognition for

her work both on and off duty. In short, law enforcement officers do not come any better – she is the model and quintessential officer.

2. Defendant Township of Wayne (hereinafter, the “Township” or “Wayne”) is a municipality located in Passaic County in the State of New Jersey. It is governed under the Mayor/Council form of government (a Mayor and Town Council) and controls the day-to-day operations of the WPD by way of hiring, employing, funding, staffing, monitoring, retaining, disciplining and promoting, along with numerous other responsibilities. Upon information and belief, the WPD promotional process, which is run by/condoned/issued by and/or given by defendant Wayne, is fraught with illegalities, improprieties, sex-based discrimination, favoritism, inconsistencies, illegitimacies and indecencies, all of which are in direct violation of state law. In point of fact, and with blatant/deliberate indifference, defendant Wayne has egregiously violated Ohlendorf’s promotional opportunities/rights for the position of WPD Sergeant, as further laid out hereinbelow.

FACTUAL BACKGROUND RELEVANT TO ALL CLAIMS

3. Plaintiff Ohlendorf repeats and realleges the allegations set forth in the preceding paragraphs with the same force and effect as if each were fully set forth at length herein.

4. Currently, upon information and belief, the WPD employs approximately nine (9) female Officers, including Ohlendorf, none of whom have been promoted within the department at any time.

5. To date, and shockingly, defendant Wayne has failed to ever have any female officer at the WPD promoted to a position of rank.

6. Moreover, since 2019, Wayne has never had an in-person training regarding sex-based discrimination and/or sexual harassment.

7. After she applied to the WPD, Ohlendorf participated in an interview for the WPD employment opportunity. Shockingly, Ohlendorf was questioned during this interview about her intentions to have children in the future. Indeed, such questioning was wildly improper.

8. Throughout her employment with defendant Wayne, Ohlendorf has been subjected to continuous harassing and discriminatory treatment. Specifically, defendant Wayne and its agents/employees have made harassing sex-based comments, discriminated against Ohlendorf because of her sex and because of valid and appropriate medical treatment she has received, stymied Ohlendorf's promotional candidacy at the WPD because of her sex and now ostensibly seeks to terminate Ohlendorf's employment for invalid and illegal reasons, as further described in detail hereinbelow.

9. In July 2014, following her initial interview for a position within the WPD, Ohlendorf was asked by then-WPD Chief James Clarke whether she had any children. Once Ohlendorf responded that she had a child, Clarke asked if Ohlendorf was planning on having any other children "because we have one girl right now who wants to have a whole basketball team." Clarke's cretinous comment was the first of many harassing sex-based comments which Ohlendorf was subjected to during her time at the department.

10. In February 2017, Ohlendorf received multiple telephone calls from then-Lieutenant Chris Wittig's wife, in which Wittig's wife harassed Ohlendorf simply because she (Wittig's wife) "found [Ohlendorf's] number in [Wittig's] phone." After Ohlendorf advised Wittig of his wife's bizarre conduct, Wittig stopped conversing with Ohlendorf altogether both at and outside of work.

11. In 2017, Ohlendorf requested that the female locker room/bathroom environments be altered, as the conditions of same were severely inadequate (in fact, the female "locker room"

was actually a closet in the WPD squad room). Ohlendorf's direct superior, then-Sergeant Robert Franco, advised that her concerns caused "a lot of backlash" within the department. Once again, Ohlendorf understood that defendant Wayne and its municipal police department were not concerned with how its female employees were treated, and certainly did not care to ensure that female and male employees were given equal treatment. Wayne was deliberately indifferent to the entire situation.

12. Wayne eventually "addressed" Ohlendorf's concerns by moving the female locker room from the WPD squad room closet to the sub pump closet in the WPD men's locker room. Again, Ohlendorf understood that Wayne had no interest in actually accommodating Ohlendorf's reasonable and valid request.

13. On September 27, 2017, Ohlendorf was sexually harassed by a town-hired contractor while on duty. Ohlendorf, knowing that the department would surely do nothing of any moment to stop sex-based misconduct, did not initially report same.

