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CONSTANCE CREA,

Plaintiff,

v.

TOWNSHIP OF PISCATAWAY,
CHIEF THOMAS MOSIER,
JOHN/JANE DOES 1-10,

Defendants.

SUPERIOR COURT OF NEW JERSEY
MIDDLESEX COUNTY: LAW DIVISION

Docket No.: MID-L-

Civil Action

**COMPLAINT, JURY DEMAND AND
DESIGNATION OF TRIAL COUNSEL**

Plaintiff, CONSTANCE CREA, (hereinafter, “Plaintiff”), by way of Complaint against Defendants, TOWNSHIP OF PISCATAWAY (hereinafter, “Township”) and CHIEF THOMAS MOSIER (hereinafter, “Mosier” or the “Chief,” collectively “Defendants”) pleads as follows:

PARTIES

1. Plaintiff is a resident and citizen of Burlington County, State of New Jersey, and has been employed by Defendant Township as a Police Lieutenant since 2019. Plaintiff’s place of residence is 1 Abington Court, Mount Laurel, NJ 08054.

2. Defendant Township of Piscataway is a duly incorporated municipal body corporate and politic of the State of New Jersey, operating under the “Mayor-Council Plan F”

form of government pursuant the Faulkner Act, N.J.S.A. 40:69-1, et seq., and situated in Middlesex County, New Jersey. Defendant Township conducts its business and operations at 455 Hoes Lane, Piscataway, NJ 08854.

3. Defendant Chief Thomas Mosier is the Chief of the Police Department and he was Plaintiff's supervisor at times relevant to this Complaint. He currently oversees day-to-day operations of the Department.

4. Defendants John/Jane Does 1-10 are past and present supervisors of Plaintiff during her employment at the Township, or agents and/or officials of the Township.

JURISDICTION AND VENUE

5. Jurisdiction is proper in the Superior Court of New Jersey, Civil Division because the claims set forth herein arise and occur under the laws of the State of New Jersey, the Township situated in the State of New Jersey, County of Middlesex, and all parties conduct business within the State of New Jersey, County of Middlesex.

6. Venue is proper in the Superior Court of New Jersey, Civil Division, Middlesex County Vicinage pursuant to R. 4:3-2(a)(2), because the Township of Piscataway is a party Defendant and is situated in the County of Middlesex, the cause of action arose in the Township, and all parties conduct business in the County of Middlesex.

FACTS COMMON TO ALL COUNTS

7. Plaintiff is a female homosexual.

8. Plaintiff is employed by the Township of Piscataway Police Department (hereinafter, "Department").

9. Plaintiff was hired by the Department in 1996, obtained the rank of Sergeant in 2011 and was promoted to the rank of Lieutenant in 2019.

10. Throughout her career, Plaintiff's performance regularly met or exceeded expectations. Throughout her career Plaintiff was a recipient of Meritorious Service Medal, (2) lifesaving medals, numerous certificates for exemplary service, and letters of commendation. Plaintiff implemented the drug recognition program for the Department in 2005.

11. In the year 2001, Plaintiff made a complaint of sexual harassment, and instead of disciplining the subject of the complaint, Plaintiff was reassigned from the Vice Section where she was flourishing and was sent to sexual harassment training.

12. This experience demonstrated to Plaintiff that complaining of a reportable incident of sexual harassment was futile and dangerous, and this experience contributed to the fact that Plaintiff did not complain to the Township about the ongoing discrimination and harassment set forth in this pleading sooner than the instant complaint.

13. Chief Mosier has subjected Plaintiff to a pattern of mistreatment that has caused stress and embarrassment as a female homosexual supervisor and part of the LBGTQ community.

14. Chief Mosier has engaged in a pattern and practice of behavior of sexual harassment, discrimination, hostile work environment, preferential treatment and failing to comply with his own policies.

15. Chief Mosier has violated the Department's Code of Ethics (Rules and Regulations Section 1:5), specifically by acting officiously or by permitting personal feelings, prejudices, political beliefs, animosities or friendships to influence his decisions as Chief of Police.

16. Chief Mosier has been discriminating against Plaintiff since the start of her career at the Township.

17. When Plaintiff was promoted to the rank of Sergeant in April of 2011, Chief Mosier (Lieutenant at the time) was her direct supervisor for afternoon shift.

18. On one occasion, at the beginning of the shift, Plaintiff was situated in the Watch Commander's office, when Mosier said to Plaintiff that he "really did not want to see [her] get promoted."

19. Throughout the next few years, it was brought to Plaintiff's attention that (Ret.) Officer Kimberley Hye was being mistreated by Mosier. Officer Hye brought the Chief's conduct to Plaintiff's attention herself.

