

4. Specifically, NJSA 40A:9-133.7 provides that a municipal clerk cannot suffer any adverse employment action “for political reasons.”

5. As a matter of law, because of the New Jersey statutory proscriptions regarding a clerk’s tenured status, a municipal clerk in the State of New Jersey possesses a vested constitutional property right to her job pursuant to both, 42 USCA §1983, a federal civil rights statute, and NJSA 10:6-2, a State of New Jersey civil rights statute.

6. Accordingly, any adverse employment action and/or intolerable working condition imposed upon Plaintiff “for political reasons” is an express violation of Plaintiff’s civil rights as a citizen of the United States of America and as a citizen of the State of New Jersey.

7. 42 USCA §1988 provides that any citizen who has had his/her civil rights violated under 42 USCA §1983 shall be entitled to the reimbursement of attorney’s fees and any expert fees to prosecute any legal action.

8. NJSA 10:6-2(f) provides that any citizens who had his/her civil rights violated under NJSA 10:6-2 shall be entitled to the reimbursement of attorney’s fees and costs.

9. As the City’s clerk, Plaintiff’s superiors were the Mayor and Council of the City.

10. On December 6, 2013, Plaintiff was constructively discharged from her position because of the hostile, unconscionable and intolerable working conditions and intimidation imposed upon her by her superiors, the City Council for the City: Mayor John Labrosse (“Labrosse”); Deputy Mayor Kathleen Canestrino (“Canestrino”) ; Councilman Leonardo Battaglia (“Battaglia”); Councilman and Police Commissioner David Sims (“Sims”); and Councilwoman Rose Greenman (“Greenman”). (collectively, “Council Defendants”).

11. Such working conditions were imposed upon her because 1) of retaliation fueled by Defendants' perception of Plaintiff's political affiliation and 2) Plaintiff's objection to, and refusal to participate in, the Council Defendants' unlawful activity.

12. The Council Defendants, as the elected Mayor and Council of the City, are clearly agents of the City with the authority to act on its' behalf.

13. Once the Council Defendants learned that Plaintiff was engaged in a personal, romantic relationship with Richard Salkin ("Salkin"), a prominent member of an opposing/adverse political group within the City ("Opposing Political Group") and a well-known outspoken critic of the Council Defendants, the Council Defendants, specifically Canestrino and Greenman, on the City's behalf, with Labrosse's knowing acquiescence, created an intolerable and unconscionable working environment for Plaintiff, targeted Plaintiff for political reasons and, knowing that Plaintiff enjoyed tenure under applicable New Jersey statute, created several pretextual reasons to force Plaintiff from her job as clerk.

14. Such intolerable working conditions to force her to resign and the several pretextual reasons to feign "good cause" for her dismissal, culminated on November 25, 2013, when the Council Defendants each affirmatively voted to pass Resolution 490-13, a resolution of the City seeking to suspend and terminate Plaintiff as the City's clerk after 28 years of service, an adverse employment action.

JURISDICTION AND VENUE

15. This Court has jurisdiction pursuant to 28 USC §1331 over Plaintiff's federal-based claims.

16. This Court has supplemental jurisdiction pursuant to 28 USC §1367 over Plaintiff's State-based claims.

17. Venue is proper in this Court pursuant to 28 USC §1391(b) as all individual parties reside within this jurisdiction of this Court and the municipal defendant is within this Court's jurisdiction.

FACTS COMMON TO ALL COUNTS

18. Plaintiff commenced her employment with the City in 1985 as a secretary in the Police Department.

19. In 2002, Plaintiff was appointed municipal clerk of the City by a prior Mayor and Council of the City. The Mayor and Council who appointed Plaintiff as municipal clerk are widely considered to be part of the Opposing Political Group.

20. In 2005, Plaintiff was re-appointed municipal clerk by a different Mayor and Council for the City but who were also perceived members of the Opposing Political Group.

21. Upon Plaintiff's re-appointment as municipal clerk, New Jersey's statute provided her tenure as a municipal clerk subject to termination only for "good cause."

22. The New Jersey statutory protections also provided that no adverse employment action could be taken against her "for political reasons."

23. In May 2013, the Council Defendants were elected to the City council. The Council Defendants are not members of the Opposing Political Group.

24. On July 1, 2013, the Council Defendants took office as members of the City Council.

25. As Hackensack's form of government does not provide for direct election to the office of Mayor and Deputy Mayor, Labrosse was selected to serve as Mayor by the Council Defendants. Canestrino was selected to serve as Deputy Mayor by the Council Defendants.

COUNCIL DEFENDANTS SATISFIED WITH PLAINTIFF'S JOB PERFORMANCE

26. During the first two and half months of the Council Defendants' term of office, the Council Defendants were quite pleased with Plaintiff's job performance as municipal clerk.

27. Labrosse, specifically, showed his appreciation and gratitude for Plaintiff's job performance by personally hand delivering flowers to Plaintiff as a gesture of such satisfaction.

28. Further, Plaintiff, by the summer of 2013, had accrued a number of unused vacation days and pursuant to a City ordinance, Plaintiff was eligible to "cash in" those unused vacation days.

29. Plaintiff had requested to "cash in" these vacation days from the prior City council but was denied.

30. Upon the Council Defendants' assuming office, the Council Defendants, as an indication of their appreciation and gratitude for Plaintiff's hard work and job performance, approved Plaintiff's request to "cash in" the unused vacation days.

31. The reason that Plaintiff was unable to use all of her authorized allocated vacation days is that her job duties as the City's clerk were so encompassing and wide-ranging, that she was seldom able to take full vacation days because of the amount of work she performed.

32. Therefore, Canestrino advised Plaintiff at this time that she will never have to "cash in" unused vacation days again under the Council Defendants' administration as the Council Defendants recognized Plaintiff's job duties were too much for any one person and that they were going to hire additional staff to help her so that she could use her vacation time.

33. Additionally, similar to Canestrino's remarks, on August 14, 2013, Greenman, a City councilwoman, wrote an e-mail to widely known political allies of the Council Defendants, Thom Ammirato and Anthony Rottino, in which she recognized that Plaintiff's duties as the City

municipal clerk were much too great for just one person advising that “[i]f [Plaintiff] needs help, she should get it.”

34. Indeed, between the time Plaintiff assumed her position as municipal clerk for the City in 2002 and September 13, 2013, which comprised of **four** variations of the City Council, Plaintiff never received any reprimands as to her job performance as City clerk.

SALKIN IS A PROMINENT MEMBER OF THE OPPOSING POLITICAL GROUP

35. Salkin is a former city attorney for the City of 16 years who was appointed by the Opposing Political Group when its’ members held the offices of Mayor and City Council.

36. The appointment of city attorney is widely viewed within the City as the most lucrative/sought after of all political appointments in the City considering the amount of income an attorney can generate while serving in that capacity.

37. After serving as city attorney, Salkin was then appointed municipal prosecutor for the City by members in the Opposing Political Group, which is another “high-profile” political appointment in the City.

38. The Council Defendants did not re-appoint Salkin when they took office on July 1, 2013.

39. Salkin is also the current attorney for the Hackensack Board of Education, the members of which are widely perceived by the general public within the City to be part of the Opposing Political Group.

40. It is well known within the City, particularly in local “political circles”, that Salkin significantly assists in all local campaigns on behalf of candidates perceived by the public to be part of the Opposing Political Group.

41. The Council Defendants' view of Salkin as a political enemy/adversary is so prominent that the Council Defendants included attacks against him in their campaign materials related to the May 2013 election, which was won by the Council Defendants.

42. Salkin has also been identified in local news articles as a prominent member of the Opposing Political Group and as a political foe of the Council Defendants.

43. Additionally, after the Council Defendants took office on July 1, 2013, Salkin has regularly attended City council meetings to criticize the policies, direction and procedures of the City and the Council Defendants.

PLAINTIFF'S RELATIONSHIP WITH SALKIN

44. On September 2, 2013, Plaintiff and Salkin commenced co-habiting together in an apartment within the City.

45. On September 3, 2013, Plaintiff told friends within City Hall that she and Salkin were living together.

46. It was only in early September, 2013, when Plaintiff's and Salkin's relationship became publicly known within the City.

THE COUNCILDEFENDANTS' INTENTION TO RETALIATE AGAINST POLITICAL ADVERSARIES

47. Thom Ammirato was a very prominent and staunch political ally of the Council Defendants as he was the Council Defendants' campaign manager and provided public relations services to the Council Defendants by way of crafting campaign materials and advertisements.

48. After the Council Defendants' assumption of office, Mr. Ammirato was a political appointment by the Council Defendants hired as a public spokesperson to perform public relations work for the City.

49. Even after the Council Defendants' election victory, Mr. Ammirato, while serving as the City's paid spokesperson, continued to provide political/campaign work for the Council Defendants by crafting press releases, creating politically related videos and maintaining the Council Defendants' Facebook campaign page.

50. Mr. Ammirato's role as a campaign staff member, political advisor, and public spokesperson has been very well known within the City and the subject of multiple local media news articles.

51. On August 14, 2013, Mr. Ammirato, a City paid spokesperson at the time, wrote Greenman:

We didn't win because of who the Zisa administration hired...we won because our opponents could not escape the link to the Zisas and because the Zisas hired people who tried to take advantage of the city.

Our job is to broaden our base...**get a real political operation going that further marginalizes these people** [political foes]. That should be our goal.

[emphasis added]

52. Members of the Zisa family are widely perceived in the City and by the Council Defendants to be prominent members/supporters of the Opposing Political Group as members of that family have held multiple local public offices in the City.

53. Thereafter, Greenman, a councilwoman for the City, responded, "Thom, [y]ou know that I agree with you in this respect."

54. Anthony Rottino was also a recipient of Greenman's explicit acknowledgment that the Council Defendants' goal was to "marginalize" perceived political enemies.