14. On October 3, 2017, Ohlendorf was assigned to another job with the same town-hired contractor who sexually harassed her prior. Said contractor, left the job site without alerting Ohlendorf in direct retaliation for Ohlendorf ignoring/rejecting his sexual advances.

15. On October 4, 2017, Ohlendorf's WPD superior learned of Ohlendorf's issue with the town-hired contractor and demanded that she (Ohlendorf) write a report regarding same. As such, Ohlendorf was essentially forced to write a report. As discussed hereinabove, Ohlendorf was extremely reluctant to offer details of the incidents because she did not believe that Wayne would address it in a meaningful and appropriate way.

16. However, even after she memorialized the incident, Ohlendorf was again assigned to assist the same town-hired contractor with a road job on May 14, 2018 – an assignment which

Ohlendorf felt as being harassing, humiliating and dangerous. On that date, the same town-hired contractor verbally assaulted Ohlendorf because of Ohlendorf having reported his misconduct (which report was written under duress, as described hereinabove).

17. In early 2018, Franco asked Ohlendorf to become a Field Training Officer. He requested same so Ohlendorf would train incoming female officers “that there is a fine line between being assertive and being a bitch.”

18. In April 2020, an anonymous internal affairs complaint was made against Ohlendorf’s newly-appointed direct superior, Sergeant Robert Franciose. The anonymous complaint apparently alleged that Franciose was unfairly retaliating against Ohlendorf because Ohlendorf did not allow Franciose to cut a long supermarket line during the height of the Covid-19 lockdowns. The alleged interaction never took place, and Ohlendorf did not make the complaint. However, the internal affairs investigation against Franciose led to a significant, serious and, unnecessary rift between Franciose toward Ohlendorf, which was only resolved once the internal affairs investigation concluded that the allegations were false.

19. In June 2020, Ohlendorf requested that her shift be changed so she could be available for her child who was being homeschooled due to Covid-19 shutdowns. As part of her request, Ohlendorf advised that another officer was willing to switch shifts with her. Then-Lieutenant Joseph Rooney quickly denied Ohlendorf’s request, asking “what about the guy you live with?” Ohlendorf told Rooney that she took offense to his comment and advised that another officer’s request to change shifts to care for a family member was recently approved. Rooney then backtracked on his position and subsequently approved Ohlendorf’s shift change.

20. In April 2022, Ohlendorf became eligible for a promotion to Sergeant within the WPD. As such, she sat for WPD’s Chief’s Test promotional written and oral examinations for the

Sergeant position. Ohlendorf finished eighth (8th) out of twenty-three (23) officers who sat for these promotional examinations.

21. Moreover, defendant Wayne uses a “personnel jacket review” and “personnel review”, which permits WPD superiors (such as the Chief and Deputy Chief) to quizzically alter its promotional candidates’ examination scores based on various subjective assessments. Once Wayne applied its “personnel jacket review” and “personnel review” scores to Ohlendorf’s candidacy, she curiously plummeted in rank to eighteenth (18th) out of twenty-three (23) candidates.

22. Specifically, Ohlendorf received a “personnel jacket review” score of 33.5 out of 60 – the lowest of all candidates. Under municipal ordinance, this “personnel jacket review” involves WPD superiors reviewing, among other things, “work habits, initiative, job skills, enforcement activities, availability, attendance, performance evaluations, disciplinary actions, letters of commendation, citations and awards, educational history, leadership abilities, management skills, productivity, reliability and adherence to policy.”

23. Moreover, Ohlendorf received a “personnel review” score of 12 out of 20 – the second lowest of all candidates. Under municipal ordinance, this “personnel review” involves the same WPD superiors reviewing the candidate’s “qualifications”. Similar to the “personnel jacket review”, this “personnel review” score is wildly subjective and was used by WPD superiors to ensure that Ohlendorf would not be promoted to the WPD Sergeant position at any time during the promotional list’s three (3) year active time frame.

24. Ohlendorf, rightfully perplexed by the acute decline in her promotional candidacy position, sent McNiff (WPD Chief) a letter of redress requesting the reasoning for her score being

so severely impacted, as was her right under Wayne municipal ordinance. To date, Wayne and/or McNiff have never responded to Ohlendorf's letter of redress.

