

DEPARTMENT :
8 Erie Street :
Jersey City, NJ 07302 :
:
Defendants. :
:

AMENDED COMPLAINT (CIVIL ACTION)

I. NATURE OF ACTION

1. This is an action for damages and other relief against Defendants City Of Jersey City, Chief of Police Michael Kelly and James Shea arising under New Jersey’s Conscientious Employer Protection Act, N.J.S.A.34:19-1, *et seq.*, [“CEPA”], under New Jersey’s Law Against Discrimination, N.J.S.A. 10-5-1, *et seq.* [“NJLAD”], New Jersey Civil Rights Act, N.J.S.A. 10-6-2.

In addition, Plaintiffs set forth a claim against Defendant Captain James Crecco for defamation.

II. PARTIES

2. Plaintiffs David Goldrich (hereinafter, “Goldrich”) and Toni Wilczewski (hereinafter, “Wilczewski”) are husband and wife and citizens of the United States and of the State of Pennsylvania, residing and domiciled therein at the above-captioned address in Monroe County.

3. Defendant Captain James Crecco (hereinafter, “Crecco”) is and was at all times material hereto, a police Captain (Executive Officer) employed by Jersey City and its Police Department. At the times material to this complaint, he was assigned to the Patrol Unit.

4. Defendant City of Jersey City (hereinafter, “Jersey City”) is a municipality organized pursuant to the laws of the State of New Jersey. It is responsible for the operation of

the Jersey City Police Department (hereinafter, "JCPD") and, by and through its officials with final authority to do so, promulgates, implements and maintains policies, practices and procedures for the Department and its police officers.

5. At all times material hereto, Defendant Chief Michael Kelly (hereinafter, "Kelly") has served as Police Chief of the JCPD. In such capacity, Kelly is the chief law enforcement officer for the JCPD.

6. At all times material hereto Defendant James Shea (hereinafter, "Shea") has served as the Director of Public Safety for the JCPD. As Director of Safety, Shea supervises Defendant Kelly,

III. JURISDICTION AND VENUE

7. Jurisdiction is conferred upon this court under CEPA, NJLAD and NJCRA and, in the alternative, the common law of the State of New Jersey.

8. Venue is proper in this judicial district, defendants reside therein and conduct business therein, and the acts giving rise to the action occurred therein.

IV. FACTUAL AVERMENTS

9. Plaintiff David Goldrich is a 25 year veteran of the Jersey City Police Department, having served as Deputy Chief of the Patrol Unit from 2018 to the date of his retirement on March 1, 2020.

10. Plaintiff Toni Wilczewski is a 15 year veteran of the Jersey City Police Department having served as police officer until her retirement in July, 2019.

11. At all times material hereto, Defendant Crecco was a Captain (Executive Officer) assigned to the Chief of Patrols Office in the JCPD, having worked for the Department since 1999.

12. At all times material hereto, Defendant JCPD was the employer of Defendant Crecco.

13. Defendant Crecco has a long standing history of publishing false, derogatory statements to ridicule and disgrace other officers of the JCPD, including claiming the Captain Anthony Scalcione was a “rapist”.

14. On or about September 6, 2019 Plaintiff Goldrich was notified by fellow JCPD officers of an online Twitter account established under the name “Goldbitch 201”, “@goldbitch201”, which was a play on Plaintiff Goldrich’s name. These posts on Twitter were made between September 6, 2019 through September 11, 2019.

15. The account published tweets defamed Plaintiffs as follows:

- “Hey Dave, what’s Toni doing now? Does she send you pictures? Do you “clean up” after? *#cuckold* how does Steve taste? (emojis) *#coward* you are more like *@JCPDchief* than you realize.”
- “Rumor: Goldbitch is such a coward, when he found out a LT f’ed his wife, he complained to the union that they were invited to same committee meeting. *#cuckold #coward* why you Dave? You Chewbacca and capt rape like to air out everyone else’s dirty laundry. *@RealJerseyCity #jcpd*”.
- “I hope you finally get sources for real corruption-you’ve proven you can do a real story (Dixon & Fulop). Chewbacca, Cuckold Dave, Capt. Rapeionne & Sgt “moron” are only interested in slandering other cops – not real issues. *#jerseycity #jcpd*”.
- “*@JCPDchief* riddle me this Where’s Waldo: why are Dave the cuckold and Lorenzo the vomiter allowed to lie under oath and get no discipline: *#hypocrisy*”.