55. Mr. Rottino was also a very prominent political ally of the Council Defendants as he was a significant fundraiser for the Council Defendants and was chairperson of the Council

Defendants' transition team for the period between the May 2013 election and the July 1, 2013, the date when the Council Defendants assumed office.

56. As the case with Mr. Ammirato, Mr. Rottino's political affiliation to the Council Defendants' and the role played by Mr. Rottino upon the Council Defendants' assumption of office, is very well known in the City and also has been the subject of multiple news articles.

57. As of August 14, 2013, Mr. Rottino was not an employee of the City and there would be no "official" reason why Mr. Rottino would be part of any e-mail communication regarding to any personnel or other matters relating to the City but for political reasons.

58. Accordingly, by this e-mail exchange amongst Mr. Rottino, Mr. Ammirato, and Greenman, Greenman, as a City councilwoman and authorized agent of the City, was setting out the City's intent to "marginalize" anyone who is, or who even is perceived, to be a political adversary of the Council Defendants.

59. The Council Defendants' attempt to "marginalize" employees who are either critics of the current City administration and/or are perceived members/supporters of the Opposing Political Group are indicative in other adverse employment actions taken against multiple former and current City employees since July 1, 2013.

**THE CITY'S AND THE INDIVIDUAL DEFENDANTS' TREATMENT OF PLAINTIFF
BECOMES SO HOSTILE, OFFENSIVE AND INTOLERABLE THAT NO
REASONABLE PERSON COULD ENDURE IT**

SEPTEMBER 11, 2013 E-MAIL

60. Immediately after Plaintiff's and Salkin's personal relationship became public within the City, and only less than 30 days after Greenman and Canestrino wanted to hire additional staff to help Plaintiff, Greenman, indicative of the City's intent to "marginalize"

perceived political enemies, sent the following e-mail dated September 11, 2013 to Thom Ammirato and Anthony Rottino (“September 11 E-mail”):

The **“heck”** with formalities! **Who needs stupid rules!** Apparently, [Plaintiff] got **engaged to Richard Salkin** ([Board of Education attorney]) on Monday. She is showing everyone her ring. (Sounds like a decoder ring from Cracker Jack). Thus, [Plaintiff’s] absence from her office on Monday . I’m right yet again! **She was with him!**

This engagement is despite that both of the parties are married to other people. PRESENTLY!!! Is it the water?! [emphasis added].

61. Mr. Ammirato’s duties as the City’s spokesperson in no way encompassed any personnel issues for the City.

62. Accordingly, as Mr. Ammirato’s role for the Council Defendants and the duties he performed were political in nature, there would be absolutely no other reason to address Plaintiff’s employment status with Mr. Ammirato other than for purely political motivations.

63. As of September 11, 2013, the date of Greenman’s e-mail, Mr. Rottino was an employee of the City serving as Director of Economic Re-Development.

64. The ordinance creating Mr. Rottino’s position reveals that the handling of any personnel matters and/or oversight of Plaintiff was **not** part of Mr. Rottino’s job duties for the City at that time. However, it is clear that Defendant Rottino was part of a concerted action plan with the Council Defendants to remove Plaintiff from her position as clerk due to political animus.

65. As such, but for political motivations, there would be absolutely no reason why a City councilwoman would be discussing with Messrs. Ammirato and Rottino Plaintiff’s employment status and her personal relationship with Salkin, or any employee’s personal relationships for that matter.

66. Greenman's e-mail to Mr. Ammirato and Mr. Rottino on September 11, 2013, less than 30 days after trying to help Plaintiff but only one week after Plaintiff's relationship with Salkin became public, indicates that Plaintiff was now a political target of the Council Defendants as they were setting their sights on her removal as clerk in their attempt to "marginalize" political enemies within the City.

67. Proving that Greenman's feign concern about Plaintiff not being at work on the Monday before her September 11th E-mail was nothing more than the City's initial pretextual planning to remove Plaintiff, Plaintiff had taken 3 hours of vacation time on that day, as was approved by the City Manager.

68. As Plaintiff was on her "own time" that day, Plaintiff was free to spend it anyway she so chose.

SEPTEMBER 13, 2013 VACATION TIME

69. After Plaintiff's constructive discharge, Canestrino has made numerous public comments acknowledging that handling and responding to OPRA requests in the City of Hackensack was a two person job.

70. OPRA is short for the Open Public Records Act, which is the State of New Jersey statute mandating that residents are allowed to obtain public documents from any public body.

71. As City clerk, part of Plaintiff's duties was to receive OPRA requests from residents and to facilitate responsive documents thereto.

72. During her employment, Plaintiff was the only City employee, a City of over 40,000 residents, assigned the task of OPRA compliance.

73. Despite 1) Canestrino recognizing the need for additional staff to handle OPRA requests and 2) Canestrino's and Greenman's respective previous recognition that Plaintiff

needed help in this regard, the Defendants refused to provide any help to Plaintiff during her employment as to OPRA requests in furtherance of their pretextual effort to set her up for failure.

74. Only 2 days after the City placing a political “bull’s-eye” on Plaintiff’s back by the September 11th E-mail, Greenman and/or Canestrino contacted Plaintiff’s office in City Hall to inquire as to Plaintiff’s whereabouts and as to a pending OPRA request by a City resident.

75. For this particular OPRA request, Plaintiff had done all that she could to locate the responsive documents but the documents were in the possession of other departments in the City and Plaintiff was simply waiting to receive the documents from those departments.

76. As there was nothing more that Plaintiff could do, Plaintiff, with approval from the City Manager, the chief administrative officer of the City pursuant to the City’s form of government, used her own vacation time to take the afternoon of September 13th off so she could attend her nephew’s sixth birthday party at his school.

77. Again, Plaintiff used her own vacation time, as approved by the City Manager, to take that particular afternoon off.

78. However, Greenman and Canestrino used Plaintiff taking approved vacation time and the fact that this particular OPRA request was not yet responded to as opportunity to create the pretext that Plaintiff’s job performance was not satisfactory as she was 1) absent from work and 2) the OPRA request was still outstanding.

79. Notably, Canestrino’s criticism of Plaintiff for taking approved vacation time for only a few hours was after she encouraged Plaintiff to use her vacation time.

80. Such criticism, however, also came within approximately 10 days of the public learning of Plaintiff’s co-habitation with Salkin.

81. Greenman and Canestrino then proceeded to prepare and send multiple e-mails to Plaintiff that weekend attempting to portray Plaintiff as being negligent in her job duties by taking approved time off but not responding to the resident's OPRA request.

82. The City's and Council Defendants' attempts to "marginalize" Plaintiff were underway.

**GREENMAN'S OFFENSIVE CONDUCT
DURING THE NORMAL WORK DAY ON SEPTEMBER 16, 2013**

83. On Monday, September 16, 2013, only five days after the September 11th, E-mail, Greenman hostilely telephoned Plaintiff at City Hall regarding Plaintiff's approved vacation time the previous Friday.

84. Greenman screamed at Plaintiff taking approved time-off and for the City's failure to comply with the subject OPRA request.

85. Plaintiff attempted to explain to Greenman, above Greenman's shouting, that the documents sought were still not in Plaintiff's possession, but were actually located in the custody of the City Manager's office.

86. This did not satisfy Greenman, as she continued to berate Plaintiff for taking the prior Friday afternoon off, which was approved, and for the City not yet responding to the subject OPRA request.

87. Specifically, Greenman screamed at Plaintiff that Plaintiff "does not pay attention to her job," and that she "did not want to hear excuses" and, very tellingly, "**I will deal with you later.**"

PLAINTIFF'S FIRST COMPLAINT TO MAYOR LABROSSE

88. During the evening of September 16, 2013, prior to the start of the City's Committee of the Whole meeting ("COW"), also known as the "work session", Plaintiff told

Labrosse that Greenman had been very rude, intimidating, hostile and offensive to Plaintiff earlier that day.

89. Plaintiff also complained to Labrosse that Greenman threatened her by saying “I will deal with you later.”

90. However, Labrosse, who at that time was a political ally of Greenman’s, simply laughed it off ignoring the complaint.

SEPTEMBER 16, 2013 COW MEETING

GREENMAN AND CANESTRINO UNLAWFULLY DISCUSS PLAINTIFF’S JOB PERFORMANCE

91. Making good on her previous threat that day, during an “executive/closed session” of the COW meeting on September 16, 2013, Greenman, inexplicably, commented to Canestrino, “Kathy, wouldn’t you like a high paying, ‘no show’ job.”

92. Greenman, immediately upon ending her statement, stared directly at Plaintiff in a menacing, hostile and intimidating manner making it unequivocally clear that her statement was directed towards Plaintiff.

93. After Greenman’s statement, Canestrino and Greenman continued to address Plaintiff’s work performance by falsely alleging that Plaintiff was never at work.

94. Plaintiff explained that because of the nature of her job, and the fact that there was no deputy clerk to assist in the administration of the clerk’s duties, it was very difficult for Plaintiff to take a full week off for vacation or even a full day off.

95. Plaintiff explained that part of the clerk’s duties is to administer all elections in the City, Plaintiff’s job duties in this respect were abnormally trying and busy in the calendar year of 2013 because there were three elections within a very short time of one another in the

City: Board of Education election, Municipal election, and special primary election for the United States Senate.

96. Therefore, as Plaintiff explained, it had been very difficult for Plaintiff to take her vacation time and therefore, she used her vacation time, as approved, a couple of hours at a time on a particular day during the “non-election” season.

97. Canestrino, in another overt fact that Plaintiff was indeed a political target, snidely asked Plaintiff if Plaintiff “saved all of it [vacation time] for when [the Council Defendants] took office?”