25. To date, no valid and legitimate reasoning has ever been given to Ohlendorf explaining the drastic change in her promotional candidacy.

26. Upon information and belief, Ohlendorf's promotional positioning was severely impacted solely because she was a female.

27. After the promotional process was completed, Ohlendorf sought mental health treatment due to the continuous and perverse mental abuse she was subjected to before and during the WPD promotional process. Her mental health sick leave began on May 2, 2022.

28. During her mental health sick leave, Ohlendorf was diagnosed with Post-Traumatic Stress Disorder, Anxiety, and Depression, all of which were directly and causally related to the abuse she had suffered as a female officer within the WPD.

29. Ohlendorf was scared to advise defendant Wayne of the exact nature of her sick leave due to reasonably expected and feared retaliation based on her experience and understanding of how the WPD operated. As such, Ohlendorf did not initially disclose all of the specific information regarding her sick leave.

30. In May 2022, Officer Enzo Passano advised WPD Chief John McNiff that Ohlendorf was in Florida receiving mental health treatment and, with Ohlendorf's approval, provided McNiff with a confidential doctors note advising of same. The next day, certain other WPD officers learned of information regarding the nature of Ohlendorf's leave and the substance of the doctor's note. Upon information and belief, this information was provided by McNiff, as he and Passano were the only WPD members with said information, and Passano protected the confidentiality of same.

31. Thereafter, under immense and continuous pressure from McNiff, Ohlendorf did eventually advise the WPD that she was seeking mental health treatment and disclosed her exact whereabouts.

32. On June 23, 2022, Ohlendorf, through her attorneys, requested a Title 59 Notice of Tort Claim form from defendant Wayne, and advised of her intention to assert claims against defendant Wayne.

33. On that same date, Ohlendorf, through her attorneys, submitted a litigation hold/spoliation letter to defendant Wayne, further advising of her legitimate intention to file claims against defendant Wayne, and demanding that Wayne immediately preserve any and all documentation regarding her imminent claims.

34. On July 7, 2022, Ohlendorf received correspondence from WPD Chief Jack McNiff regarding Ohlendorf's medical treatment. In same, McNiff inquired as to, among other things, whether Ohlendorf was requesting a reasonable accommodation for her employment at the department.

35. Ohlendorf immediately responded that she was not requesting a reasonable accommodation.

36. On July 11, 2023, Ohlendorf, through her attorneys, filed an executed Title 59 Notice of Tort Claim, advising that she would pursue claims against defendant Wayne for, among other things, failure to promote, and violations of the New Jersey Civil Rights Act (hereinafter, the "NJCRA"), New Jersey Conscientious Employee Protection Act (hereinafter, the "NJCEPA"), and New Jersey Law Against Discrimination (hereinafter, the "NJLAD").

37. In same, Ohlendorf checked off "Yes" in response to a question asking whether she claims permanent disability resulting from her injuries sustained as a result of defendant Wayne's

misconduct – as she suffered permanent injury to her professional reputation which cannot be cured. However, directly under her response, Ohlendorf clearly and unambiguously stated that she sustained “no physical permanent disability.”

38. On that same date, Ohlendorf received another letter from McNiff demanding that Ohlendorf provide the reasoning for her extended absence from the WPD. Indeed, McNiff had already been provided with this information, and his persistence in demanding further information was inappropriate, unnecessary, and clearly harassing.

39. Regardless of the impropriety of McNiff’s July 11, 2022, correspondence, Ohlendorf promptly responded to same advising that she would provide a detailed letter from her medical provider regarding her treatment. Additionally, she again expressed her concern regarding the stigma of law enforcement officers receiving mental health treatment.

40. On or about August 26, 2022, defendant Wayne promoted four (4) WPD Sergeants to the next rank within the department. As such, several new openings for the WPD Sergeant position were created.

41. Ohlendorf, through the undersigned attorneys, advised Wayne that she sought to be considered for the new open WPD Sergeant positions.

42. Wayne, through a letter dated September 8, 2022, advised Ohlendorf that she was considered totally and permanently disabled, and ranked number eleven (11) on the active promotional list.