20. Officer Hye is a homosexual female.

21. It is a common practice that officers work a schedule of 4 days on, which means that, depending on seniority, you work a different district every night.

22. Mosier put Kimberley Hye in District 2 for six (6) entire weeks, which at the time was the busiest of the four (4) districts. The Township is divided into four (4) districts.

23. Mosier's conduct was extreme and egregious, and was caused by Officer Hye's sexual orientation.

24. Mosier would also use red ink to highlight the errors of Officer Hye's reports and point them out to her during muster in front of all of her peers, which was highly embarrassing and degrading.

25. The Chief ridiculed Officer Hye over the radio, again in front of her peers. This transmission was memorialized.

26. At one point Chief Mosier made a comment to Officer Hye, stating that he thinks Officer Michael Coffey is "light in the loafers," which is a disparaging term for a homosexual.

27. Plaintiff was assigned to the Traffic and Safety Division in 2016 along with then

Lt. Mosier.

28. Officers R. Pilch, J. Cymbaluk, Ray Rose and M. Tighe were assigned to the unit.

29. On or about January 20th, Officer R. Pilch placed an offensive naked female blow-up sex doll in the divided glass window which separates the Traffic Division offices. The doll was approximately 3-4 feet in height.

30. This day was Lt. Mosier's first day in the Traffic Division

31. Mosier observed the blow-up doll, as Sandra Wiley (civilian) walked past the office. Mosier's face became flushed.

32. Officer R. Pilch is one of Mosier's favored officers.

33. Mosier told R. Pilch to remove the sex blow up doll and never disciplined him at all. In fact, Mosier took no action in response to R. Pilch's misconduct.

34. The Traffic Division is a highly sought-after position and officers were always requesting to be transferred there.

35. On or about the Spring of 2016, Officer J. Oranchak approached Plaintiff and advised her that Lt. Mosier brought him into his office to state that he was going to get Officer Meredith Robbins into the Division.

36. Mosier further stated to Officer Oranchak, who is a highly respected officer, that he only wanted her in the Division to stare at her in her yoga pants.

37. On July 5th Officer Robbins was transferred into the Traffic Division, despite the fact that she had not submitted a request to be transferred.

38. Mosier would often tell Plaintiff to send the male officers on a detail, because Meredith was too pretty to go.

39. While Plaintiff was in Lt Mosier's office discussing the work plan for that

particular day, Officer Robbins walked by in the hallway.

40. Lt. Mosier then grabbed his genitals and rubbed them while making sexual moaning sounds in self-gratification.

41. This disgusting behavior that Plaintiff did not consent to was witnessed by Plaintiff on countless occasions.

42. Mosier's behavior did not stop with Officer Meredith Robbins, as he would also grab his genitals and rub them while making sexual sounds for self-gratification while Nanci Sawicki (civilian employee) would walk past his office.

43. Plaintiff did not report these incidents due to the expectation that she would be retaliated against.

44. Mosier's repeated conduct witnessed by Plaintiff constituted sexual harassment.

45. In the fall of September 2016, Plaintiff was working a Rutgers Football Game and noticed several hazardous conditions which needed to be addressed.

46. On her first day back to work from leave, she advised Lt. Mosier of the hazardous conditions, and made a suggestion to contact the Rutgers Supervisor.

47. With no provocation, Mosier raised his voice, which was heard by (Ret.) Chief McLaughlin and (Ret.) Officer C. Williams,

48. Mosier began yelling at Plaintiff that that she's "going to do no such thing" and to "go find the road," which meant to leave headquarters.

49. This behavior towards the plaintiff was obvious due to her sexual orientation mainly because he would not treat or speak to a heterosexual female officer in the same manner.

50. Chief McLaughlin (then Captain) witnessed Mosier's outburst and addressed him on his inappropriate conduct, which was then followed up by the Captain via email to the

Plaintiff.

51. In 2017 Julia Caseres, a female homosexual, was hired as a probationary officer.

52. Ms. Caseres lost her battle with cancer in June of 2019.

53. Ms. Caseres received a formal police funeral, which meant that her wife, Lex, was to receive the American Flag, presented by the Chief of Police.

54. During a practice drill Honor Guards, Officer J. Oranchak and Officer C. Lilavois were folding the flag within the Police Department, specifically, the Community Policing Office.

55. While in the process of folding the flag, (Ret.) Chief Mclaughlin (then Captain) and Chief Mosier (then Lieutenant) passed by the officers, and the officers asked for their assistance.

56. Both officers explained to the Chief what his duties were and wanted to do a quick rehearsal.

57. Mosier sat on the chair pretending to be Lex and said that he would be the “ugly wife.”

58. The Chief had the flag in his hands, walked over to Mosier, leaned in and made the motion to “cop a feel,” which is a sexual gesture.