98. Plaintiff was astounded at Greenman’s and Canestrino’s respective conduct during this meeting and further astounded by the Mayor, the presiding officer of City council meetings, acquiescence to the demeaning and offensive nature in which Plaintiff was being treated.

99. Adding further concern to the Defendants actions is the fact that Plaintiff never received the legally required “Rice Notice” a public employee must receive before a municipal body discusses an employee’s employment, which is designed to prevent a public employee from being blind-sided at a public meeting with a discussion about his/her job performance.

100. The failure to provide Plaintiff with the legally required “Rice Notice” is a violation of New Jersey’s Open Public Meeting Act, commonly known as the “Sunshine Law.”

DEFENDANTS’ MANUFACTURE ANOTHER REASON TO FORCE PLAINTIFF OUT

101. At every public City council meeting, the Mayor and Council approve the payment of the City’s bill list. The bill list is comprised of various bills the City receives from supplies to benefit contributions to the actual salaries of employees.

102. Specifically, legal bills from the City's various attorneys are also included on the bill list.

103. A bill/invoice must receive majority approval from the City Council in order for the CFO, purchasing department, and/or the appropriate department to pay the bill/invoice.

104. The bill list is prepared by the City Manager for each meeting, who under the City's form of government, is the chief administrative officer for the City.

105. Occasionally, for whatever reason, the Council instructs the City Manager to remove a bill from the bill list as the Council does not wish to pay that bill at a particular time.

106. At the public meeting of the City council on September 3, 2013, the Mayor instructed the City Manager at the time to remove an invoice submitted to the City by the City's former city attorney.

107. Joseph Zisa, Esq., the former city of attorney, had served as City attorney until June 30, 2013, and had forwarded the City his final invoice for legal services rendered.

108. For whatever reason, the Council instructed the City Manager to remove Mr. Zisa's bill from the bill list for that meeting, which was certainly within its' discretion.

109. Customary, once instructed, the City Manager will notify the purchasing department, the City's CFO and/or the appropriate City department to not pay a particular invoice which was removed from the previous evening's bill list.

110. However, for reasons unknown to Plaintiff, the City Manager did not notify the appropriate City department to not pay Mr. Zisa's invoice and, as a result, the City issued Mr. Zisa a payment for his invoice.

111. Thereafter, at the September 16, 2013, COW meeting, the very same meeting when Canestrino and Greenman unlawfully discussed Plaintiff's job performance and accused

her of having a “no show job”, Canestrino blamed Plaintiff for failing to “pull” Mr. Zisa’s bill/invoice from the prior meeting.

112. Plaintiff attempted to explain that that was not her responsibility but Canestrino was very adamant and hostile towards Plaintiff in accusing her of deliberately paying Mr. Zisa’s invoice without approval.

SEPTEMBER 17, 2013, ENCOUNTER WITH GREENMAN AND CANESTRINO

113. Thereafter, on September 17, 2013, only six days after Greenman’s September 11th E-mail, Greenman and Canestrino appeared in Plaintiff’s office at City Hall to confront Plaintiff in an offensive and hostile manner.

114. In an effort to further intimidate Plaintiff, Greenman and Canestrino, ordered the City’s personnel director, Adrian Koster, to “stand guard” at the main door to the municipal clerk’s office to prevent anyone from coming into the office and to keep Plaintiff from leaving the office.

115. In fact, when the secretary assigned to the municipal clerk’s office attempted to go to her desk, she was ordered to “take a walk.”

116. Greenman’s and Canestrino’s respective actions had their intended effect of making Plaintiff feel imprisoned, isolated and intimidated in her own office, an office in which she occupied for 11 years at that point.

117. Greenman then demanded to see the OPRA log book, which is a ledger of all OPRA requests submitted to the City.

118. Plaintiff gave Greenman the log book.

119. Greenman reviewed the log book, and incredulously, accused Plaintiff of creating a phony OPRA log book as the log book being reviewed, as alleged by Greenman, was not the same ledger Greenman had reviewed the week prior.

120. As OPRA requests are a State of New Jersey legislative mandate, Greenman, falsely, accused Plaintiff of committing a violation of State law by creating a false OPRA log book.

121. Greenman's false assertions were yet another pretext for the Council Defendants to remove Plaintiff as clerk and to foster offensive and intolerable working conditions.

122. Then, Canestrino, once again, demeaned Plaintiff accusing her of never being at work and threatened that the City would no longer pay Plaintiff for the few minutes she took for lunch during her work day. All other similarly situated employees as Plaintiff were paid for their lunch time.

123. Canestrino then demanded that Plaintiff record an hourly log of her time at work wherein she demanded that Plaintiff account for each hour that she was at work.

124. Other similarly situated employees as Plaintiff simply submitted a time card indicating how many hours each day they worked without a specified accounting of what was done and at what time.

125. Canestrino then told Plaintiff that Canestrino had kept her own handwritten log of the hours Plaintiff worked which contradict the Plaintiff's submitted time cards.

126. Canestrino accused Plaintiff of submitting fraudulent time cards for approval.

127. Plaintiff has repeatedly requested Canestrino's own hand written accounting of Plaintiff's time records but Canestrino has failed to provide same to Plaintiff.

128. Canestrino's accusations that Plaintiff was submitting phony time records and her unconscionable demand that Plaintiff now submit hourly time records were in furtherance of the Council Defendants' imposition of unreasonable and offensive working conditions in their hopes to force Plaintiff's resignation and to manufacture reasons justifying Plaintiff's dismissal.

129. During this interrogation, Greenman once again extensively cross-examined Plaintiff as to her whereabouts on Friday, September 13th.

130. September 13th, again, was only 2 days after Greenman, on behalf of the City, set forth the City's intention to "marginalize" Plaintiff because of her perceived political affiliation.

131. Greenman, who in addition to be a City councilwoman is also a licensed attorney, was extremely abusive, offensive and hostile towards Plaintiff inquiring as to the age of Plaintiff's nephew, the location of the birthday party, and the reason why such attendance took all afternoon of September 13th.

132. Despite Greenman's and Canestrino's respective hostile examinations, Plaintiff initially remained professional and respectful to her superiors, gently explaining her whereabouts despite using her own approved vacation time to take the afternoon of September 13th off from work.

133. However, Plaintiff's superiors persisted to bully, demean and chastise Plaintiff during their interrogation, causing Plaintiff to cry and, citing the manner in which she had been treated, Plaintiff vehemently complained about the conditions Greenman, Canestrino and the City were imposing upon Plaintiff's work environment, specifically being imprisoned in her own office with a City employee standing guard at the door.

134. Ignoring Plaintiff's complaints, Greenman and Canestrino, in a further attempt to create a pretext for Plaintiff's dismissal as City clerk, then yelled at Plaintiff that they received

no communication from Plaintiff regarding daily events and activities pertaining to the City council.

135. Plaintiff responded that she routinely communicated with all council members by their respective City e-mail addresses.

136. Greenman and Canestrino then told Plaintiff that they did not use their City issued e-mail addresses at that point in time.

137. However, no one advised Plaintiff of such and Plaintiff was never alerted to any other e-mail addresses for Greenman and Canestrino.

138. Clearly, feigning that Plaintiff did not communicate with the Council Defendants was only in furtherance of their efforts to develop reasons to dismiss Plaintiff as a result of Plaintiff's apparent political affiliation.

139. Moreover, during this interrogation, which lasted for two hours, Greenman insisted and attempted to physically take the City's OPRA log home with her so that she could inspect it.

140. Plaintiff objected to such an action because the City's OPRA log was City property and could not be removed from City Hall because it contained vital information considering the time frames imposed by the OPRA statute to comply with requests.

141. Plaintiff then took physical possession of the log book to prevent Greenman from unlawfully removing it from City Hall.

142. Thereafter, in yet even further efforts to create pretext for their intended dismissal of Plaintiff, Greenman and Canestrino both blamed Plaintiff for a typographical error contained on a City resolution which was passed by the Council at a prior meeting.

143. Plaintiff explained to Greenman and Canestrino that that particular resolution was authored by the City attorney and that any mistakes made therein would be the responsibility of the City attorney.

144. Plaintiff further advised that when the City attorney prepares a resolution, Plaintiff's role was to merely "cut and paste" the resolution onto the City's official form of document.

145. Plaintiff would have no way to even know if a mistake was contained in the resolution as the substance of same had nothing at all to do with Plaintiff's job functions.

146. Canestrino then admonished Plaintiff to, "stop blaming mistakes on others."

147. Canestrino then instructed Plaintiff that it was Plaintiff's job to cross-reference all of the City's budget account numbers with the account numbers of each payment on a particular bill list for each meeting.

148. Notably, under the City's form of government, neither Canestrino nor Greenman had any authority to revise Plaintiff's job description as such description is outlined by statute.

149. However, the cross-referencing of particular account numbers was not the function of the City clerk but for the City's chief financial officer and the City's purchasing agent.

150. In her 28 years of employment with the City, Plaintiff had never been treated with such indignity and hostility.

151. As Plaintiff enjoyed tenure under applicable statute, it became readily apparent that the City and the Council Defendants were attempting create pretextual reasons for her dismissal while at the same time treating her in such a boorish and intimidating manner to coerce her resignation.

OCTOBER 11, 2013, E-MAIL

152. The City's and Greenman's intent 1) to exact political retaliation against Plaintiff and 2) to create unconscionable, unreasonable, offensive and hostile working conditions to force her resignation are apparent in an e-mail on October 11, 2013 ("October 11th E-mail") from Greenman, on behalf of the City, to, at the time, the Council Defendants' primary political allies, Mr. Ammirato and Mr. Rottino:

[An official letter from Plaintiff regarding City business] has **Salkin's** paw prints all over it. **Salkin** used to be the City's attorney prior to [Joseph] Zisa. [Plaintiff] is **brazen and stupid**: an irresistible combo for someone serving the Council. She really endears herself to me.

