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FILED 1-20-10
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JOHN LEONARD,

Plaintiff,

v.

BOROUGH OF DUNELLEN, NEW
JERSEY, a New Jersey municipality,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MIDDLESEX COUNTY
DOCKET NO.: L-1020-10

CIVIL ACTION

**AMENDED COMPLAINT
AND JURY DEMAND**

Plaintiff John Leonard, for his Complaint against Defendant Borough of Dunellen, states and alleges as follows:

PARTIES

1. Plaintiff John Leonard is a natural person residing in New Jersey.
2. Defendant Borough of Dunellen is a municipality located in Middlesex County, New Jersey.

BACKGROUND FACTS

3. Plaintiff John Leonard was first appointed as the Municipal Judge for the Borough of Dunellen in or about 1994.
4. Throughout his legal career, until his recent retirement, Judge Leonard worked full-time in the New York Court System, serving seven (7) years as an Officer, and twenty-three (23) years as both a Law Clerk and a Court Clerk.

5. Additionally, in conjunction with sitting as a Judge in Dunellen, Judge Leonard sat as a substitute or visiting judge a minimum of three hundred (300) times in twenty (20) other cities, townships, and boroughs.

6. In Dunellen, Judge Leonard was reappointed on a minimum of four (4) separate occasions for three-year consecutive terms.

7. At all times, Judge Leonard served Dunellen in his capacity as a Municipal Judge with honor, distinction, and the utmost integrity, as evidenced by his repeated renewals by the Borough Council.

8. In or about late 2006 and early 2007, Judge Leonard began receiving disturbing information regarding George Deene, the Borough's Code Enforcement Officer.

9. Some of this information related to human resources issues; specifically, Judge Leonard was informed that Inspector Deene was rude, obnoxious, and bullying to the municipal court clerks that worked in the courthouse.

10. More importantly, Judge Leonard received information that Inspector Deene was targeting Hispanic residents in a discriminatory manner with respect to code enforcement violations.

11. One of the persons that brought this to the attention of Judge Leonard was Luisa De Leon, who worked as a Clerk for Judge Leonard. Ms. De Leon is Hispanic.

12. Ms. De Leon noticed that even though Dunellen has a relatively small Hispanic population, a great number of the code violations issued by Inspector Deene were disproportionately given to Hispanic residents. Indeed, Ms. De Leon compiled a statistical analysis of all the code enforcement violations in the preceding year; this

statistical compilation showed that, in 2006, twenty-five (25) code violations were issued to Hispanics, and only twenty-one (21) violations were issued to non-Hispanics in the entire Borough. Ms. De Leon provided this statistical information to Judge Leonard.

13. Judge Leonard also received information, equally disturbing, that Inspector Deene was violating the constitutional and statutory rights, including that of the Uniform Construction Code, of residents by showing up to their places of residence with a uniformed police officer without a judicial warrant. Furthermore, Inspector Deene was intimidating residents by showing up at their homes at odd hours, weekends, and holidays.

14. Precisely this type of discriminatory and unlawful treatment of Hispanics with respect to residential code enforcement was previously the subject of a lawsuit by the United States Government against another New Jersey municipality, United States v. Borough of Bound Brook, Civil Action No. 04-1194. In that case, the United States complained that the Borough of Bound Brook “discriminated against Latino residents on the basis of national origin, race, and color, which constituted a pattern or practice of resistance to the full enjoyment of rights secured by the Fair Housing Act”

15. Judge Leonard became increasingly concerned that Inspector Deene was acting in a similarly unlawful and discriminatory manner on Dunellen’s behalf for the purpose pressuring and intimidating Dunellen’s Hispanic community. Indeed, Judge Leonard became concerned that this was a purposeful policy of Dunellen.

16. Judge Leonard’s concerns became acute in mid-February 2007, when he brought these issues to the attention of Mayor Robert Seader.

17. Judge Leonard explicitly asked Mayor Seader whether it was true that Inspector Deene had gained entry to resident's homes in the presence of a police officer but without a warrant. Mayor Seader responded, "Absolutely," indicating his knowledge and ratification of this unlawful conduct. Judge Leonard also raised the issue that Inspector Deene had issued a disproportionate amount of summonses to Hispanics, but Mayor Seader refused to discuss this issue.

18. Judge Leonard immediately contacted his judicial supervisor, the Chief Municipal Judge for the County of Middlesex, to advise him of what had occurred. Judge Leonard immediately asked for permission to recuse himself from any cases brought before him by Code Inspector Deene.

19. Accordingly, due to the inherent conflict of interest and his unwillingness to participate judicially in discriminatory conduct, Judge Leonard transferred all of Inspector Deene's cases to a neighboring municipality. Such transfers of cases from one municipality to another are typical and standard when there is a conflict or a judge needs to recuse himself from a matter.