59. Plaintiff believes that this incident was reported to Internal Affairs by another officer, however the outcome of the investigation is unknown.

60. Plaintiff was promoted to the rank of Lieutenant in 2019 and transferred to Patrol, specifically as a result of her supervision style.

61. In January of 2020, Mosier was named Acting Chief.

62. In March of 2020, when the COVID-19 pandemic was at its most severe and on the rise, Chief Mosier implemented an emergency patrol schedule.

63. Lt. Michelle Pilch was, for some reason, not required to work the schedule.

64. Lt. Pilch is a female heterosexual.

65. In fact, Lt. Pilch was able to work remotely from home, along with Officer Meredith Robbins.

66. All other members of the Police Department had to come in person into Headquarters to perform their duties.

67. Lt. Pilch's responsibilities had been lessened over time. Lt. Palmisano took over the Social Media duties, Sgt. Bell took over Senior Citizen Police Academy, and Plaintiff had already taken over the Domestic Violence Liaison Team.

68. Plaintiff held the position of Domestic Violence Liaison for three (3) years before it was taken away from her in December of 2021, for no reason.

69. Chief Mosier's favoritism in the Department is obvious, and has contributed to an extreme decrease in the level of morale among the officers.

70. During the period of May/June 2020 morale in the Police Department was at an all-time low.

71. The Chief's overt favoritism for Lt. Pilch and Sgt. Pilch was causing controversy and dissension, knowing that there were going to be promotions in the very near future.

72. The Chief was having lunch with the Pilchs nearly every day, and this was witnessed by every member of the Police department including the Chief's secretary Beatrice Brian, (Ret.) Sgt. S. Bell, and Lt. C. Young.

73. Plaintiff approached the Chief in order to discuss the morale in the Police Department.

74. Chief Mosier became enraged and stated that he did not care what anyone said or

thought and, instead, stated that Plaintiff had to watch her back.

75. Plaintiff was alarmed at the Chief's reaction, left his office and felt as if she was going to be retaliated against.

76. Around this time, a new dispatcher, who was an attractive heterosexual female, was hired. During training, Plaintiff was ordered to ensure that the doors to the dispatch room were closed, in order to prevent other officers from "sniffing around." He implied that she was an animal in heat.

77. When a new female officer was hired named Angelina Vartanova, the Chief looked at her and said "we don't have to worry about a sexual harassment lawsuit with her," implying that she was not attractive and no one would flirt with her in a sexual manner.

78. The Chief treats heterosexual female officers entirely differently than he treats Plaintiff, a homosexual.

79. For instance, Officer Robbins was scheduled for multiple training opportunities, which resulted in her having a more diverse file for future promotional process.

80. Officer Robbins, a heterosexual female officer, received preferential treatment by the Chief.

81. At this time there was an active Sergeants promotional list, and the next candidate in line to be promoted was Officer M. Paiano, followed by Officer Meredith Robbins.

82. When Mosier became Chief, he stated to Plaintiff that he was not going to promote Officer Paiano, and that he intended to allow the list to expire.

83. Mosier said that he would then administer another promotional process in order to make Officer Meredith Robbins first on the list.

84. Mosier said this to Plaintiff and other members of the Police Department,

including Lt. A. Magliulo.

85. Mosier did, in fact, administer another promotional process and he made Officer Robbins first on the list.

86. Officer Robbins was recently promoted to the rank of Sergeant.

87. In July 2020, Chief personally witnessed a heterosexual female officer use the insulting term “towelhead” in front of a subordinate, which is a derogatory term for individuals of the Arab ethnicity, and the Chief did not issue any discipline.

88. A supervisors meeting was conducted in August 2020 which was attended by Chief Mosier, Captain Morrison, Lt. Magliulo, Lt. Young, Lt. Palmisano, Lieutenant M. Pilch and Plaintiff.

89. During this meeting, Plaintiff reported that a subordinate officer, Sgt. R. Pilch, who was one of the Chief’s favored officers, had been insubordinate when he refused to follow Plaintiff’s order to put on his face mask prior to entering the building, which was required because of COVID-19. Plaintiff was ensuring that the Policy was being followed and did not want the appearance of preferential treatment to a ranking Officer.

90. Instead of supporting Plaintiff and accepting her report of officer misconduct, the Chief simply told Plaintiff to “be the bigger person.”

91. The Chief had a responsibility to accept Plaintiff’s report of officer misconduct and to act accordingly.

92. Plaintiff was affirming the Chief’s order to drop the report of misconduct by saying OK, when the Chief raised his voice and yelled at Plaintiff “Not another word, it’s done! Talk to me later in private.”