#nointegrity #jcpd #jerseycity P.S. why did you run away from your Twitter: It works from under the van. *#coward @RealJJerseyCity*”.

16. Additional posts on the “Goldbitch201” Twitter account included derogatory, hostile threatening and homophobic content including: a picture of a dildo in place of a seat on a bicycle with the following message: “*@StevenFulop @JCPDchief @vincemarchetto* one of you guys forgot your bike at the press conference. Or do you take turns “on top”?” “*#praythegayaway #jerseycity*”.

17. Plaintiff Goldrich and Plaintiff Wilczewski reviewed the posts on the “Goldbitch201” Twitter account, which was viewable by a wide audience, including their present and former colleagues.

18. Included in the postings from the “Goldbitch201” Twitter account was a picture of traffic on a Jersey City roadway taken from the inside of a vehicle along with the following post: “Four lanes of traffic (Kennedy and Sip) turning into one with no signage so one guy in a leotard can pretend he’s in the Tour D’France, *#JerseyCity @Steven Fulop*”.

19. Based on the vehicle markings from the photograph, along with the identifying location of the vehicle, Plaintiff Goldrich, along with fellow JCPD officers Captain Anthony Scalcione and Sergeant Matthew Kilroy who were also subjects of posts on the “Goldbitch201” Twitter account, confirmed that the vehicle from which the photograph was taken was assigned to Defendant Crecco.

20. On September 10, 2019 Plaintiff Goldrich confirmed with Defendant Kelly that the vehicle identified in the post in the “Goldbitch201” Twitter account post was a JCPD Patrol vehicle.

21. Plaintiff Goldrich reported to Kelly, based on the information of the vehicle assignment and the postings on the “Goldbitch210” Twitter account, that Defendant Crecco was involved.

22. Plaintiff Goldrich reported the posts to Defendant Kelly, reported that the posts were made by Defendant Crecco and supplied Defendant Kelly with verified proof that said posts were made by Defendant Crecco.

23. Defendant Kelly informed Plaintiff that the matter “would be looked into” and that Plaintiff Goldrich would be notified if more information was needed.

24. On September 16, 2019 Plaintiff reported the incident in writing to Internal Affairs Captain Rotondo and supplied Captain Rotondo with the posts and verified proof that said posts were made by Defendant Crecco.

25. Captain Rotondo told Plaintiff Goldrich that he was a “victim” and that “they will investigate”.

26. After Plaintiff Goldrich reported the incident as aforementioned, on September 11, 2019 all postings on the “Goldbitch201” Twitter account ceased.

27. Thereafter, Defendant Kelly and Defendant Shea created and maintained a sexually hostile work environment for Plaintiff Goldrich by engaging in a pattern of conduct that condoned the activities of Defendant Crecco and put Plaintiff in apprehension for the health and safety of himself and his fellow employees.

28. Notwithstanding the hostility of the workplace and the difficulties it imposed on Plaintiff Goldrich, Plaintiff, at all material times, performed all duties of his position in a conscientious, fully adequate manner.

29. Defendants Kelly and Shea further retaliated against Plaintiff Goldrich for

reporting the incident by suspending Goldrich for a years-old violation involving his cellphone, imposing discipline disproportionate to any offense.

30. As a result of the hostile environment in which he worked, Plaintiff Goldrich has suffered and continues to suffer emotional distress, loss of reputation and professional standing, disruption of his career, and embarrassment and humiliation, all of which were materially related to his 3/1/20 retirement on a date earlier than he would otherwise have chosen.

31. As a result of Defendants actions, both plaintiffs have suffered emotional distress, which is ongoing and may be permanent, as well as damage to their reputation.