43. Further, Wayne advised in its September 8, 2022, letter that it would not deviate from its promotional list and would not promote Ohlendorf to the open Sergeant’s position because of her placement on the promotional list. Indeed, same is directly antithetical to all bounds of reasonableness, as defendant Wayne negatively altered Ohlendorf’s positioning on the

promotional list for unknown reasons after she scored quite high on the Chief's written and oral examination, as described hereinabove.

44. Additionally, in that same letter, Wayne questioned Ohlendorf's ability to perform as a supervisor based on "her extended leave of absence." Essentially, Wayne revealed its illegal belief that Ohlendorf is not fit to be a WPD supervisor simply because she took sick leave to address her mental health.

45. On September 9, 2022, Ohlendorf, through her attorneys, submitted a response to defendant Wayne's September 8, 2022, correspondence. In same, Ohlendorf noted that her permanent injury as noted in her Title 59 Notice of Tort Claim was to her professional reputation. Moreover, Ohlendorf submitted a letter from her medical provider advising of the treatment she received as a result of defendant Wayne's misconduct. Finally, Ohlendorf noted that Wayne's WPD Sergeant position promotional process was a sham and consistently overlooked female employees seeking promotions.

46. On September 13, 2022, defendant Wayne provided Ohlendorf with correspondence, abhorrent in both content and nature, which criticized Ohlendorf for receiving treatment from multiple medical providers. Once again, Wayne demanded further information from Ohlendorf and/or her medical provider regarding her treatment, which was harassing and utterly unwarranted. Wayne further demanded that Ohlendorf attend a virtual Fitness for Duty Examination (hereinafter, an "FFD") on October 7, 2022 (the day after Ohlendorf's intensive outpatient treatment ended) and an in-person FFD on October 10, 2022.

47. On September 14, 2022, Ohlendorf, through her attorneys, submitted correspondence to Wayne in response to Wayne's September 13, 2022, correspondence. In same, Ohlendorf noted that Wayne's attempted disparagement regarding Ohlendorf's treatment from

different medical providers was improper. Moreover, Ohlendorf admonished (a) Wayne's assertion that Ohlendorf has been uncooperative with Wayne's attempts to seek information regarding Ohlendorf's treatment; (b) Wayne's repeated harassing conduct towards Ohlendorf through its correspondence; and (c) Wayne's assertion that Ohlendorf may not be "physically fit" for a return to work. Regardless of Wayne's continuous improper conduct, Ohlendorf stated her intent to comply with the FFD process (which, again, was unwarranted, unnecessary, and harassing).

48. Ohlendorf completed the FFD examination as scheduled and of course was deemed entirely fit for duty, which further proved that Wayne's direction to her in that regard was bogus, harassing, shambolic and discriminatory. As such, in October 2022, Ohlendorf returned to her full patrol duties at WPD with no restrictions.

49. Shortly after returning to duty, Ohlendorf was advised that new officers were assigned to her squad. Ohlendorf, as the only Field Training Officer on her squad, anticipated that she would train, at minimum, one of the new officers. Moreover, Ohlendorf advised her superiors that she was ready, willing and able to train the new officers.

50. However, much to her surprise, and in direct conflict with the WPD's past practices with its male officers, Ohlendorf was not assigned to train any of the new officers on her squad. Instead, defendant Wayne, through WPD Lieutenant Alexander Deluccia, assigned two junior officers the training responsibilities under the guise of "easing [Ohlendorf] back in"; however, Ohlendorf was well aware that she was stripped of her training duties in direct and illegal retaliation for taking mental health leave and for speaking out against Wayne's sex-based discriminatory misconduct.

51. On November 1, 2022, Ohlendorf again inquired as to why she was not tasked with training the new officers on her squad. When Ohlendorf asked whether she was stripped of her training duties because she took medical leave, Deluccia stated “you weren’t just out sick, you were out Florida sick.” Ohlendorf reasonably interpreted Deluccia’s comment to mean that Ohlendorf being out on mental health sick leave as reasoning for taking away her rightfully earned and deserved assignments. Indeed, Wayne retaliating/discriminating against Ohlendorf because of the type of sick leave she took is also a blatant violation of New Jersey state law.