93. The Chief engaged in this conduct in the presence of other officers. Plaintiff was

mortified and embarrassed.

94. Where Chief Mosier rejected Plaintiff's report of a subordinate's misconduct, he permitted other, heterosexual officers to discipline their subordinates.

95. Plaintiff believes that, during the 2020 calendar year, she attended nine (9) staff meetings, although the Chief says that she only attended eight (8) meetings.

96. Plaintiff should've received credit for attending August staff meeting. Plaintiff advised Captain Morrison that she would be unable to attend the meeting, due to the high call volume within the Township. In the past this has been an acceptable practice and members have been credited for attendance.

97. Nonetheless, the Chief unfairly disciplined Plaintiff for attending only eight (8) meetings by compelling her to take a "Training Notice," which is a form of counseling.

98. There was no investigation conducted as to the discipline against Plaintiff; instead, the Chief arbitrarily issued discipline.

99. The Chief has not treated, and would never treat, a heterosexual officer in the same manner.

100. The Chief's conduct is predicated upon Plaintiff's sexual orientation and gender, and is discriminatory.

101. In December 2021, the Chief removed from Plaintiff the duty of Domestic Violence Liaison.

102. Plaintiff was the Liaison for the Domestic Violence Team.

103. She had held that assignment for some time; she found the work fulfilling and enjoyed assisting victims of domestic violence.

104. There was no reason provided by the Chief to remove the Domestic Violence

Liaison duty from Plaintiff.

105. It was devastating when the Chief took the assignment away.

106. The Chief's conduct was discriminatory against Plaintiff based upon her sexual orientation and gender.

107. Plaintiff was singled out by the Chief and treated differently than every other supervisor.

108. The Chief's conduct was a clear indicator that he gave Plaintiff's opinion no weight.

109. The Chief's conduct was discriminatory against Plaintiff based upon her sexual orientation and gender.

110. During the 2020 calendar year the Police Department began the hiring process for new police officers.

111. It is common practice for Lieutenants to have the duty of participating in the hiring process for dispatchers and police officers.

112. The Chief never selected Plaintiff to participate and, instead, he asked every other Lieutenant to participate at different times.

113. Moreover, Plaintiff was not given crucial information from her superior officers about personnel and administrative issues, and other lower ranked officers often knew information prior to Plaintiff.

114. The Chief has made comments to Plaintiff such as: "I don't like your supervision style" because she purportedly managed her subordinates too actively.

115. Then, when Plaintiff eased up and gave her subordinates more latitude, the Chief said to Plaintiff "You're barely doing your job."

116. Plaintiff cannot please the Chief no matter what she does.

117. The Chief does not make similar comments to heterosexual officers.

118. In September 2020, a patrol officer had an issue with putting in an overtime slip when she was injured on duty, which was ultimately denied.

119. The Chief, for some reason, blamed Plaintiff when a grievance was filed based upon these circumstances.

120. When the grievance turned out to have merit and the officer was awarded two (2) hours of time, the Chief became enraged at Plaintiff and kicked Plaintiff out of his office.

121. The Chief's conduct in blaming Plaintiff for the filing of a grievance was inexplicable.

122. The Chief never engaged in such conduct with heterosexual officers.

123. In September 2020, Chief Mosier advised Plaintiff that civilian employee Barbara Dowiak was going to be utilized to call for Dispatch overtime, because he was tired of watching her play Mahjong. His goal was to overload her with work.

124. Plaintiff requested a meeting with the Chief, in order to discuss the matter further, as Plaintiff did not think it was a good idea to assign a civilian to that perplexing task.

125. Present at the meeting was the Sgt. R. Pilch., who was Ms. Dowiak's immediate supervisor.

126. Plaintiff addressed her concerns, as Sgt. Pilch was laughing and joking while Plaintiff was addressing her concerns.

127. The Chief later stated in a meeting that took place soon after that Plaintiff was insubordinate for objecting to the civilian managing overtime, and should have been disciplined as a result.

128. Soon after Ms. Dowiak took over this position, dispatchers began complaining about the mishandling of the call out procedure.

129. Plaintiff felt it necessary to speak with the Chief, and Plaintiff once again attempted to address her concerns about Ms. Dowiak being assigned to this task.

130. The Chief replied that that he could not listen to Plaintiff.

131. Complaints continued to the point that Barbara was removed from calling for Overtime.

132. In October 2020, Plaintiff was working a traffic job, which required a road closure and detour.

133. While on the phone with the Chief, the plaintiff attempted to explain the traffic detour that she was setting up and for no reason the Chief became extremely belligerent, and hung up his phone.

134. The Chief's conduct was very disrespectful and the Chief does not speak to other, heterosexual supervisors in this manner.