I already said that [Plaintiff] and LoIaconno [City Manager at the time] are compiling **their own dossiers on us**. This is just another reminder. Both of them are **political** operatives-it's plain as day. They are trying to destroy us from within. Don't listen to their promises, just watch their actions. **Like two coiled snakes**. You may give them food and keep them warm, they will strike at you, nevertheless, given a chance. **That's their nature**.

153. By Greenman's own words, Plaintiff was perceived by the City to be in the Opposing Political Group.

154. Again, neither Mr. Ammirato nor Mr. Rottino's duties relating to the City had absolutely nothing at all to do with Plaintiff and/or any personnel matters.

155. Mr. Ammirato and Mr. Rottino were widely known to be significant political supporters of the Council Defendants and were both highly publicized political appointments.

156. Much like the September 11th E-mail, there would be no reason at all for Greenman, on behalf of the City, to address Mr. Ammirato and Mr. Rottino regarding Plaintiff but to conspire for political retaliation as a result of Plaintiff's perceived affiliation with the Opposing Political Group.

157. Greenman, a City councilwoman acting on the City's behalf, calling Plaintiff "stupid" and then analogizing Plaintiff to a venomous viper clearly sheds light to the manner in which the Council Defendants treated Plaintiff once her personal relationship with Salkin was learned and their attempts to "marginalize" Plaintiff.

**THE COUNCIL DEFENDANTS FRAUDULENTLY ALTER
THE SEPTEMBER 16TH COW MEETING MINUTES TO COVER UP
THE STATEMENTS MADE BY GREENMAN AND CANESTRINO
ABOUT PLAINTIFF AT THAT MEETING**

158. The Sunshine Law, NJSA 10:4-14, provides that "[e]ach public body shall keep reasonably comprehensible minutes of all of its meetings showing...the subjects considered, the actions taken...and any other information required to be shown in the minutes by law, which shall be promptly available to the public..."

159. NJSA 10:4-17 assesses monetary penalties for "any person" who violates the Sunshine Law.

160. As part of the Sunshine Law, New Jersey mandates that a public employee must receive prior written notice from a public employer before City officials can discuss his/her job performance so that said employee can choose to have such discussion in public, commonly referred as a "Rice Notice."

161. NJSA 40A:9-133 provides that "[t]he municipal clerk shall (1) act as secretary of the [City] and custodian ...of all minutes...[and] (2)... keep a journal of the proceedings of every meeting..."

162. Therefore, Plaintiff's job duties included keeping the "minutes" of each public meeting of the City council, both the "public" session and the "closed" session of the meetings.

163. In her over ten years as City clerk, as was the practice of her predecessor, Plaintiff would circulate the minutes of each meeting two or three weeks after the particular meeting.

164. The purpose of doing so is to allow the council members, in this case, the Council Defendants, the opportunity to review them so that it is an actual reflection of what transpired at the meeting. The City council then formally approves the “minutes” of a past meeting at a subsequent meeting.

165. As to the City, the “minutes” are then posted online so that the general public can readily ascertain what transpired at a meeting or a City resident can obtain a “hard copy” format of the minutes from the City clerk’s office.

166. Accordingly, it is vital that the “minutes” of meetings of the Mayor and Council are accurately recorded pursuant to the Sunshine Law.

167. During the “closed” session of the September 16th COW meeting, Canestrino and Greenman chastised Plaintiff about her job performance.

168. Greenman, specifically, commented that Plaintiff had “a no show job.”

169. It was also during the September 16th COW meeting that Canestrino, improperly, blamed Plaintiff for the City paying an outstanding invoice at the September 3, 2013 meeting of the City and Council.

170. No Rice Notice had been given to Plaintiff advising her that the City Council would address her job performance at the September 16th COW meeting.

171. As the statute requires Plaintiff to keep an accurate record of the minutes of all meetings of the Mayor and Council, Plaintiff included these topics in the “minutes” she circulated to the Council Defendants on or about October 18, 2013.

172. Later that same afternoon of October 18th, Canestrino, as Deputy Mayor, and Greenman, as a councilwoman, appeared in Plaintiff’s office at City Hall to, once again, scold and berate Plaintiff.

173. Canestrino and Greenman had reviewed Plaintiff's accurately proposed minutes and appeared in Plaintiff's office, again without notice, to intimidate Plaintiff to force her to fraudulently alter the minutes by eliminating the portions regarding 1) Canestrino's and Greenman's wrongful discussion about Plaintiff's job performance, which violated the Sunshine Law; 2) Greenman's "no show job" comment; and 3) Canestrino's falsely assigning blame to Plaintiff for the City's payment of an invoice at the September 3rd meeting.

174. Apparently, by this point in time, the Council Defendants had become aware that the actions at the September 16th COW meeting violated State law.

175. As New Jersey statute mandates that Plaintiff, as municipal clerk, accurately prepare the minutes of the meetings, Plaintiff immediately verbally objected to her superiors' instructions to fraudulently revise the minutes.

176. Plaintiff's objection was reasonable as she believed she was being forced to participate in an activity that was 1) fraudulent and 2) a violation of the State statute proscribing that a municipal clerk shall keep a "journal of the proceedings of every meeting."

177. It is readily apparent that Greenman and Canestrino were now covering up the Sunshine Law violation and demanding that, also in violation of the Sunshine Law, that Plaintiff fraudulently alter the minutes.

178. Plaintiff immediately disclosed and reported to her superiors, Labrosse, the City's Mayor and the other Council Defendants, in writing, that Greenman and Canestrino were coercing her to fraudulently revise the minutes.

179. However, the minutes of the closed session of the September 16th COW meeting were revised and approved without Greenman's and Canestrino's respective improper comments about Plaintiff, which is a violation of the Sunshine Law.

180. Notably, by Labrosse's own public comments, this is not the only time the Council Defendants have violated the Sunshine Law.

**NEW TIME CARD AND THE CITY'S ATTEMPT TO
ELIMINATE "COMP" TIME**

181. Thereafter, Labrosse provided Plaintiff with a new form of "time card" that Plaintiff would be required to complete.

182. Upon information and belief, the same new form of time card was also provided to the City Manager at the time, Stephen LoIacono, another former employee that the Council Defendants perceived was a member/supporter of the Opposing Political Group.

183. The new form of time card given to Plaintiff was almost identical to the one she had completed for the previous 12 plus years as clerk, but the time card eliminated the category of "compensation time."

184. Compensation time is routinely provided to City employees who work beyond their regular work schedule and was specifically authorized for Plaintiff pursuant to City ordinance §17-13.

185. For instance, if an employee is required to work 9:00 a.m. to 5:00 p.m. but works to 7:00 p.m on a given evening, that employee would be entitled to two hours of "comp time" which could be used to either begin a work shift at 11:00 a.m or leave a shift at 3:00 p.m., or take that time during the work day.

186. As Plaintiff was required to spend many hours beyond her normal work schedule to attend and prepare the docket for the public meetings of the Mayor and Council, she would accrue "comp time" regularly and would use same accordingly.

187. Plaintiff immediately objected to such an illegal undertaking by the City.

188. However, it was only after Plaintiff complained and the city attorney intervened advising the City that such an act was unlawful, did the City abandon its' attempt to unlawfully alter Plaintiff's compensation.

189. However, the fact that the City even attempted to isolate Plaintiff in its' attempt to violate Plaintiff's labor law rights is indicative of the City's attempt to "marginalize" Plaintiff to force her resignation and is yet another example of the City's imposition of unconscionable working conditions.

NOVEMBER 25th ULTIMATUM

190. Only minutes before the start of the regularly scheduled meeting of the Mayor and Council on November 25, 2013, the City's labor attorney and the city attorney demanded to see Plaintiff in a conference room in the City Council chambers.

191. The city attorney, acting on the direction by his client, advised Plaintiff that the City and Council Defendants were demanding Plaintiff's immediate resignation or she would be suspended immediately and termination proceedings would commence, all of which are adverse employment actions.

192. Absolutely shocked and astonished by such an unconscionable ultimatum, only a few minutes before she was to begin the public meeting, Plaintiff responded that she was not resigning because she had done nothing wrong.

193. Very emotionally disturbed by this incredibly offensive ultimatum after 28 years of service to the City, Plaintiff went to her City Hall office, which is across the hall from the Council chambers, to gather her personal belongings to return home for the evening as she was significantly rattled and shaken by the City's and the Council Defendants' unconscionable

ultimatum, specifically as it came only minutes before a public meeting in which many members of the public were present.

194. The City Manager at the time came to Plaintiff's office to implore her to stay for the public meeting so that City business could proceed in an organized fashion.

195. Plaintiff, recognizing her duty to the City, composed herself the best she could and proceeded with her duties as to the public meeting as she had done for 11 years, as difficult as they were.

NOVEMBER 25th RESOLUTION

196. After the City and the Council Defendants imposed unconscionable and intolerable working conditions upon Plaintiff and, by their view, created sufficient pretext for Plaintiff's dismissal and providing Plaintiff with an unconscionable ultimatum only minutes before, the Council Defendants unanimously authorized City Resolution 490-13 at the November 25, 2013 meeting of the Mayor and Council demanding that Plaintiff resign immediately, or in the alternative they would seek Plaintiff's suspension and termination by the filing of formal notice with the Department of Local Government Services of the Department of Community Affairs ("November 25th Resolution").

197. The November 25th Resolution states that:

the City Council has determined that it is necessary, desirable and in the best interests of the City of Hackensack that the Municipal Clerk of the City of Hackensack, Debra Heck, **be removed** from the position of Municipal Clerk pursuant to NJSA 40A:9-133.5 and NJSA 40A:9-133.7 for failure to perform the duties of her office. [emphasis added].