32. Defendant Kelly and Shea’s mistreatment of Plaintiff Goldrich was conducted in intentional, outrageous and wanton disregard for plaintiffs’ rights and well-being, and in flagrant disregard for the law of New Jersey, including CEPA, as well as New Jersey’s established public policy.

V. CAUSES OF ACTION

COUNT ONE
DEFAMATION
PLAINTIFFS GOLDRICH AND WILCZEWSKI V. DEFENDANT CRECCO

33. Plaintiffs incorporate by reference each of the foregoing paragraphs as though set forth herein in their entirety.

34. At all times material hereto, Plaintiffs have been law-abiding citizens who have enjoyed the respect, confidence and esteem of their neighbors, friends, family, associates, colleagues and peers.

35. In written materials that have been published to others, Defendant Crecco has falsely and maliciously accused Plaintiffs of deviant sexual behavior and disparaging conduct, as set forth above, without any lawful basis whatsoever for his accusations.

36. Defendant Crecco made the above statements in an outrageous and vindictive campaign to smear Plaintiffs' good names and reputations and to try to gain a tactical advantage in his employment.

37. At all times material hereto, Defendant Crecco knew or should have known that each of the statements described above were materially false.

38. As a result of the defamatory publications, Plaintiffs have been damaged as described above.

39. Defendant Crecco's conduct was of such an outrageous nature as to demonstrate intentional, willful, wanton, or reckless conduct resulting from an evil motive or because of a reckless indifference to the rights of Plaintiffs, thereby warranting the imposition of punitive damages.

COUNT II
PLAINTIFF GOLDRICH V. DEFENDANTS CITY OF JERSEY CITY,
KELLY AND SHEA
VIOLATION OF CEPA -N.J.S.A. 34:19

40. Plaintiff adopts and incorporates the allegations in the above paragraphs as though each were individually stated herein at length.

41. Plaintiff spoke out against and reported in writing the misconduct, and sexual misconduct, to responsible officers and the JCPD, by the Defendants.

42. Defendants Kelly and Shea retaliated against Plaintiff directly therefore, and the Department took no effective measures to prevent or abate the retaliation, or to discipline the individual defendants for their misconduct.

43. Defendants' actions violate the Conscientious Employee Protection Act, N.J.S.A. 34:19.

44. As a direct and proximate result of Defendants' actions, Plaintiff has, and will in the future, suffer pain, emotional distress, humiliation, embarrassment, inconvenience, loss of pleasure and enjoyment of life, loss of reputation, lost wages, lost wage earning capacity, loss of benefits and past and future medical expenses.

COUNT III
PLAINTIFF GOLDRICH v. DEFENDANTS CITY OF JERSEY CITY,
KELLY AND SHEA
NEW JERSEY LAW AGAINST DISCRIMINATION - Retaliation

45. Plaintiff adopts and incorporates the allegations in the above paragraphs as though each were individually stated herein at length.

46. Defendants created a hostile work environment and took adverse action against Plaintiff Goldrich, based on sex.

47. The individual Defendants participated in the above discrimination and/or aided and abetted in same.

48. Plaintiff complained of the aforementioned conduct by Defendants, as set forth above.

49. Defendants, including Kelly and Shea, who were high-ranking officials in the JCPD, were aware of Plaintiff's complaints, and retaliated against Plaintiff Goldrich for making said complaints, as set forth above. Defendants were all supervisors and all aided and abetted the discriminatory and/or retaliatory conduct as set forth above.

50. Defendants' actions aforesaid violate the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 *et seq.* in that Plaintiff has been retaliated against for making complaints of Sexual discrimination and other conduct prohibited under LAD.

51. As a direct and proximate result of Defendants' actions, Plaintiff has, and will in the future, suffer pain, emotional distress, humiliation, embarrassment, inconvenience, loss of

pleasure and enjoyment of life, loss of reputation, lost wages, lost wage earning capacity, loss of benefits and past and future medical expenses.