135. In November of 2020, the Chief made a comment to Plaintiff to the effect that she should "doll herself up" when being interviewed by a female attorney in conjunction with an IA investigation.

136. The Chief said this because of Plaintiff's sexual orientation and gender.

137. As a result of the internal investigation, Chief Mosier has referred to the victim, Sgt. Joe Reilly, as "JRAB," which is the abbreviated form of "Joe Reilly's A Bitch."

138. As a direct result of the Chief's continual harassment, Plaintiff removed herself from the recent promotional process to the rank of Captain and did not take the test.

139. Plaintiff felt that it was futile to take the test because the Chief would promote his

favorite officers, which is exactly what happened.

140. Moreover, Plaintiff felt that she could not concentrate on studying because of the Chief's egregious and persistent harassment of her due to her sexual orientation and gender.

141. The hostile work environment created and maintained by Chief Mosier caused Plaintiff severe emotional distress, which impeded Plaintiff's performance.

142. Due solely to the Chief's conduct, Plaintiff was prevented from becoming Captain.

143. As a result of the Chief's constant harassment due to Plaintiff's sexual orientation and gender, Plaintiff's behavior has changed dramatically.

144. This change in Plaintiff's behavior was noticeable to the entire Department, and Plaintiff's subordinate officers tried to conceal crucial information from her because they did not want to burden her with it since she was distraught.

145. A doctor's note from one of Plaintiff's subordinates never went through the chain of command to Plaintiff because Sergeant M. Smith "didn't want to burden her."

146. This would not have happened but for the Chief's harassment of her.

147. Captain Michelle Pilch was supposed to attend a 911 memorial service on September 11, 2021 that was taking place in the Township.

148. Pilch was not able to attend.

149. Plaintiff was on duty and was available to attend the memorial.

150. Plaintiff was the senior supervisor on duty, and it is common practice to send the senior supervisor to such events.

151. Plaintiff would have been honored to attend and proudly represent the Police Department at the memorial.

152. Lt. Christian Young was not on duty.

153. Instead of asking Plaintiff to attend the memorial, the Chief brought in Lt. Young to attend, which cost the Township three (3) hours of overtime.

154. The Chief plainly passed over Plaintiff when distributing a benefit because of her sexual orientation.

155. At a supervisors meeting in February 2022, when Officer Robbins was just recently promoted to the rank of Sergeant, in front of the entire senior staff Chief Mosier asked Sgt. Robbins if she wanted to run the meeting.

156. Supervisors' meetings are normally run by the Chief and the Department's Captains, and Sergeants never run the supervisors meetings.

157. The Chief's inquiry in front of the staff as to whether Sgt. Robbins would run the meeting was unusual to say the least.

158. On March 8, 2022, on International Women's Day, which is associated with the advancement of gender equality, the Piscataway Police Departments Facebook page, shared Piscataway townships Post, depicting Capt. M. Pilch's promotion alongside of her husband, Lt. R. Pilch.

159. The Department is comprised of other female officers, dispatchers, and civilian staff, which were not recognized on this landmark day, which is associated the advancement of gender equality.

160. Defendant Mosier's conduct toward Plaintiff was both severe and pervasive.

161. The Township failed to protect Plaintiff and ensure that the work environment was free from sexual orientation discrimination, sexual discrimination and harassment, despite the fact that Chief Mosier's course of inappropriate and reprehensible conduct toward Plaintiff

continued for a lengthy period of time.

162. Plaintiff has suffered severe emotional distress and physical manifestations of emotional distress as a direct and proximate result of Defendants' unlawful conduct.

163. Defendants have engaged in discrimination against Plaintiff with willful or wanton negligence, or recklessness, and a conscious disregard of the rights of Plaintiff or conduct so reckless as to amount to such disregard.

COUNT ONE

***Sexual Orientation Harassment and Removal of Employment Benefits,
in Violation of LAD, N.J.S.A. 10:5-12, et seq.***

164. Plaintiff repeats and re-alleges the facts set forth in all preceding paragraphs as if set forth fully herein.

165. The New Jersey Law Against Discrimination ("LAD"), at N.J.S.A. 10:5-12, et seq., makes it an unlawful employment practice for an employer to discriminate against an employee because of sexual preference with regard to terms and conditions of employment.

166. A Plaintiff can prove discrimination by showing a deprivation of employment benefits and causation due to discrimination.

167. To make a *prima facie* showing of hostile environment sexual harassment under the LAD, a Plaintiff must show that the complained of conduct (1) would not have occurred but for the employee's sexual preference, and it was (2) severe or pervasive enough to (3) make a reasonable employee believe that (4) the conditions of employment are altered and the working environment is hostile and abusive. Lehman v. Toys 'R' Us, Inc., 132 N.J. 587, 603 (1993).