198. The proverbial "writing was on the wall."

199. The November 25th Resolution continues on to list several pretextual reasoning City's and the Council Defendants' attempts to justify adverse employment action against Plaintiff.

200. The November 25th Resolution was introduced by Canestrino and seconded by Greenman and approved unanimously by the Council Defendants.

201. Plaintiff, who was at the November 25, 2013, public meeting of the Mayor and Council performing her customary duties as clerk the best she could considering the shocking ultimatum that evening, was not provided any notice of the public reading and vote on the resolution. This is despite the fact that it is the City's clerk duties to prepare the docket of resolutions to be approved for each public meeting.

202. The reading and vote on the November 25th Resolution came only after a few minutes after the ultimatum presented to Plaintiff from the City.

203. By the public reading and the public vote on the resolution outlining knowingly false reasons for adverse employment action, the Individuals knew Plaintiff would be subject to public embarrassment and ridicule.

204. The Council Defendants succeeded in their efforts to embarrass and ridicule Plaintiff publicly.

FOR PLAINTIFF'S OWN EMOTIONAL AND PHYSICAL WELL-BEING, SHE IS FORCED TO RESIGN

205. After November 25th, Plaintiff learned that the Council Defendants had hired a forensic computer analysis to examine her computer in her office in an attempt to try to elicit "dirt" on her.

206. The Plaintiff did all she reasonably could to endure the Council Defendants' offensive and hostile behavior towards her.

207. Despite her initial intention of not resigning, by December 6, 2013, the ultimatum and the November 25th Resolution, compounded with all of the other acts of intolerable conditions, had caused her significant mental anguish, emotional distress and physical ailments.

208. Plaintiff's treating general practitioner/medical doctor, by this time, had prescribed her Xanax and other anti-depressants as a result of the intolerable conditions of Plaintiff's work environment.

209. However, by late November/early December, Plaintiff's medical doctor recommended to Plaintiff to resign from the City because her continued employment under those conditions would even cause her further physical harm.

210. Another treating medical doctor at this time also recommended to Plaintiff that she had to resign from the City because of the physical toll being inflicted upon Plaintiff as a result of her intolerable working environment caused by the Council Defendants.

211. Plaintiff's psychologist at this time, as well, counseled her that she needed to remove herself from the hostile working conditions imposed by the City and Council Defendants for the sake of her own mental health.

212. Therefore, Between November 25th and December 6th, **three different professionals** all recommended to Plaintiff to resign her employment of 28 years or the City or Plaintiff would continue to deteriorate emotionally and physically at the hands of the Council Defendants and the City.

213. Accordingly, the combination of the unconscionable ultimatum followed shortly by the November 25th Resolution, were the final acts of the outrageous and intolerable acts by the City and Council Defendants against Plaintiff during her employment.

214. Such intolerable acts, more that any reasonable person situated in Plaintiff's position could endure, forced Plaintiff to resign shortly thereafter.

215. Plaintiff's coerced resignation only came after:

- 1) The City and the Council Defendants learned of Plaintiff's relationship with Salkin;
- 2) The Council Defendants commenced their intent to exact political retaliation against Plaintiff for such relationship;
- 3) The Defendants formulated intent to "marginalize" political enemies;
- 4) Greenman and Canestrino violated the Sunshine Law by discussing Plaintiff's employment;
- 5) Canestrino falsely blamed Plaintiff for the payment of Mr. Zisa's legal bill;
- 6) Canestrino accused Plaintiff of intentionally waiting to take legally accrued and authorized vacation time until the Council Defendants' took office;
- 7) Greenman laid out in e-mails her desire to seek political retaliation against Plaintiff;
- 8) Greenman expressly likened Plaintiff to a venomous snake;
- 9) Greenman expressly called Plaintiff as "brazen" and "stupid";
- 10) Greenman and Canestrino imprisoned Plaintiff in her office ordering a City employee to keep people out and to keep Plaintiff in;
- 11) Greenman and Canestrino imprisoned, berated and scolded Plaintiff for 2 hours;
- 12) Greenman and Canestrino falsely accused Plaintiff of falsifying time sheets, essentially an act of fraud and theft;
- 13) Greenman accused her of falsifying the OPRA log;
- 14) Canestrino repugnantly blamed her for mistakes on a resolution in which Plaintiff did not prepare;

- 15) Canestrino demanded that Plaintiff keep an hourly time log of all of her activities;
- 16) Plaintiff objected to Greenman's unlawful attempt to remove the OPRA log book from City property;
- 17) the Mayor demanded Plaintiff to use an illegal time sheet reflecting she would be unable to accrue and/or use "compensation time" in violation of City ordinance;
- 18) Plaintiff complained about the way she was being treated multiple times to the Mayor and other Council members to no avail;
- 19) Plaintiff was given the unconscionable ultimatum by the Council Defendants minutes before the November 25th meeting;
- 20) Incurring public embarrassment and ridicule with the introduction and vote on the November 25th resolution; and
- 21) Three different mental health and medical professionals advised Plaintiff that she should resign or suffer further emotional and physical distress.

216. Moreover, such forced resignation came after Plaintiff disclosed, complained and objected to the Council Defendants' fraudulent revision of the September 16th minutes to cover up the Sunshine Law violation and the adverse employment action she suffered as a result.

THE NOVEMBER 25th RESOLUTION REASONING FOR ADVERSE EMPLOYMENT ACTION WAS CLEARLY PRETEXTUAL

217. As part of the reasoning to suspend Plaintiff, the November 25th Resolution cited:

Debra Heck's consistent failure to respond to [OPRA] requests in the time and manner required by law

Debra Heck's consistent failure to coordinate responses to [OPRA] requests in the time and manner required by law

218. However, Labrosse's Canestrino's and Greenman's own respective comments on the status of OPRA requests in the City unequivocally show that these reasons were manufactured only to present the appearance of "good cause" to terminate Plaintiff.

219. By e-mail dated August 14, 2013, Greenman recognized that Plaintiff's job duties were too encompassing for only one person, particularly in handling the City's OPRA requests.

220. Greenman indicated, "If [Plaintiff] needs help, she should get it."

221. Prior to Canestrino learning of Plaintiff's co-habitation with Salkin and perception that Plaintiff was affiliated with the Opposing Political Group, she told Plaintiff that she knew her job responsibilities were too great and that the Council Defendants were going to get her help.

222. Moreover, Deputy Mayor Canestrino's public comments at the June 24, 2014, public meeting of the Mayor and Council directly addressed OPRA requests that the City had received since the Council Defendants' assumed office. Specifically:

- a) Canestrino expressly stated that the handling of OPRA requests alone were a two person job.
- b) Canestrino admitted that when the Council Defendants came into office, OPRA requests were "extremely time consuming" to handle properly.
- c) Canestrino further advised the City's residents that in the beginning of their term, which is when Plaintiff served as clerk, that there was a delay in responding to OPRA requests because of the Council Defendants' policies that the city attorney review each request and documents to ensure that the OPRA statute was being followed properly.
- d) Canestrino also said that in the beginning of the Council Defendants' term, which is when Plaintiff served as clerk, that the "volume" of resident OPRA requests were "so extensive" that it was necessary for the City to pay the city's attorney additional monies to monitor the requests.
- e) Canestrino then acknowledged that as a result of the "extensive" volume of the OPRA requests that "in addition to the [new] City clerk, [the City] hired an assistant clerk whose only role is to process OPRA requests"
- f) Canestrino also advised that now, both the City clerk and the assistant clerk are working on OPRA requests.

223. By Canestrino's own comments, the City knew of the "extensive" "volume" of OPRA requests while Plaintiff was clerk, yet the Council Defendants, knowing it was at least a two person job, demanded that Plaintiff, and Plaintiff alone, handle all OPRA requests in a city of over 40,000 residents.

224. Further, Canestrino's July 24th comments were not the only comments in which she recognized it was impossible for Plaintiff to handle OPRA requests by herself while Plaintiff was clerk.

225. As to the processing and facilitating of OPRA requests, at the July 8th public meeting Canestrino advised the public that the hiring of "the second person has made it more efficient."

226. Canestrino further exclaimed that the assistant clerk "focuses on" OPRA requests and has been a "big help."

227. This is the same "big help" that that the Council Defendants wanted to provide Plaintiff until they learned of her relationship with Salkin and perceived her as a member/supporter of the Opposing Political Group.

228. This is the same "big help" Plaintiff continually requested from the City and the Council Defendants after September 2, 2013, but was vehemently denied.

229. On July 8th, Mayor Labrosse echoed Deputy Mayor Canestrino's comments as to the impossible job for any one person to handle OPRA requests: "second person deals mainly with OPRA requests. It has helped tremendously."

230. The Council Defendants clearly set up the Plaintiff to fail in the handling of OPRA requests in their efforts to create pretext justifying their intended dismissal of Plaintiff.

231. Indeed, it was only after Plaintiff was coerced to resign, that the City, recognizing the critical need for an employee to solely handle OPRA, created the position of an assistant clerk “whose only role is to process OPRA requests.”

232. The November 25th Resolution lists, “Debra Heck’s problematic interactions with the City Administration and City Council,” as a justification for her suspension.

233. However, it was Canestrino and Greenman who imprisoned Plaintiff in an intimidating and hostile manner in Plaintiff’s office on September 17, 2013.

234. It was Greenman who referred to Plaintiff as “stupid” and called her a “coiled snake.”

235. The November 25th Resolution provides, “Debra Heck’s lack of communication with City officials and employees” served a basis for her suspension.

236. However, it was Plaintiff’s customary process to use City council members’ official e-mail addresses to communicate daily City business.

237. As set forth above, there was a time when Canestrino and Greenman were not using their respective City e-mail addresses which was never told to Plaintiff.

238. Yet another reason set forth in the November 25th Resolution is, “Debra Heck’s consistent failure to be present at work during hours of City business.”