COUNT IV
PLAINTIFF GOLDRICH v. DEFENDANTS CITY OF JERSEY CITY,
KELLY AND SHEA
NEW JERSEY LAW AGAINST DISCRIMINATION – Sex Discrimination

52. Plaintiff adopts and incorporates the allegations in the above paragraphs as though each were individually stated herein at length.

53. The individual Defendants created a hostile work environment and took adverse action against Plaintiff, based on sex.

54. The individual Defendants participated in the above discrimination and/or aided and abetted in same.

55. Plaintiff was discriminated against and forced to endure a hostile working environment due to his sex, as set forth above.

56. Defendants, who were high-ranking officials in the JCPD, were aware of the aforementioned discrimination and hostile work environment, as set forth above. Defendants were all supervisors and all aided and abetted the discriminatory conduct as set forth above.

57. Defendants' actions aforesaid violate the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 *et seq.* in that Plaintiff has been discriminated against due to his sex.

58. As a direct and proximate result of Defendants' actions, Plaintiff has, and will in the future, suffer pain, emotional distress, humiliation, embarrassment, inconvenience, loss of pleasure and enjoyment of life, loss of reputation, lost wages, lost wage earning capacity, loss of benefits and past and future medical expenses.

COUNT V
PLAINTIFF GOLDRICH v. DEFENDANTS CITY OF JERSEY CITY,
KELLY AND SHEA
Violation of NJCRA

59. Plaintiff adopts and incorporate the allegations in the above paragraphs as though each were individually stated herein at length.

60. Plaintiff, as a Deputy Chief of the Patrol Unit, has a New Jersey state constitutionally protected right to continued public employment under the New Jersey Constitution, Art. 1, ¶ 1, in accordance with *Matter of Cranberry*, 114 N.J. 574 (1989).

51. The individual Defendants were decision makers and/or policy makers who possessed final authority to establish policy with respect to the operations of the JCPD. These individuals were also directly responsible for the efficiency and routine day to day operations of the JCPD, and have the authority to:

- a. administer and enforce rules and regulations and special emergency directives for the disposition and the discipline of the force and its officers and personnel;
- b. have, exercise, and discharge the functions, powers and duties of the force;
- c. prescribe the duties and assignments of all subordinates and other personnel; and
- d. delegate such of his authority as he may deem necessary for the efficient operation of the force to be exercised under his direction and supervision.

52. Defendants acted under the color of law, and subjected Plaintiff to the deprivation of his rights, privileges or immunities as secured by the New Jersey Constitution, Art. 1 ¶¶ 1, 6, 18 and/or New Jersey law.

53. Defendants violated Plaintiff's New Jersey Constitutional rights in that the Defendants acting under color of state law, denied Plaintiff of the privileges and immunities

secured to him by the New Jersey Constitution, Art. 1, ¶¶ 1, 6 and 18 in particular, his right to hold employment without discrimination and without infringement of his right to free speech and association.

54. Defendants willfully and recklessly disciplined Plaintiff, in order to deny Plaintiff his right to free speech and association, and/or to discriminate against him on the basis of sex.

55. Defendants' actions were to discriminate against Plaintiff and/or to retaliate against Plaintiff for his exercise of fundamental New Jersey Constitutional rights.

56. Defendant JCPD is liable to Plaintiff for the violation of his Constitutional rights under the NJCRA, *N.J.S.A.* 10:6-2.

57. As a direct and proximate result of Defendants' actions, Plaintiff has, and will in the future, suffer pain, emotional distress, humiliation, embarrassment, inconvenience, loss of pleasure and enjoyment of life, loss of reputation, lost wages, lost wage earning capacity, loss of benefits and past and future medical expenses.