168. Plaintiff is a member of a protected class within the meaning of the LAD because she is a female homosexual.

169. Defendant Township is an employer within the meaning of LAD.

170. Plaintiff is an employee within the meaning of the LAD.

171. At all times relevant to the Complaint, Defendant Mosier was Plaintiff's supervisor when she worked in the Department.

172. The actions, failures to act and/or omissions of Defendants Township and Chief Mosier caused Plaintiff to be egregiously harassed based upon her sexual orientation and employment benefits were taken away from her.

173. Chief Mosier harassed Plaintiff and regularly treated her less favorably than straight female and male officers by giving heterosexual female officers more favorable assignments, making comments to Plaintiff that were motivated by discrimination, threatening Plaintiff with discipline on multiple occasions, dismissing Plaintiff's accusations of officer insubordination and refusing to accept a report of misconduct, raising his voice at Plaintiff and treating her disrespectfully in front of other officers on multiple occasions, blaming Plaintiff for a grievance that was not her fault, unfairly accusing Plaintiff of insubordination where her conduct was obviously not insubordinate, not listening to Plaintiff and dismissing her opinions, dismissing Plaintiff's suggestions regarding staffing, refusing to send Plaintiff to the 9/11 ceremony and instead calling in an officer on overtime to attend the memorial, unfairly accusing Plaintiff of missing a staff meeting when she attended the requisite number of meetings, telling Plaintiff to change her supervision style and then criticizing her for not performing her duties, telling Plaintiff she should not have been promoted, and more.

174. Plaintiff has suffered deprivations of employment benefits including, but not limited to, her removal as Domestic Violence Liaison, the fact that she was never permitted to

participate in the hiring of officers contrary to Department policy, and the fact that Chief Mosier's conduct prevented Plaintiff from taking the Captains test and being promoted to Captain.

175. Plaintiff was also unfairly disciplined by the Chief when she was issued a counseling notice for allegedly missing a staff meeting. The discipline was entirely unwarranted and was motivated by discrimination.

176. The New Jersey Supreme Court has opined that the effects of instances of sexual orientation harassment accumulate over time. The Court has explicitly said as follows:

Rather than considering each incident in isolation, courts must consider the cumulative effect of the various incidents [of sexual orientation discrimination], bearing in mind that each successive episode has its predecessors, that the impact of the separate incidents may accumulate, and that the work environment created may exceed the sum of the individual episodes. Lehmann v. Toys R Us, Inc., 132 N.J. 587, 607 (1993).

177. Moreover, the Appellate Division has found as follows:

An actionable claim under LAD based on upon a hostile work environment frequently arises out of repeated incidents that take place over time and by their cumulative effect make it unreasonable and unhealthy for the plaintiff to remain in that work environment. Caggiano v. Fontoura, 354 N.J. Super. 111, 126 (App. Div. 2002).

178. The repeated incidents in this case form of a pattern and practice of discrimination against Plaintiff by Defendant Mosier

179. These incidents occurred continually over a number of years without any intercession by the Township.

180. The cumulative effect of Mosier's long-term sexual orientation harassment and removal of employment benefits has caused Plaintiff egregious emotional, psychological distress.

181. Defendants' conduct against Plaintiff was severe and pervasive.

182. The Township is vicariously liable for the conduct of Chief Mosier pursuant to the doctrine of *respondeat superior*.

183. The conduct of Defendants was the proximate, legal and direct cause of Plaintiff's damages.

184. Defendants have, therefore, violated the LAD.

185. The actions, failures to act and/or omissions of Defendants caused Plaintiff to suffer pain and suffering, extreme and severe emotional distress, and physical manifestations of emotional distress.

186. Plaintiff seeks damages in the form of recovery for egregious pain and suffering.

187. Plaintiff seeks punitive damages because Defendants engaged in sexual orientation harassment and removal of employment benefits against Plaintiff with willful or wanton negligence, or recklessness, and a conscious disregard of the rights of Plaintiff or conduct so reckless as to amount to such disregard.

COUNT TWO

***Sexual Harassment and Removal of Employment Benefits,
in Violation of LAD, N.J.S.A. 10:5-12, et seq.***

188. Plaintiff repeats and re-alleges the facts set forth in all preceding paragraphs as if set forth fully herein.

189. The New Jersey Law Against Discrimination ("LAD"), at N.J.S.A. 10:5-12, et seq., makes it an unlawful employment practice for an employer to discriminate against an employee because of sexual preference with regard to terms and conditions of employment.

190. A Plaintiff can prove discrimination by showing a deprivation of employment

benefits and causation due to discrimination.