239. However, as stated above, Plaintiff used lawfully earned compensation time and vacation time for any time she spent out of work, as was always approved by the City Manager.

240. Further, the November 25th Resolution provides that “Debra Heck’s inability to properly record minutes of City Council meetings,” is yet another reason for the adverse employment action.

241. However, Plaintiff did keep accurate minutes and it was Canestrino and Greenman who successfully sought to fraudulently alter the September 16th minutes.

242. The remaining justifications in the November 25th Resolution are equally pretextual without any factual support.

243. It is clear that the November 25th Resolution is nothing more than the result of manufactured reasoning justifying the Council Defendants' intent to "marginalize" Plaintiff and to retaliate against Plaintiff for 1) her perceived political affiliation with the Opposing Political Group; 2) her relationship with Salkin and 3) her objection, disclosure and complaint about the fraudulently revised minutes of the September 16th COW meeting.

244. Further, the November 25th Resolution and preceding ultimatum, while on their face offered Plaintiff the choice to resign or be suspended, a review of legal bills pertaining to Plaintiff in November 2013 illustrate that the City's intent was, in fact, to terminate Plaintiff.

245. On November 21, 2013, the City's labor attorney's legal invoice indicates that counsel drafted and revised a "memo regarding City Clerk Resolutions terminating her."

246. Also on November 24th, the City's labor attorney once again indicates the drafting and revising of a "memo re termination procedures."

247. Adding further support that Plaintiff's relationship with Salkin was the pre-dominant factor in the City's decision to take adverse employment action against her is the fact that the City specifically reviewed documentary evidence focusing on that relationship only days before the November 25th Resolution.

**THE COUNCIL DEFENDANTS' CONTINUED PUBLIC RIDICULE
OF PLAINTIFF DID NOT STOP WITH HER CONSTRUCTIVE DISCHARGE**

“THE GOOD DEBBIE”

248. After the November 25th Resolution and Plaintiff's forced resignation, the City's public ridicule of Plaintiff did not end.

249. The new clerk hired by the City to replace Plaintiff is named Deborah Karlsson. Like Plaintiff, she is commonly referred to as “Debbie.”

250. Ms. Karlsson was introduced as the new City clerk at the December 30, 2013, meeting of the Mayor and Council to begin work on or about January 6, 2014.

251. The Council Defendants offered Ms. Karlsson congratulations and well wishes on her appointment.

252. However, Greenman not only offered Ms. Karlsson well wishes but also took another opportunity to publicly demean, mock and embarrass Plaintiff.

253. While offering well wishes, Greenman, as a city councilwoman during a public City council meeting stated, “Welcome to the new City clerk, we're going to call her the ‘**good** Debbie.’”

254. The only inevitable conclusion to make from Greenman's comments is that Plaintiff is the “**bad** Debbie.”

255. The City's public humiliation and ridicule of Plaintiff, therefore continued even after Plaintiff's employment.

SICK TIME PAYOUT/HACKENSACK CITY NEWS

256. In approximately April/May 2014, 4-5 months after Plaintiff's constructive discharge, the City published and distributed a purported newsletter to the City's citizens entitled the *Hackensack City News, Spring Edition 2014* (“Newsletter”).

257. At the direction of the City and the Council Defendants, the Newsletter was crafted and created by Thom Ammirato, the Council Defendants' chief political adviser at the time and the City's paid spokesperson.

258. The Newsletter contained a very select listing of former employees who had obtained a "sick-time" payout from the City over the course of the past few years.

259. The City's public employees are entitled to be reimbursed for any unused sick days accrued during their employment.

260. The "cashing in" of unused sick days accrued during public employment has been a very controversial topic, and source of contention, within not only the City, but in other surrounding municipalities as well.

261. Over the course of the past few years, **dozens** of City employees have "cashed in" their respective unused sick days pursuant to New Jersey law.

262. However, very tellingly, the Council Defendants selected only four former City employees to publish throughout the City as receiving their right to reimbursement.

263. Plaintiff was one of those only four specifically identified, despite the fact that numerous former City employees received such reimbursement and the fact that other former City employees received far greater amounts than Plaintiff.

264. The four former employees chosen by the Defendants to be publicly identified for receiving reimbursement are widely known in the City to be either critics of the Council Defendants and/or are perceived by the Council Defendants to be members/supporters of the Opposing Political Group.

265. Specifically, former City Manager Lo Iacono was published. Mr. Lo Iacono, as indicated by Greenman's October 11th e-mail, was considered by the Council Defendants to be a supporter/member of the Opposing Political Group.

266. Upon information and belief, Mr. Lo Iacono, although in the privacy of his own office, not minutes before his duties were to commence at a public meeting, and not at a public meeting in front of the public, was also provided the same ultimatum as Plaintiff: resignation or termination.

267. Another former employee who was published by the Council Defendants and the City as to receiving a "sick time payout" was Agatha Toomey. Ms. Toomey is a former employee, who after approximately 40 years of service, suffered adverse employment action by the Council Defendants. Ms. Toomey is also a known critic of the Council Defendants.

268. Additionally, and relevantly, Ms. Toomey is also the sister of Nancy Weuste, a currently suspended employee of the City. Ms. Weuste has been involved in legal proceedings against the City since approximately January, 2014.

269. Ms. Weuste, prior to her adverse employment action and after, has been a vocal public critic of the City and the Council Defendants. Indeed, her suspension only came after exercising her First Amendment Rights at a public meeting to criticize policies of the Council Defendants.

270. The last former employee that Plaintiff was "grouped" in the Newsletter with is former City Police Chief, Charles "Ken" Zisa. Mr. Zisa is widely perceived in the City to be a member/supporter of the Opposing Political Group and is the brother of the City's former mayor, John F. Zisa, who is also considered by the Council Defendants to be a member/supporter of the Opposing Political Group.

271. The Council Defendants' perception of Mr. Zisa as a member of the Opposing Political Group is well documented, including the subject of the August 14th E-mail between Mr. Ammirato and Greenman and the subject of most, if not all, of the Council Defendants' campaign materials for the May 2013 election.

272. The fact that the Council Defendants saw appropriate to group Plaintiff with these other 3 former employees who are widely considered to be affiliated, members and/or supporters of the Opposing Political Group or a critic of the Council Defendants, as crafted by the Council Defendants' chief political advisor at the time, provides further undisputed credence that the Council Defendants viewed Plaintiff as being affiliated with and/or as a member/supporter of the Opposing Political Group after September 2, 2013.

PLAINTIFF'S DIFFICULTY IN LOCATING ALTERNATIVE COMPARABLE EMPLOYMENT

273. Plaintiff earned a \$125,000.00 per year with health benefits, compensatory time, over time, and pension benefits.

274. Plaintiff has attempted numerous times over the past several months to locate alternative comparable employment to that what she had with the City.

275. However, as she is in her mid-50s without a college education, it has been extremely difficult, if not impossible, for her to locate comparable employment despite her continuing efforts to do so.

PLAINTIFF'S DAMAGES

276. Plaintiff's salary as City clerk was \$125,000.00 plus benefits and monthly pension contributions.

277. At the time the Defendants' actions forced her resignation, she was 54 years of age.

278. Plaintiff had earned tenure as a City clerk pursuant to NJSA 40A:9-133.7, and as such had a reasonable expectation and entitlement to remain in her position until she expected to retire, which was at 65 years of age.

279. Therefore, in lost wages, alone, Plaintiff has been damaged in the amount of \$1,375,000.00 (back and front pay).

280. Plaintiff, now in her mid-50s after suffering the physical and emotional trauma as a result of the treatment incurred by the Council Defendants, has made several attempts to locate alternative comparable employment without success.

281. Plaintiff has also lost the value of all future pension contributions and the resulting pension benefit as a result of the Defendants' actions.

282. If Plaintiff retired from the City at age 65, as was her intention and as her tenure would have permitted, Plaintiff's yearly pension benefit would have been approximately \$85,000.00 per year.

283. However, due to her forced resignation, Plaintiff's yearly pension benefit is \$60,000.00.

284. Accordingly, as a direct and proximate cause of the City's and Council Defendants' illegal conduct, Plaintiff will be damaged in the amount of \$25,000.00 per year for the remainder of her life just in the lost pension benefit alone.

285. Additionally, as a direct and proximate cause of the Defendants' actions, Plaintiff suffered severe mental and emotional distress as supported by her treating mental health professional.

286. Moreover, as a further direct consequence of Defendants' actions, Plaintiff suffered and was compelled to seek treatment for physical/medical ailments.

287. Her treating psychologist noted a clear and unequivocal “downward spiral” in Plaintiff’s emotional health as a direct result of Plaintiff’s former working conditions imposed by the City and Council Defendants.

288. As City employees have witnessed the retaliatory measures taken by the Council Defendants against those who are even perceived, let alone actually, a supporter or friend of anyone associated with the Opposing Political Group, Plaintiff has had friends for several years, if not decades, who are City employees who now do not associated with her out of fear of losing their own jobs.

289. The mental anguish caused by the Council Defendants and the City and the emotional distress caused by losing her job of 28 years resulted in Plaintiff being admitted into the local hospital.

290. Additionally, the applicable Federal and State statutes provide that Plaintiff shall be entitled to an award of attorney’s fees, punitive damages, expert fees and costs for prosecuting the within lawsuit.

291. Accordingly, Plaintiff seeks monetary damages in an amount to be proven at trial but which are in excess of \$2,000,000.00 to compensate Plaintiff for her lost wages, pension benefit lost, emotional and physical distress, and punitive damages.

292. Plaintiff, pursuant to Federal and State statute, also seeks her attorney’s fees, expert fees, and costs to prosecute the within lawsuit.