WHEREFORE, Plaintiffs respectfully requests this Honorable Court:

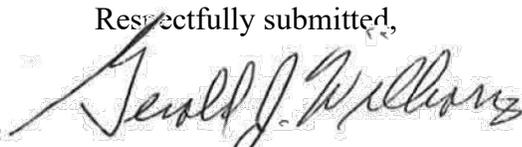
- i. Enter a declaratory judgment that Defendants' retaliatory acts complained of herein have violated and continue to violate the rights of Plaintiffs as secured by the New Jersey Constitution;
- ii. Enjoin Defendants from continuing said retaliatory practices;
- iii. Award Plaintiffs compensatory damages including but not limited to: pain, suffering, past economic loss, future economic loss, loss of life's pleasures, loss of reputation, benefits, emotional distress and other damages;
- iv. Award reasonable costs and attorney's fees;

- v. Award punitive damages;
- vii. Grant any other relief this Court deems just and proper under the circumstances.

JURY TRIAL DEMAND

Plaintiffs hereby demand a trial by jury on all issues so triable.

Respectfully submitted,



GERALD J. WILLIAMS, ESQUIRE

N.J. ID #006831987

Telephone: 856.470.9777

Facsimile: 856.888.311.4899

Email: gwilliams@williamscedar.com

Dated: September 11, 2020

Of Counsel:

MARK B. FROST & ASSOCIATES, PC

Mark B. Frost, Esq.

1515 Market Street, STE 1300

Philadelphia, PA 19102

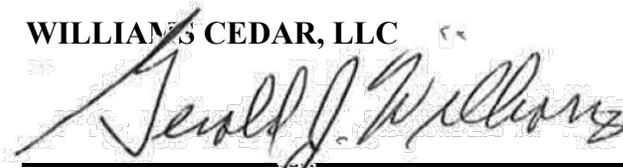
T: 215-351-3333

F: 215-351-3332

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff hereby demands trial by jury on all issues set forth herein.

WILLIAMS CEDAR, LLC

A handwritten signature in black ink, appearing to read "Gerald J. Williams", is written over a horizontal line.

GERALD J. WILLIAMS, ESQUIRE

N.J. ID #006831977

Telephone: 856.470.9777

Facsimile: 856.888.311.4899

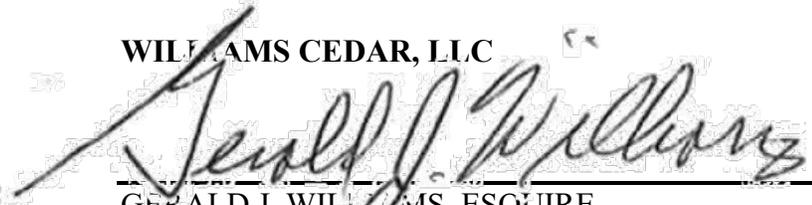
Email: gwilliams@williamscedar.com

Dated: September 11 2020

DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE that Gerald J. Williams, Esquire is hereby designated as trial counsel for the within matter.

WILLIAMS CEDAR, LLC

A handwritten signature in black ink, appearing to read "Gerald J. Williams", is written over a horizontal line. The signature is fluid and cursive.

GERALD J. WILLIAMS, ESQUIRE

N.J. ID #0068319

Telephone: 856.70.9777

Facsimile: 856.888.311.4899

Email: gwilliams@williamscedar.com

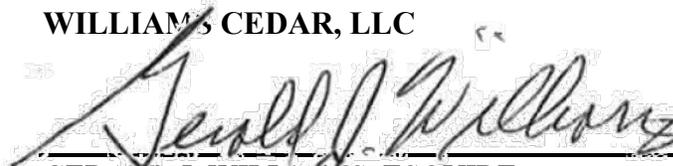
Dated: September 11, 2020

CERTIFICATION PURSUANT TO R. 4:5-1

GERALD J. WILLIAMS, ESQUIRE certifies that there are no other actions or arbitrations pending or contemplated involving the subject matter of this controversy. There are no additional known parties who should be joined to the present actions at this time.

I certify the foregoing to be true and I am aware that is the above is willfully false, I am subject to punishment.

WILLIAMS CEDAR, LLC



GERALD J. WILLIAMS, ESQUIRE

N.J. ID #00683198

Telephone: 856.470.9777

Facsimile: 856.888.311.4899

Email: gwilliams@williamscedar.com

Dated: September 11, 2020