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Princeton, New Jersey 08540
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Attorneys for Plaintiff

CHARLES THOMAS,

Plaintiff,

v.

NEW JERSEY TRANSIT CORPORATION, a
New Jersey corporation, JOSEPH BOBER,
GLORIA GUEVARA, and JOHN RICCARDI,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ESSEX COUNTY
DOCKET NO. 2-2611-07

CIVIL ACTION

COMPLAINT AND JURY DEMAND

Plaintiff Charles Thomas, by way of Complaint against Defendants New Jersey Transit Corporation, Joseph Bober, Gloria Guevara, and John Riccardi, states as follows:

PARTIES

1. Plaintiff Charles Thomas is a natural person currently residing at 205 Mirage Boulevard, Barnegat, New Jersey. He is sixty (60) years of age. Mr. Thomas is a Lieutenant in the New Jersey Transit Police Department ("Police Department"), a law enforcement agency established pursuant to the Public Transportation Act of 1979. See N.J.S.A. 27:25-15.1a. Mr. Thomas also is a Command Sergeant Major in the United States Army Reserve.

2. Defendant New Jersey Transit Corporation ("NJTC") is the State of New Jersey's public transportation corporation, established by the Public Transportation Act of 1979, N.J.S.A. 27:25-1 et. seq. Defendant has a principal business address of One Penn Plaza East, Newark, New Jersey.

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3. At all relevant times, Defendant Joseph Bober has served as Chief of the Police Department.

4. At all relevant times, Defendant Gloria Guevara has served as a Senior Strategic Staffing Specialist in Defendant NJTC's Strategic Staffing Department.

5. At all relevant times, Defendant John Riccardi has served as a Captain in the Police Department.

BACKGROUND FACTS

6. In or about August 1988, Defendant NJTC hired Mr. Thomas to serve within the Police Department.

7. Throughout the duration of his employment, Mr. Thomas has performed his job duties conscientiously, diligently, and with the utmost of care.

8. In or about May 2004, Lieutenant Thomas' reserve unit was called to active duty for service in Iraq. Lieutenant Thomas was stationed at Fort Dix, New Jersey from approximately May 2004 until November 2004. He then served in Iraq from November 2004 until December 2004 and from January 4, 2005 until approximately September 2005. Lieutenant Thomas was released from active duty on February 14, 2006.

9. On or about December 17, 2004, while Lieutenant Thomas was serving in Iraq, Defendant Guevara, as an agent of Defendant NJTC, sent a "Talent Search Announcement" to Lieutenant Thomas' New Jersey residence, then located in Matawan. The announcement advertised a Captain position within the Police Department. Lieutenant Thomas timely applied for this position.

10. On January 11, 2005 Defendant Guevara sent Lieutenant Thomas an email informing him that interviews for the advertised Captain's position would take place on January 18, 2005 and that his attendance would be required on that date. See Exhibit A, pages 2-3.

11. Eleven minutes after Defendant Guevara sent the aforementioned email to Lieutenant Thomas, Lieutenant Thomas sent Defendant Guevara an email thanking her for notifying him, advising her that he would be stationed in Tikrit, Iraq for at least the next twelve months, and asking her to submit his resume to the Captain's board and inform the board of his circumstances and to advise him of the members of the Captain's board. See Exhibit A, page 2.

12. Sergeant Major Thomas reiterated this request in a January 14, 2005 email he sent to Defendant Guevara. See Exhibit A, page 1.

13. On January 19, 2005, Defendant Guevara sent Sergeant Major Thomas an email that read as follows:

Your application for the Captain position was submitted and reviewed. As you are aware, the interviews for the Police Captain position were conducted on January 18, 2005. Unfortunately, since you were unavailable for the interview, we can not consider you for the position at this time. Panel members names are generally not disclosed aside from candidates in the interview process. Upon your return from the military I will be more than happy to review your resume against any current openings at that time.

See Exhibit A, page 1.

14. The Captain's board that conducted the interviews on January 18, 2005 was comprised of Defendants Bober, Guevara, and Riccardi.

15. On May 11, 2006, after Lieutenant Thomas had been released from active duty, he sent a memorandum to Defendant Bober asking for a meeting with Defendant Bober to

discuss why the Captain's board which had convened on January 18, 2005 had refused to consider him for the open Captain's position.

16. Lieutenant Thomas' memorandum eventually was referred to Alma Scott-Buczak, Defendant NJTC's Director of Human Resources, who scheduled a July 6, 2006 meeting with Lieutenant Thomas to discuss why the Captain's board which had convened on January 18, 2005 had refused to consider him for the open Captain's position.

17. At the July 6 meeting, Scott-Buczak told Lieutenant Thomas that at the time Lieutenant Thomas applied for the Captain's position, Defendant NJTC thought Lieutenant Thomas still was stationed at Fort Dix and that had Defendant NJTC known that Lieutenant Thomas was stationed in Iraq at that time, it would not even have let Lieutenant Thomas apply for the Captain's position.