191. To make a *prima facie* showing of hostile environment sexual harassment under the LAD, a Plaintiff must show that the complained of conduct (1) would not have occurred but for the employee's sexual preference, and it was (2) severe or pervasive enough to (3) make a reasonable employee believe that (4) the conditions of employment are altered and the working environment is hostile and abusive. Lehman v. Toys 'R' Us, Inc., 132 N.J. 587, 603 (1993).

192. Plaintiff is a member of a protected class within the meaning of the LAD because she is a female.

193. Defendant Township is an employer within the meaning of LAD.

194. Plaintiff is an employee within the meaning of the LAD.

195. At all times relevant to the Complaint, Defendant Mosier was Plaintiff's supervisor when she worked in the Department.

196. The actions, failures to act and/or omissions of Defendants Township and Chief Mosier caused Plaintiff to be egregiously harassed based upon her gender and employment benefits were taken away from her.

197. Chief Mosier harassed Plaintiff and regularly treated her less favorably than male officers by touching himself in his groin area and groaning due to sexual gratification when female officers passed by him, failing to discipline a subordinate officer for displaying a sex doll with sexual organs in the office, placing a female officer in the Traffic Division solely to ogle her, making comments to Plaintiff that were motivated by discrimination, threatening Plaintiff with discipline on multiple occasions, dismissing Plaintiff's accusations of officer insubordination and refusing to accept a report of misconduct, raising his voice at Plaintiff and

treating her disrespectfully in front of other officers on multiple occasions, blaming Plaintiff for a grievance that was not her fault, unfairly accusing Plaintiff of insubordination where her conduct was obviously not insubordinate, not listening to Plaintiff and dismissing her opinions, dismissing Plaintiff's suggestions regarding staffing, refusing to send Plaintiff to the 9/11 ceremony and instead calling in an officer on overtime to attend the memorial, unfairly accusing Plaintiff of missing a staff meeting when she attended the requisite number of meetings, telling Plaintiff to change her supervision style and then criticizing her for not performing her duties, telling Plaintiff she should not have been promoted, and more.

198. Plaintiff has suffered deprivations of employment benefits including, but not limited to, her removal as Domestic Violence Liaison, the fact that she was never permitted to participate in the hiring of officers contrary to Department policy, and the fact that Chief Mosier's conduct prevented Plaintiff from taking the Captains test and being promoted to Captain.

199. Plaintiff was also unfairly disciplined by the Chief when she was issued a counseling notice for allegedly missing a staff meeting. The discipline was entirely unwarranted and was motivated by discrimination.

200. The New Jersey Supreme Court has opined that the effects of instances of sexual harassment accumulate over time. The Court has explicitly said as follows:

Rather than considering each incident in isolation, courts must consider the cumulative effect of the various incidents of sexual harassment, bearing in mind that each successive episode has its predecessors, that the impact of the separate incidents may accumulate, and that the work environment created may exceed the sum of the individual episodes. Lehmann v. Toys R Us, Inc., 132 N.J. 587, 607 (1993).

201. Moreover, the Appellate Division has found as follows:

An actionable claim under LAD based on upon a hostile work environment frequently arises out of repeated incidents that take place over time and by their cumulative effect make it unreasonable and unhealthy for the plaintiff to remain in that work environment. Caggiano v. Fontoura, 354 N.J. Super. 111, 126 (App. Div. 2002).

202. The repeated incidents in this case form of a pattern and practice of discrimination against Plaintiff by Defendant Mosier

203. These incidents occurred continually over a number of years without any intercession by the Township.

204. The cumulative effect of Mosier's long-term sexual harassment and removal of employment benefits has caused Plaintiff egregious emotional, psychological distress.

205. Defendants' conduct against Plaintiff was severe and pervasive.

206. The Township is vicariously liable for the conduct of Chief Mosier pursuant to the doctrine of *respondeat superior*.

207. The conduct of Defendants was the proximate, legal and direct cause of Plaintiff's damages.

208. Defendants have, therefore, violated the LAD.

209. The actions, failures to act and/or omissions of Defendants caused Plaintiff to suffer pain and suffering, extreme and severe emotional distress, and physical manifestations of emotional distress.

210. Plaintiff seeks damages in the form of recovery for egregious pain and suffering.

211. Plaintiff seeks punitive damages because Defendants engaged in sexual harassment and removal of employment benefits against Plaintiff with willful or wanton

negligence, or recklessness, and a conscious disregard of the rights of Plaintiff or conduct so reckless as to amount to such disregard.

COUNT THREE

Aiding and Abetting, in Violation of N.J.S.A. 10:5-12(e)

212. Plaintiff repeats and re-alleges the facts set forth in all preceding paragraphs as if set forth fully herein.

213. The LAD, at N.J.S.A. 10-5:12(e) makes it unlawful:

- e. For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or to attempt to do so.