COUNT ONE
**(Violation of 42 USC 1983 as to the City:
Deprivation of a Constitutionally Protected Property Right)**

293. Plaintiff repeats and realleges each and every fact set forth above as if set forth herein at length.

294. 42 USC §1983 provides Plaintiff a “civil action for deprivation of rights,” specifically:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State ..., subjects, or causes to be subjected, any citizen of the United States ... to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...

295. The United States Supreme Court has held that a “person” includes a municipality such as the City.

296. In 2002, Plaintiff was appointed clerk of the City and as of December 6, 2013, enjoyed tenure in such position pursuant to NJSA 40A:9-133.7.

297. As a tenured clerk for the City, Plaintiff was entitled to permanent employment, terminable only for cause after a proper hearing before the New Jersey Department of Community Affairs.

298. Specifically, NJSA 40A:9-133.7 provides that a municipal clerk cannot suffer any adverse employment action “for political reasons.”

299. Plaintiff, therefore, possessed a legitimate claim of entitlement to the job position of municipal clerk for the City of Hackensack until she chose to retire.

300. As such, because of the New Jersey statutory proscriptions regarding a municipal clerk’s tenured status, Plaintiff possessed a vested property right to her job, which is protected by the 14th Amendment of the United States Constitution.

301. By constructively discharging the Plaintiff, the City deprived Plaintiff of her vested property right to her job as clerk of the City by imposing intolerable working conditions that no reasonable employee in Plaintiff's situation could possibly endure.

302. Further, the November 25th Resolution also deprived Plaintiff of her 14th Amendment protected property right of her job and was an execution of City policy made by its lawmakers that inflicted injury upon Plaintiff .

303. The City's unconscionable and intolerable working conditions, including but not limited to an ultimatum between two adverse employment actions: forced resignation or suspension and subsequent termination, finally became too much for Plaintiff to endure.

304. Therefore, without repeating each and every act of intolerable treatment stated above inflicted upon Plaintiff, the City "constructively discharged" Plaintiff in violation of Plaintiff's constitutionally protected 14th Amendment property rights.

305. As a result of such wrongful actions, Plaintiff has suffered and will continue to suffer lost wages in the amount of at least \$1,300,000.00

306. As a result of the City's illegal actions, Plaintiff has been damaged in an amount to be proven at trial but which is in excess of \$2,000,000.00.

307. Pursuant to 42 USC 1988, Plaintiff demands all attorney's fees and costs, including expert costs, to prosecute the within lawsuit, as a result of the City's revocation of Plaintiff's constitutional rights.

WHEREFORE, Plaintiff demands judgment against the City in an amount to be proven at trial but which is in excess of \$2,000,000.00, for any and all damages sustained by Plaintiff as a result of the City's illegal conduct plus all attorney's fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT TWO
**(Violation of 42 USC 1983 as to the Council Defendants, individually:
Deprivation of a Constitutionally Protected Property Right)**

308. Plaintiff repeats and realleges each and every fact set forth above as if set forth herein at length.

309. As stated above, specifically Greenman and Canestrino, respectively, directly and personally participated in treating Plaintiff in an unconscionable, intolerable and offensive manner leaving Plaintiff with no other choice than to resign.

310. Labrosse personally and directly participated in the violation of Plaintiff's 14th Amendment rights by 1) acquiescing to Greenman's and Canestrino's respective treatment of Plaintiff by ignoring Plaintiff's complaints of same and 2) attempting to unlawfully change Plaintiff's compensation by depriving her of "comp" time despite the City's own ordinance.

311. Labrosse, Canestrino and Greenman, respectively, knew at the time of their unlawful acts to either compel Plaintiff's resignation and/or to create pretext for Plaintiff's eventual termination that Plaintiff was a tenured employee of the City and enjoyed a 14th Amendment entitlement to her position as City clerk.

312. Moreover, all of the Council Defendants directly and personally participated in the illegal conduct constructively discharging Plaintiff from her job acting under the color of law.

313. Such direct and personal involvement includes but is certainly not limited to 1) ambushing Plaintiff with an unconscionable ultimatum on November 25th to resign or be suspended, and subsequently terminated and 2) each voting affirmatively in favor of the November 25th Resolution.

314. The Council Defendants knew at the time they provided such unconscionable ultimatum and at the time that each voted affirmatively to take adverse employment action against the Plaintiff that Plaintiff was a tenured City employee enjoying a 14th Amendment protected entitlement to her position as City clerk.

315. As a result of such wrongful actions, Plaintiff has suffered and will continue to suffer lost wages in the amount of at least \$1,300,000.00

316. As a result of the Council Defendants' illegal actions, Plaintiff has been damaged in an amount to be proven at trial but which is in excess of \$2,000,000.00.

317. Pursuant to 42 USC 1988, Plaintiff demands all attorney's fees and costs, including expert costs, to prosecute the within lawsuit, as a result of the Council Defendants' revocation of Plaintiff's constitutional rights.

WHEREFORE, Plaintiff demands judgment against the Council Defendants in an amount to be proven at trial but which is in excess of \$2,000,000.00, for any and all damages sustained by Plaintiff as a result of the Council Defenadnts' illegal conduct plus all attorney's fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT THREE
(Violation of 42 USC 1983 as to the City:
Political Discrimination)

318. Plaintiff re-alleges each and every fact set forth above as if set forth herein at length.

319. Plaintiff has a First Amendment right to affiliate with any political group she so chooses.

320. Plaintiff's position as clerk was not a "policy making" position.

321. Further, Plaintiff has several constitutional rights to engage in a personal relationship and/or co-habitate with any other consenting adult she so chooses.

322. Moreover, NJSA 40A:9-133.7 provides that a municipal clerk cannot suffer any adverse employment action “for political reasons.”

323. NJSA 40A:9-133.7 also provides that Plaintiff enjoyed tenure as the City’s municipal clerk.

324. As a result of such tenure, as stated above, Plaintiff also enjoyed a 14th Amendment right to her continued employment as the City’s clerk.

325. Therefore, Plaintiff exercised **several** of her constitutionally protected rights while the City’s clerk.

326. The motivating factor of the City’s discrimination and constructive discharge of Plaintiff was clearly Plaintiff’s exercise of her constitutionally protected rights.

327. The City was satisfied with Plaintiff’s job performance as clerk up until the point it became public knowledge that Plaintiff was in a personal relationship with Salkin.

328. Prior to that point, Canestrino and Greenman even wanted to hire additional staff to help Plaintiff with the handling of OPRA requests.

329. The City’s intention to discriminate against Plaintiff as a result of her exercising several constitutional rights is clearly spelled out in e-mails between the City’s spokesperson and Councilwoman Greenman.

330. On August 14, 2013, Mr. Ammirato, a City vendor at the time, wrote Greenman:

Our job is to broaden our base...get a real **political** operation going that further **marginalizes** these people [political foes].
That should be our goal.

[emphasis added]

331. Thereafter, Greenman, a councilwoman for the City, responded, “Thom, [y]ou know that I agree with you in this respect.”

332. On September 11, 2013, merely one week after Plaintiff began residing with Salkin and was now perceived as a member/supporter of the Opposing Political Group, Greenman wrote:

The **“heck”** with formalities! **Who needs stupid rules!** Apparently, [Plaintiff] got **engaged to Richard Salkin** ([Board of Education attorney]) on Monday. She is showing everyone her ring. (Sounds like a decoder ring from Cracker Jack). Thus, [Plaintiff’s] absence from her office on Monday... This engagement is despite that both of the parties are married to other people. PRESENTLY!!! Is it the water?!

[emphasis added].

333. Continuing on October 11th, Greenman wrote:

[An official letter from Plaintiff regarding City business] has **Salkin’s** paw prints all over it. **Salkin** used to be the City’s attorney prior to [Joseph] Zisa. [Plaintiff] is **brazen and stupid**: an irresistible combo for someone serving the Council. She really endears herself to me.

I already said that [Plaintiff] and Lo Iaconno are compiling **their own dossiers on us**. This is just another reminder. Both of them are **political** operatives-it’s plain as day. They are trying to destroy us from within. Don’t listen to their promises, just watch their actions. **Like two coiled snakes**. You may give them food and keep them warm, they will strike at you, nevertheless, given a chance. **That’s their nature**.

334. On September 16, 2013, Canestrino, the City’s Deputy Mayor, in another overt fact that Plaintiff was indeed a political target, snidely asked Plaintiff if Plaintiff “saved all of [vacation time] for when [the Council Defendants] took office?”

335. Further, Labrosse attempted to change Plaintiff’s City ordinance protected compensation package by attempting to take away Plaintiff’s “comp time.”

336. Without question, there was an unequivocal politically based animus towards Plaintiff.

337. The City's discrimination of Plaintiff culminated on November 25, 2013, when the City first gave Plaintiff an unconscionable ultimatum to either resign or effectively be terminated and then a few minutes later the City passed a resolution, filled with nothing but pretext, seeking Plaintiff's suspension and termination.

338. Even more evidence of the Council Defendants' political animus towards Plaintiff is found in the Newsletter in which the City grouped Plaintiff with three former employees of the City who are perceived to be members/supporters of the Opposing Political Group and/or critics of the Council Defendants.

339. As a result of the City's wrongful actions, Plaintiff has suffered and will continue to suffer lost wages in the amount of at least \$1,300,000.00

340. As a result of the City's illegal actions, Plaintiff has been damaged in an amount to be proven at trial but which is in excess of \$2,000,000.00.

341. Pursuant to 42 USC 1988, Plaintiff demands all attorney's fees and costs, including expert costs, to prosecute the within lawsuit, as a result of the discriminatory conduct towards Plaintiff.