18. In or about September 2005, Lieutenant Thomas filed a grievance with the United States Department of Labor (USDOL) alleging that Defendant NJTC's refusal to consider him for the Captain's position violated the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C.A. §§ 4301-4333.

19. This Grievance filed by Lieutenant Thomas constitutes protected conduct under both USERRA and the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et. seq.

20. On January 26, 2006, after USDOL's efforts to settle Lieutenant Thomas' USERRA claim against Defendant NJTC proved unsuccessful, Lieutenant Thomas filed a formal request for USDOL to refer his claim to the United States Attorney General. See Exhibit F.

21. On October 18, 2006, Lieutenant Thomas applied for another available Captain position within the Police Department. Lieutenant Thomas timely applied for this position and

interviewed before a Captain's board that again was comprised of Defendants Bober, Guevara, and Riccardi.

22. Defendants rejected Lieutenant Thomas, for this Captain position and awarded it to Laura Hester, a much less qualified younger employee. Ms. Hester is forty-two (42) years of age and has less seniority and less experience than Lieutenant Thomas. Upon information and belief, Ms. Hester, unlike Lieutenant Thomas, has neither worked in the field nor supervised police personnel working in the field.

COUNT I – FAILURE TO PROMOTE ON THE BASIS OF LIABILITY FOR SERVICE IN THE UNITED STATES ARMED FORCES IN VIOLATION OF THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (USERRA)

23. Lieutenant Thomas hereby incorporates and restates the allegations contained in the preceding Paragraphs as if set forth at length herein.

24. Defendant NJTC failed to promote Lieutenant Thomas in 2005 due to his service in the uniformed services of the United States in violation of 38 U.S.C. 4311 et seq. (“USERRA”).

25. As a result of Defendant NJTC's unlawful conduct, Lieutenant Thomas has been subjected to economic loss and job detriment.

26. As a result of Defendant NJTC's unlawful conduct, Lieutenant Thomas has been subjected to mental anguish, anxiety, stress, humiliation, embarrassment, and pain and suffering.

WHEREFORE, Plaintiff demands the following damages and relief:

- a. Judgment in favor of the Plaintiff and against Defendants;
- b. Compensatory damages;
- c. Punitive damages;

- d. Pre-Judgment interest;
- e. Attorneys fees;
- f. Costs of suit;
- g. Such additional relief as this Court deems just and equitable.

**COUNT II – FAILURE TO PROMOTE ON THE BASIS OF LIABILITY FOR SERVICE
IN THE UNITED STATES ARMED FORCES IN VIOLATION OF THE NEW JERSEY
LAW AGAINST DISCRIMINATION (NJLAD)**

27. Lieutenant Thomas hereby incorporates and restates the allegations contained in the preceding Paragraphs as if set forth at length herein.

28. Defendant NJTC failed to promote Lieutenant Thomas in 2005 on the basis of his liability for military service in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et. seq.

29. As a result of Defendant NJTC's unlawful conduct, Lieutenant Thomas has been subjected to economic loss and job detriment.

30. As a result of Defendant NJTC's unlawful conduct, Lieutenant Thomas has been subjected to mental anguish, anxiety, stress, humiliation, embarrassment, and pain and suffering.

WHEREFORE, Plaintiff demands the following damages and relief:

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

**COUNT III – RETALIATION IN VIOLATION OF THE CONSCIENTIOUS
EMPLOYEE PROTECTION ACT (CEPA)**

31. Lieutenant Thomas hereby incorporates and restates the allegations contained in the preceding Paragraphs as if set forth at length herein.

32. Defendant Corporation failed to promote Lieutenant Thomas in retaliation for Lieutenant Thomas' pursuit of his USERRA claim against Defendant Corporation, in violation of the Conscientious Employee Protection Act, N.J.S.A. 34:19-1 et. seq.

33. As a result of Defendant Corporation's unlawful conduct, Lieutenant Thomas has been subjected to economic loss and job detriment.

34. As a result of Defendant unlawful conduct, Lieutenant Thomas has been subjected to severe mental anguish, embarrassment, stress, anxiety, humiliation and other pain and suffering.

WHEREFORE, Plaintiff demands the following damages and relief:

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

COUNT IV – FAILURE TO PROMOTE – REPRISAL IN VIOLATION OF USERRA

35. Lieutenant Thomas hereby incorporates and restates the allegations contained in the preceding Paragraphs as if set forth at length herein.

36. Defendant NJTC failed to promote Lieutenant Thomas in 2006 in reprisal for his protected conduct in violation of 38 U.S.C. § 4311(b), a provision of the USERRA statute.

37. As a result of Defendant NJTC's unlawful conduct, Lieutenant Thomas has been subjected to economic loss and job detriment.

38. As a result of Defendant NJTC's unlawful conduct, Lieutenant Thomas has been subjected to mental anguish, anxiety, stress, humiliation, embarrassment, and pain and suffering.

WHEREFORE, Plaintiff demands the following damages and relief:

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

COUNT V – FAILURE TO PROMOTE – RETALIATION IN VIOLATION OF NJLAD

39. Lieutenant Thomas hereby incorporates and restates the allegations contained in the preceding Paragraphs as if set forth at length herein.