214. Defendant Mosier aided and abetted the sexual orientation harassment, sexual harassment and removal of employment benefits against Plaintiff and, therefore, is individually liable for damages to Plaintiff.

215. Defendant Mosier aided and abetted Defendant Township and its agents and employees in performing wrongful acts by actively and purposefully encouraging, abiding and participating in the sexual orientation harassment, sexual harassment and removal of employment benefits, which caused injury to Plaintiff.

216. Defendant Mosier were aware of his role as part of an overall illegal tortious activity at the time he provided assistance to Defendant Township and its agents and employees.

217. Defendant Mosier knowingly and substantially assisted the principal violation of sexual orientation harassment and removal of employment benefits Plaintiff.

218. Defendant Mosier showed willful indifference to the sexual orientation harassment, sexual harassment and removal of employment benefits against Plaintiff.

219. The conduct of Defendant Mosier is the proximate, legal and direct cause of Plaintiff's damages.

220. Defendant Mosier has therefore violated the LAD and is individually liable to Plaintiff for damages.

221. The actions, failures to act and/or omissions of Defendant Mosier caused Plaintiff to endure pain and suffering, extreme and severe emotional distress, and physical manifestations of emotional distress.

222. Plaintiff seeks damages in the form of recovery for egregious pain and suffering.

223. Plaintiff seeks punitive damages because Defendant Mosier engaged in sexual orientation harassment, sexual harassment and removal of employment benefits against Plaintiff with willful or wanton negligence, or recklessness, and a conscious disregard of the rights of Plaintiff or conduct so reckless as to amount to such disregard.

PRAYER FOR DAMAGES

WHEREFORE, good and just cause having been shown, Plaintiff demands judgment on all counts against Defendants, and seeks the following relief as to each count:

- A. Compensatory damages, including but not limited to, damages for economic losses, pain and suffering, severe emotional distress and psychological injury;
- B. Back pay;
- C. Front pay;
- D. Punitive damages;
- E. Attorneys' fees and costs of suit;
- F. Pre-judgment interest;
- G. Post-judgment interest;

- H. A judgment award inclusive of payment to offset negative tax consequences of a lump sum injury award;
- I. Injunctive relief; and,
- J. Such other relief as the Court and/or Jury deems just, equitable and appropriate.

JURY DEMAND

Plaintiff demands a trial by six (6) jurors of her peers as to all claims and defenses raised in this matter.

CERTIFICATION OF NO OTHER ACTIONS

Pursuant to R. 4:5-1, it is hereby stated that, at the time of filing of this Complaint, the matter in controversy is not the subject of any other action pending before any court of this State, a court of any other State, or a Federal court. No other court action is contemplated, to the best of my knowledge and belief. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined to this action. I recognize the obligation of each party to file and serve upon all parties and the Court an amended certification if there is a change in the facts set forth in this certification. I hereby certify that the foregoing statements made by me are true to the best of my knowledge and belief. I acknowledge that if the foregoing statements are willfully and knowingly false, I may be subject to punishment.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Nicholas P. Milewski, Esq. of Mets Schiro & McGovern, LLP is hereby designated as Trial Counsel in this matter.

Respectfully submitted,

METS SCHIRO & MCGOVERN, LLP

838 Green Street, Suite 102

Iselin, New Jersey 08830

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E-Mail: nmilewski@msmlaborlaw.com

Attorneys for Plaintiff, Constance Crea



By: _____

NICHOLAS P. MILEWSKI, ESQ.

Date: March 10, 2022

Civil Case Information Statement

Case Details: MIDDLESEX | Civil Part Docket# L-001235-22

Case Caption: CREA CONSTANCE VS TOWNSHIP OF PISCATAWAY

Case Initiation Date: 03/10/2022

Attorney Name: NICHOLAS P MILEWSKI

Firm Name: METS SCHIRO & MCGOVERN, LLP

Address: 838 GREEN ST STE 102

ISELIN NJ 08830

Phone: 7326360040

Name of Party: PLAINTIFF : Crea, Constance

Name of Defendant's Primary Insurance Company

(if known): Unknown

Case Type: LAW AGAINST DISCRIMINATION (LAD) CASES

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? YES

Are sexual abuse claims alleged by: Constance Crea? YES

Plaintiff's date of birth: 12/30/1969

Est. date of first incident of abuse: 01/01/2011

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? YES

If yes, is that relationship: Employer/Employee

Does the statute governing this case provide for payment of fees by the losing party? YES

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

I 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)

03/10/2022

Dated

/s/ NICHOLAS P MILEWSKI

Signed