52. Later that same date, Ohlendorf learned that an internal affairs investigation was commenced against her regarding an allegation of insubordination. Ohlendorf was stunned upon learning of the investigation, since the alleged insubordination never occurred and Ohlendorf was only recently back on duty. Upon information and belief, the allegation was made in yet another effort to discriminate against and harass Ohlendorf because of her utilizing her contractually-guaranteed sick leave to address her mental health (which mental health concerns were brought about by Wayne’s past discriminatory and harassing misconduct in any event). Moreover, the internal affairs investigation bypassed the chain of command and instead was handled by Sergeant Mark Ciavarella and Chief McNiff’s brother, WPD Patrol Captain Michael McNiff.

53. Indeed, Captain McNiff harbors an intense and irrational hatred towards Ohlendorf, which hatred has been apparent to Ohlendorf throughout her employment at WPD. As such, Captain McNiff’s involvement in the internal affairs investigation further cemented Ohlendorf’s belief that same would result in some type of unjust and unsupported charges as against Ohlendorf.

54. On November 19, 2022, Ohlendorf reported Deluccia’s comment to her superior, WPD Sergeant Scott Agnes. Ohlendorf further advised that she had been subjected to continuous harassing and discriminatory treatment since she returned from sick leave. Upon information and

belief, neither Agnes nor any other WPD superior investigated and/or addressed Ohlendorf's concerns in any meaningful fashion whatsoever.

55. On December 2, 2022, Ohlendorf objected to the harassment and discrimination she had been subjected to via email to Ciavirella. In her email, Ohlendorf reported, among other things, Deluccia's "Florida sick" comment and Agnes's knowledge of same.

56. Ciavirella instantly forwarded Ohlendorf's email directly to Deluccia and Agnes. On that same date, Deluccia then responded to Ohlendorf via email stating only that Ohlendorf would not train new hires until her internal affairs investigation is completed – a position which directly conflicted with his "Florida sick" comment made prior to having knowledge of the internal affairs investigation against Ohlendorf. Moreover, Deluccia, Agnes and Ciavirella all failed to respond in any way to Ohlendorf's written concerns regarding the relentless harassment and discrimination she faced.

57. Soon thereafter, Ohlendorf filed an official complaint objecting to Deluccia's harassment and discrimination, and Agnes's failure to report Deluccia for same. Consequently, as required by the WPD Rules and Regulations, an internal affairs investigation was commenced regarding both Deluccia and Agnes.

58. In direct retaliation for Ohlendorf speaking out against the continuous harassment and discrimination she faced, Ohlendorf was not invited to her squad's holiday party, nor to any promotional parties held after her return to duty in October 2022. Moreover, Ohlendorf's supervisors, in an immature and puerile manner, completely alienated themselves from her and made no direct in-person communications to her other than for official WPD matters.

59. On November 15, 2022, Ohlendorf was interviewed regarding the internal affairs investigation as against her (Ohlendorf). During this interview, Ohlendorf repeatedly stated that

she felt that she was being discriminated against and harassed because she had filed her Title 59 Notice of Tort Claim. Wayne failed to follow-up or investigate Ohlendorf's claims in any way.

60. On December 4, 2022, Ohlendorf was interviewed regarding her official complaint as against Deluccia and Agnes. Ohlendorf had worked a twelve (12) hour shift (from 6:00 p.m. to 6:00 a.m.), and was interviewed at 5:00 a.m. with little notice given beforehand. Consequently, Ohlendorf was not afforded a fair opportunity to fully explain her complaints and comprehensively answer the questions as presented to her.

61. On December 26, 2022, WPD Detective Captain Joseph Rooney memorialized the WPD's internal affairs investigation's findings as against Deluccia and Agnes. Regarding Deluccia's discrimination in stripping Ohlendorf of her field training duties based on her mental health sick leave, the investigation found that Deluccia's obvious discriminatory misconduct "did not occur", and instead that Ohlendorf was not assigned to train new officers because of her extended sick leave and because of her pending internal affairs investigation. Additionally, the investigation "failed to disclose sufficient evidence to clearly prove or disprove" that Deluccia made the "Florida sick" comment and that Agnes failed to report same. Although these counterfeit findings were expected by and not at all surprising to Ohlendorf, same were nevertheless improper, dishonest, pre-conceived, a foregone conclusion, and unjust.