20. Furthermore, Judge Leonard promptly began contacting the Attorney General's office to report his concerns and belief that the Borough was engaging in a discriminatory campaign against Hispanic residents. The Attorney General's Office referred Judge Leonard to the Middlesex County Prosecutor's Office, with whom Judge Leonard made a formal complaint.

21. Having made these formal complaints to what he considered the proper investigatory authorities, Judge Leonard refrained from discussing these matters further with municipal official and authorities because: (1) he believed any such communications

could be viewed as compromising his judicial independence; and (2) given Mayor's Seader's prior comments, Judge Leonard has a reasonable belief that municipal authorities condoned, ratified, and/or promoted Inspector Deene's unlawful and discriminatory inspections.

22. As a result of Judge Leonard's protected whistleblowing conduct, the Borough of Dunellen began a campaign of harassment and retaliation against him.

23. First, the Borough of Dunellen unilaterally and illegally reduced Judge Leonard's salary. The Borough's pretext for doing this was that it had to hire an additional judge to purportedly handle Inspector Deene's cases, which was false.

24. This retaliatory conduct prompted an additional complaint by Judge Leonard to his judicial supervisor. The Borough was advised that it could not reduce Judge Leonard's compensation; the reduction was ultimately rescinded.

25. Additionally, the Borough of Dunellen retaliated against Judge Leonard and Ms. De Leon by refusing to hire additional administrative support that was desperately needed. Indeed, Ms. De Leon was compelled to essentially do the work of three people by herself, causing extreme stress and hardship. Ms. De Leon ultimately suffered a physical illness in the workplace and had to be taken from work to the hospital by ambulance. Ms. De Leon was ultimately compelled to resign due to these intolerable working conditions.

26. Finally, in February 2009, the Borough of Dunellen took the ultimate retaliatory action against Judge Leonard by refusing to renew his Judgeship with the Borough in retaliation for his protected whistleblowing conduct.

27. In short, after fourteen (14) years of dedicated service to the citizens and public interest of the Borough of Dunellen, the Borough administration terminated Judge Leonard's employment in retaliation for protected whistleblowing relating to discrimination and constitutional violations against Borough residents.

COUNT I – VIOLATION OF CEPA

28. Plaintiff hereby incorporates and restates the allegations contained in the preceding Paragraphs as set forth at length herein.

29. Defendant subjected Judge Leonard to an adverse employment action in retaliation for protected whistleblowing conduct in violation of the New Jersey Conscientious Employee Protect Act, N.J.S.A. 34:19-1 et seq. (CEPA).

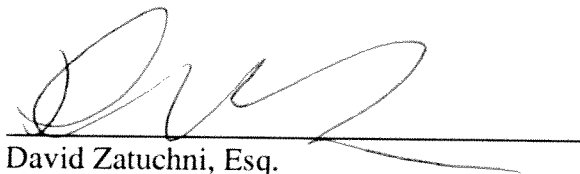
30. As a result of Defendant's unlawful conduct, Judge Leonard has been subjected to job detriment and economic losses.

31. As a result of Defendant's unlawful conduct, Judge Leonard has been subjected to mental anguish, embarrassment, stress, anxiety, and humiliation and other pain and suffering.

WHEREFORE, Plaintiff demands the following damages and relief:

- a. Judgment in favor of the plaintiff and against the defendant;
- b. Compensatory damages;
- c. Punitive damages;
- d. Attorneys fees;
- e. Costs of suit;
- f. Such additional relief as this Court deems just and equitable.

Respectfully submitted,

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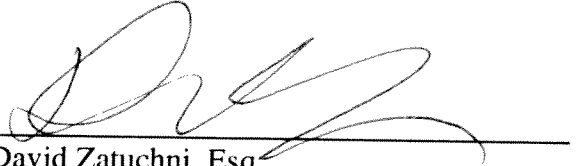
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Attorneys for Plaintiff

Dated:

3/7/16

CERTIFICATION PURSUANT TO R. 4:5-1

I hereby certify that this matter in controversy is not the subject of other actions pending in any court or arbitration proceedings, or any such contemplated other actions or arbitration proceedings.

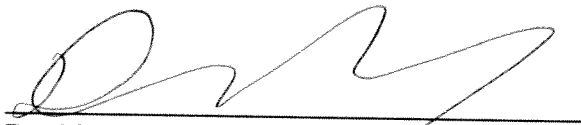


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Attorneys for Plaintiff

Dated: 3/4/10

DESIGNATION OF TRIAL COUNSEL

David Zatuchni, Esq. is hereby designated as trial counsel in this matter.

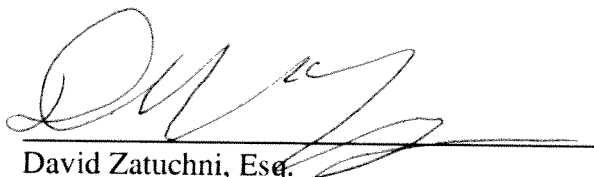


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JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues and claims.



David Zatuchni, Esq.
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Dated: 3/7/18