40. Defendant NJTC failed to promote Lieutenant Thomas in 2006 in retaliation for his protected conduct in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et. seq.

41. As a result of Defendant NJTC's unlawful conduct, Lieutenant Thomas has been subjected to economic loss and job detriment.

42. As a result of Defendant NJTC's unlawful conduct, Lieutenant Thomas has been subjected to mental anguish, anxiety, stress, humiliation, embarrassment, and pain and suffering.

WHEREFORE, Plaintiff demands the following damages and relief:

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

**COUNT VI – AIDING AND ABETTING DISCRIMINATION ON THE BASIS OF
LIABILITY FOR SERVICE IN THE UNITED STATES ARMED FORCES, IN
VIOLATION OF THE NJLAD**
(as to Defendants Bober, Guevara, and Riccardi)

43. Lieutenant Thomas hereby incorporates and restates the allegations contained in the preceding Paragraphs as if set forth at length herein.

44. Defendants Bober, Guevara and Riccardi aided and abetted Defendant Corporation's discrimination against Lieutenant Thomas on the basis of Lieutenant Thomas' liability for service in the United States Armed Forces, in violation of the NJLAD.

45. As a result of Defendants' unlawful conduct, Lieutenant Thomas has been subjected to economic loss and job detriment.

46. As a result of Defendants' unlawful conduct, Lieutenant Thomas has been subjected to mental anguish, anxiety, stress, humiliation, embarrassment, and pain and suffering.

WHEREFORE, Plaintiff demands the following damages and relief:

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

**COUNT VII -- FAILURE TO PROMOTE IN VIOLATION OF NJLAD -- AGE
DISCRIMINATION**

47. Lieutenant Thomas hereby incorporates and restates the allegations contained in the preceding Paragraphs as if set forth at length herein.

48. Defendant NJTC failed to promote Lieutenant Thomas in 2006 on the basis of his age in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et. seq.

49. As a result of Defendant NJTC's unlawful conduct, Lieutenant Thomas has been subjected to economic loss and job detriment.

50. As a result of Defendant NJTC's unlawful conduct, Lieutenant Thomas has been subjected to mental anguish, anxiety, stress, humiliation, embarrassment, and pain and suffering.

WHEREFORE, Plaintiff demands the following damages and relief:

- a. Judgment in favor of the Plaintiff and against Defendants;
- b. Compensatory damages;
- c. Punitive damages;
- d. Pre-Judgment interest;
- e. Attorneys fees;

- f. Costs of suit;
- g. Such additional relief as this Court deems just and equitable.

**COUNT VIII – AIDING AND ABETTING AGE DISCRIMINATION IN VIOLATION
OF THE NJLAD**
(as to Defendants Bober, Guevara, and Riccardi)

51. Lieutenant Thomas hereby incorporates and restates the allegations contained in the preceding Paragraphs as if set forth at length herein.

52. Defendants Bober, Guevara and Riccardi aided and abetted Defendant NJTC's discrimination and retaliation against Lieutenant Thomas on the basis of age, in violation of the NJLAD.

53. As a result of Defendants' unlawful conduct, Lieutenant Thomas has been subjected to economic loss and job detriment.

54. As a result of Defendants' unlawful conduct, Lieutenant Thomas has been subjected to mental anguish, anxiety, stress, humiliation, embarrassment, and pain and suffering.

WHEREFORE, Plaintiff demands the following damages and relief:

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

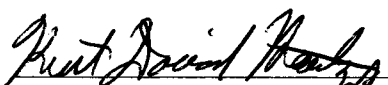
Respectfully submitted,


David Zatuchni, Esquire
Kurt David Raatzs, Esquire
Zatuchni & Associates, LLC
2 Research Way
3rd Floor
Princeton, New Jersey 08540
Attorneys for Plaintiff

Dated: March 27, 2007

CERTIFICATION PURSUANT TO RULE 4:5-1

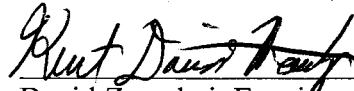
I hereby certify that this matter in controversy is not the subject of other actions pending in any court or arbitration proceedings, or any such contemplated other actions or arbitration proceedings.


David Zatuchni, Esquire
Kurt David Raatzs, Esquire
Zatuchni & Associates, LLC
2 Research Way
3rd Floor
Princeton, New Jersey 08540
Attorneys for Plaintiff

Dated: March 27, 2007

DESIGNATION OF TRIAL COUNSEL

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

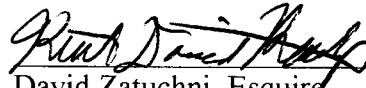


David Zatuchni, Esquire
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2 Research Way
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Attorneys for Plaintiff

Dated: March 27, 2007

JURY TRIAL DEMAND

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



David Zatuchni, Esquire
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Attorneys for Plaintiff

Dated: March 27, 2007