62. On December 29, 2022, Ohlendorf met with her WPD superiors regarding the internal affairs complaints (as against Ohlendorf and as against Deluccia and Agnes). Initially, Ohlendorf was advised of the WPD's findings as against Deluccia and Agnes – that neither would face any discipline regarding Ohlendorf's complaint.

63. Further, at this same meeting, Wayne submitted a Preliminary Notice of Disciplinary Action (hereinafter, the "PNDA") as against Ohlendorf, in which Wayne advised that

it was seeking Ohlendorf's termination (a clear and blatant adverse employment action). The PNDA noted that Ohlendorf had an astounding eleven (11) charges brought against her. Eight (8) charges alleged that Ohlendorf was untruthful in reporting certain perceived events and misconduct all related to the same incident (which incident Ohlendorf handled professionally and appropriately). Each and every one of the eleven (11) charges are fallacious, misleading, false, and unsupported by any valid evidence. Moreover, the PNDA was issued in direct retaliation for Ohlendorf reporting the discrimination and harassment she was subjected to during her time at WPD.

64. After Ohlendorf filed her Title 59 Notice of Tort Claim in June 2022, Wayne took steps to address the unequal sex-based treatment in its municipal police department so as to surreptitiously and pretextually disprove and/or negate Ohlendorf's past allegations. Specifically, three female officers (not including Ohlendorf) were assigned more desirable positions within the department.

AS AND FOR A FIRST CAUSE OF ACTION

(Violation of New Jersey Law Against Discrimination (Sex/Gender), N.J.S.A. 10:5-1, et seq.)

65. Plaintiff Ohlendorf repeats and realleges the allegations set forth in the preceding paragraphs with the same force and effect as if each were fully set forth at length herein.

66. During all periods relevant to this cause of action, Ohlendorf was an employee of defendant Wayne within the meaning of N.J.S.A. 10:5-1, et seq.

67. Defendant Wayne is an employer as defined by N.J.S.A. 10:5-5.

68. Defendant Wayne willfully and/or grossly negligently failed to provide meaningful training regarding sex/gender discrimination, retaliation, and harassment of its employees. By and through the actions and inactions described herein, the defendant has discriminated against Ohlendorf and created a harassing and hostile work environment for her because of sex/gender, in

violation of the NJLAD. Ohlendorf being subjected to a pattern of ongoing workplace and promotional discrimination was and is unconscionable and illegal.

69. As a direct and proximate result of defendant Wayne's actions and inactions, Ohlendorf has suffered and continues to suffer severe mental anguish, humiliation, pain, distress, and reputational damages as well as loss of earnings and other employment benefits.

70. Defendant Wayne has negligently, recklessly and/or intentionally:

- a) failed to have in place a well-publicized and enforced sex/gender anti-discrimination policy;
- b) failed to properly train its employees regarding compliance with any sex/gender related anti-discrimination, anti-harassment, and anti-retaliation policy promulgated by defendant Wayne;
- c) failed to make an unequivocal commitment from the upper echelon of the organization that any sex/gender discrimination, anti-harassment, and anti-retaliation policy is not just words but backed up by consistent practice; and
- d) failed to protect plaintiff Ohlendorf from abusive harassment, sex/gender discrimination, and retaliation in the workplace.

71. Based on the foregoing, defendant Wayne's governing body negligently, recklessly, and/or intentionally (and with deliberate indifference) failed to take prompt, appropriate, and/or reasonable remedies to prevent, stop, and remedy the sex/gender discrimination, harassment, and retaliation aimed at Ohlendorf. By and through its agents, the defendant fostered a sex/gender discriminatory, harassing, and retaliatory atmosphere and allowed actions which constitute discrimination, harassment, and retaliation in violation of the NJLAD.

WHEREFORE, plaintiff Christie Ohlendorf respectfully requests judgment against defendant the Township of Wayne, on her First Cause of Action as follows:

- (a) for compensatory, consequential, and emotional distress damages, as well as all remedies available under N.J.S.A. 10:5-1, *et seq.*;
- (b) for punitive damages;

- (c) for immediate promotion to the rank of Sergeant, along with all back pay and pension credits;
- (d) for interest;
- (e) for statutory fee shifting attorneys' fees and costs of suit; and
- (f) for such other and further relief as the Court deems equitable and just.

AS AND FOR A SECOND CAUSE OF ACTION

(Violation of New Jersey Law Against Discrimination (Disability), N.J.S.A. 10:5-1, et seq.)

72. Plaintiff Ohlendorf repeats and realleges the allegations set forth in the preceding paragraphs with the same force and effect as if each were fully set forth at length herein.

73. During all periods relevant to this cause of action, Ohlendorf was an employee of defendant Wayne within the meaning of N.J.S.A. 10:5-1, et seq.

74. Defendant Wayne is an employer as defined by N.J.S.A. 10:5-5.

75. Defendant Wayne willfully and/or grossly negligently failed to provide meaningful training regarding disability discrimination, retaliation, and harassment of its employees. By and through the actions and inactions described herein, the defendant has discriminated against Ohlendorf and created a harassing and hostile work environment for her because of disability, in violation of the NJLAD. Ohlendorf being subjected to a pattern of ongoing workplace and promotional discrimination was and is unconscionable and illegal.

76. As a direct and proximate result of defendant Wayne's actions and inactions, Ohlendorf has suffered and continues to suffer severe mental anguish, humiliation, pain, distress, and reputational damages as well as loss of earnings and other employment benefits.

77. Defendant Wayne has negligently, recklessly and/or intentionally:

- e) failed to have in place a well-publicized and enforced disability anti-discrimination policy;

- f) failed to properly train its employees regarding compliance with any disability related anti-discrimination, anti-harassment, and anti-retaliation policy promulgated by defendant Wayne;
- g) failed to make an unequivocal commitment from the upper echelon of the organization that any disability discrimination, anti-harassment, and anti-retaliation policy is not just words but backed up by consistent practice; and
- h) failed to protect plaintiff Ohlendorf from abusive harassment, disability discrimination, and retaliation in the workplace.

78. Based on the foregoing, defendant Wayne's governing body negligently, recklessly, and/or intentionally (and with deliberate indifference) failed to take prompt, appropriate, and/or reasonable remedies to prevent, stop, and remedy the disability discrimination, harassment, and retaliation aimed at Ohlendorf. By and through its agents, the defendant fostered a disability discriminatory, harassing, and retaliatory atmosphere and allowed actions which constitute discrimination, harassment, and retaliation in violation of the NJLAD.

WHEREFORE, plaintiff Christie Ohlendorf respectfully requests judgment against defendant the Township of Wayne, on her Second Cause of Action as follows:

- (g) for compensatory, consequential, and emotional distress damages, as well as all remedies available under N.J.S.A. 10:5-1, *et seq.*;
- (h) for punitive damages;
- (i) for immediate promotion to the rank of Sergeant, along with all back pay and pension credits;
- (j) for interest;
- (k) for statutory fee shifting attorneys' fees and costs of suit; and
- (l) for such other and further relief as the Court deems equitable and just.

AS AND FOR A THIRD CAUSE OF ACTION

(Violation of New Jersey Conscientious Employee Protection Act – N.J.S.A. 34:19-1, *et seq.*)

79. Plaintiff Ohlendorf repeats and realleges the allegations set forth in the preceding paragraphs with the same force and effect as if each were fully set forth at length herein.

80. During all periods relevant to this cause of action, Ohlendorf was an employee of defendant Wayne within the meaning of N.J.S.A. 34:19-2(b).

81. Defendant Wayne is an employer as defined by N.J.S.A. 34:19-2(a).

82. Plaintiff Ohlendorf engaged in a protected activity when she made complaints, reports, letters, and/or similar documents with defendant Wayne and to her supervisors regarding, and/or disclosed or threatened to disclose, activities, policies, or practices of defendant Wayne and its employees within its municipal police department she reasonably believed to be in violation of law, rule, and/or a regulation promulgated pursuant to law.

83. Plaintiff Ohlendorf also engaged in protected activity by reason of her objection to and refusal to participate in defendant's activities, policies, and/or practices described hereinabove that she reasonably believed to be a violation of law, rule, or regulation; were fraudulent and/or criminal; or were incompatible with a clear mandate of public policy regarding public safety, health, and welfare.

84. As set forth above, in retaliation for Ohlendorf "blowing the whistle" and engaging in protected activity, Wayne and its employees/agents took numerous and continuous adverse and egregious employment actions, and engaged, and continues to engage, in a pattern of continuous and systematic retaliatory conduct and reprisals against Ohlendorf, and subjected her thereby to a continuing and extremely hostile and harmful work environment, as well as engaged in actions deliberately intended to injure Ohlendorf and materially affect the terms and conditions of her employment and to hinder and ruin her ability to advance and the opportunities available to her,

which adverse actions have continued up to the date this action was commenced. Said adverse employment actions were causally related to Ohlendorf's protected whistleblowing activities.

85. Defendant Wayne was fully aware, or should have known, of the harassment, abuse, and misconduct foisted by its employees/agents within its municipal police department, upon Mautone. It granted its employees/agents authority to control the working environment and conditions which authority, as set forth above, was abused and misused by said employees/agents, who acted within the scope of their employment by defendant Wayne. Defendant Wayne failed negligently, recklessly, and/or with deliberate indifference to have, properly enforce or obey a policy or mechanism for supervising and overseeing said employee, that precludes such *ultra vires*, improper and retaliatory conduct and/or inaction and that provides for a meaningful and effective procedure for investigation and remediation of such misconduct. Defendant Wayne's actions, as well as its inactions, only encouraged, emboldened, facilitated and assisted the wrongdoing of its employees/agents.

86. Because of the adverse actions taken in retaliation against him and the hostile environment these actions created, Ohlendorf was forced by defendant's misconduct to endure severe, continuous, and pervasive career humiliation, embarrassment, harassment, and abuse such that a reasonable person in her circumstances would believe the conditions of employment had been altered and the environment was hostile and abusive, and which no such reasonable person could be expected to endure. Ohlendorf was caused to suffer, and has continued to suffer, severe emotional distress and injury (which has manifested itself through physical illness such as vomiting, nausea, headaches, upset stomach, insomnia, etc.) as well as substantial economic and financial loss.

87. As the direct and proximate result of defendant Wayne's wrongful and unlawful retaliation, Ohlendorf has been and will continue to be substantially damaged as aforesaid.

WHEREFORE, plaintiff Christie Ohlendorf respectfully requests judgment against defendant Township of Wayne on her Third Cause of Action as follows:

- (a) for compensatory, consequential, and emotional distress damages, as well as all remedies available under N.J.S.A. 34:19-1, *et seq.*;
- (b) for punitive damages;
- (c) for immediate promotion to the rank of Sergeant, along with all back pay and pension credits;
- (d) for interest;
- (e) for statutory fee shifting attorneys' fees and costs of suit; and
- (f) for such other and further relief as the Court deems equitable and just.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 4:35-1, the plaintiff, Christie Ohlendorf, herein demands a trial by jury.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4 and Rule 4:5-1(c), Patrick P. Toscano, Jr. is hereby designated as trial counsel for the plaintiff, Christie Ohlendorf.

DEMAND FOR DISCOVERY OF INSURANCE INFORMATION

Pursuant to Rule 4:10-2(b), please comply with the plaintiff's request for all insurance information.

CERTIFICATION

I hereby certify, upon information and belief, that the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding.

I also certify, upon information and belief, that at the present time no other action or arbitration with respect to the matter in controversy is contemplated.

On the basis of the present knowledge, I am aware of no other party or parties who should be joined in this action.

Dated: February 2, 2023

By: s/ Patrick P. Toscano, Jr.
Patrick P. Toscano, Jr.

s/ Matthew J. Toscano
Matthew J. Toscano