WHEREFORE, Plaintiff demands judgment against the City in an amount to be proven at trial but which is in excess of \$2,000,000.00, for any and all damages sustained by Plaintiff as a result of the City's illegal conduct plus all attorney's fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT FOUR
**(Violation of 42 USC 1983 as to the Council Defendants, personally:
Political Discrimination)**

342. Plaintiff re-alleges each and every fact set forth above as if set forth herein at length.

343. Plaintiff has a First Amendment right to affiliate with any political group she so chooses.

344. Plaintiff's position as clerk was not a "policy making" position.

345. Further, Plaintiff has several constitutional rights to engage in a personal relationship and/or co-habitate with any other consenting adult she so chooses.

346. Moreover, NJSA 40A:9-133.7 provides that a municipal clerk cannot suffer any adverse employment action "for political reasons."

347. NJSA 40A:9-133.7 also provides that Plaintiff enjoyed tenure as the City's municipal clerk.

348. As a result of such tenure, as stated above, Plaintiff also enjoyed a 14th Amendment right to her continued employment as the City's clerk.

349. Therefore, Plaintiff exercised **several** of her constitutionally protected rights while the City's clerk.

350. The motivating factor of the Council Defendants' discrimination and constructive discharge of Plaintiff was clearly Plaintiff's exercise of her constitutionally protected rights.

351. The Council Defendants were satisfied with Plaintiff's job performance as clerk up until the point it became public knowledge that Plaintiff was in a personal relationship with Salkin.

352. Labrosse, specifically, showed his appreciation and gratitude for Plaintiff's job performance by personally hand delivering flowers to Plaintiff as a gesture of such satisfaction.

353. Canestrino also encouraged Plaintiff to take more vacation time and promised Plaintiff that the Council Defendants would hire additional help for her.

354. Additionally, on August 14, 2013, Greenman, a City councilwoman, wrote an e-mail recognizing that Plaintiff's duties of the City municipal clerk were much too great for just one person advising that "[i]f [Plaintiff] needs help, she should get it."

355. Indeed, between the time Plaintiff assumed her position as municipal clerk for the City in 2002 and September 13, 2013, Plaintiff never received any reprimands as to her job performance as City clerk.

356. However, once it became public that Plaintiff was in a personal relationship with Salkin and now perceived to be affiliated with or a supporter of the Opposing Political Group, the Council Defendants treatment of Plaintiff became venomously intolerable.

357. The Council Defendants then each personally and directly participated in discriminatory conduct towards Plaintiff.

358. The Council Defendants' intention to discriminate against Plaintiff as a result of her exercising several constitutional rights is clearly spelled out in e-mails between the City's spokesperson and Councilwoman Greenman.

359. On August 14, 2013, Mr. Ammirato wrote Greenman:

Our job is to broaden our base...get a real **political** operation going that further **marginalizes** these people [political foes].
That should be our goal.

[emphasis added]

360. Thereafter, Greenman, a councilwoman for the City, responded, “Thom, [y]ou know that I agree with you in this respect.”

361. On September 11, 2013, Greenman wrote:

The **“heck”** with formalities! **Who needs stupid rules!** Apparently, [Plaintiff] got **engaged to Richard Salkin** ([Board of Education attorney]) on Monday. She is showing everyone her ring. (Sounds like a decoder ring from Cracker Jack). Thus, [Plaintiff’s] absence from her office on Monday... This engagement is despite that both of the parties are married to other people. PRESENTLY!!! Is it the water?!

[emphasis added].

362. Continuing on October 11th, Greenman wrote:

[An official letter from Plaintiff regarding City business] has **Salkin’s** paw prints all over it. **Salkin** used to be the City’s attorney prior to [Joseph] Zisa. [Plaintiff] is **brazen and stupid**: an irresistible combo for someone serving the Council. She really endears herself to me.

I already said that [Plaintiff] and Lo Iaconno are compiling **their own dossiers on us**. This is just another reminder. Both of them are **political** operatives-it’s plain as day. They are trying to destroy us from within. Don’t listen to their promises, just watch their actions. **Like two coiled snakes**. You may give them food and keep them warm, they will strike at you, nevertheless, given a chance. **That’s their nature**.

363. On September 16, 2013, Canestrino, the City’s Deputy Mayor, in another overt fact that Plaintiff was indeed a political target, snidely asked Plaintiff if Plaintiff “saved all of it [vacation time] for when we [Council Defendants] took office?”

364. Without question, there was an unequivocal politically based animus towards Plaintiff.

365. Even more evidence of the Council Defendants’ political animus towards Plaintiff is found in the Newsletter in which the City grouped Plaintiff with three former employee of the City who are perceived to be members/supporters of the Opposing Political Group and/or critics of the Council Defendants.

366. The Council Defendants' discrimination of Plaintiff culminated on November 25, 2013, when the Council Defendants, directly and personally, first gave Plaintiff an unconscionable ultimatum to either resign or, effectively, be terminated and then a few minutes later each affirmatively voted for the November 25th Resolution, filled with nothing but pretext, seeking Plaintiff's suspension and termination.

367. As a result of the Council Defendants' wrongful actions, Plaintiff has suffered and will continue to suffer lost wages in the amount of at least \$1,300,000.00

368. As a result of the Council Defendants' illegal actions, Plaintiff has been damaged in an amount to be proven at trial but which is in excess of \$2,000,000.00.

369. Pursuant to 42 USC 1988, Plaintiff demands all attorney's fees and costs, including expert costs, to prosecute the within lawsuit, as a result of the discriminatory conduct towards Plaintiff.

WHEREFORE, Plaintiff demands judgment against the Council Defendants, personally, in an amount to be proven at trial but which is in excess of \$2,000,000.00, for any and all damages sustained by Plaintiff as a result of the Council Defendants' illegal conduct plus all attorney's fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT FIVE

**(Violation of 42 USC 1983 as to the City and Council Defendants:
Plaintiff's Federal Constitutional Right of Privacy**

370. Plaintiff re-alleges each and every fact set forth above as if set forth herein at length.

371. The United States Supreme Court has held that the fundamental right of privacy is grounded in the First, Third, Fourth, Fifth and Ninth Amendments of the United States Constitution.

372. The United States Supreme Court has found that such privacy rights, include but are certainly not limited to, personal interests relating to marriage, family relationships, and “intimate human activities.”

373. As such, government action, whether at the Federal, State or Municipal level, cannot be taken against a public employee, such as Plaintiff, for exercising her rights of privacy by co-habiting and/or having an intimate relationship with another consenting adult.

374. The City and the Council Defendants had absolutely no problems with Plaintiff’s job performance prior to her relationship with Salkin becoming public.

375. The City and the Council Defendants, as outlined herein at length, commenced their respective efforts to oust Plaintiff after such relationship became public.

376. Plaintiff’s relationship with Salkin was so significant to the Council Defendants and the City that the city’s attorney, upon the Council Defendants’ instructions, even reviewed and considered correspondence regarding Plaintiff’s relationship with Salkin at the time steps were being taken to terminate Plaintiff.

377. The Council Defendants were certainly aware of Plaintiff’s constitutional right of privacy when they took adverse employment action against her.

378. As a result of the City’s and Council Defendants’ wrongful actions, Plaintiff has suffered and will continue to suffer lost wages in the amount of at least \$1,300,000.00

379. As a result of the City’s and Council Defendants’ illegal actions, Plaintiff has been damaged in an amount to be proven at trial but which is in excess of \$2,000,000.00.

380. Pursuant to 42 USC 1988, Plaintiff demands all attorney’s fees and costs, including expert costs, to prosecute the within lawsuit, as a result of the discriminatory conduct towards Plaintiff.

WHEREFORE, Plaintiff demands judgment against the City and Council Defendants, personally, jointly and severally, in an amount to be proven at trial but which is in excess of \$2,000,000.00, for any and all damages sustained by Plaintiff as a result of the City's and Council Defendants' illegal conduct plus all attorney's fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT SIX
(Violation of the New Jersey Civil Rights Act as to the City:
Deprivation of Plaintiff's Rights)

381. Plaintiff re-alleges each and every fact set forth above as if set forth herein at length.

382. In relevant part, NJSA 10:6-2(c) provides:

Any person who has been deprived of any substantive due process or equal protection rights, privileges, immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State...acting under color of law, may bring a civil action for damages... [emphasis added]

383. In 2002, Plaintiff was appointed clerk of the City and as of December 6, 2013, enjoyed tenure in such position pursuant to NJSA 40A:9-133.7.

384. NJSA 40A:9-133.7 is a "law of this State."

385. As a tenured clerk for the City, Plaintiff was entitled to permanent employment, terminable only for cause after a proper hearing before the New Jersey Department of Community Affairs.

386. Specifically, NJSA 40A:9-133.7 provides that a municipal clerk cannot suffer any adverse employment action "for political reasons."

387. Plaintiff, therefore, possessed a legitimate claim of entitlement to the job position of municipal clerk for the City until she chose to retire.

388. As such, because of the New Jersey statutory proscriptions regarding a municipal clerk's tenured status, Plaintiff possessed a vested property right to her job, which is protected by the 14th Amendment of the United States Constitution.

389. Accordingly, Plaintiff had a vested right to her position as clerk, as provided by both, the "laws of this State" and as "secured" by "the Constitution or laws of the United States."

390. By constructively discharging the Plaintiff, the City deprived Plaintiff of her vested property right to her job as clerk of the City by imposing intolerable working conditions that no reasonable employee in Plaintiff's situation could possibly endure.

391. Further, the November 25th Resolution also deprived Plaintiff of her 14th Amendment protected property right of her job and was an execution of City policy made by its lawmakers that inflicted injury upon Plaintiff .

392. The City's unconscionable and intolerable working conditions, including but not limited to an ultimatum between two adverse employment actions: forced resignation or suspension and subsequent termination, finally became too much for Plaintiff to endure.

393. Therefore, without repeating each and every act of intolerable treatment stated above inflicted upon Plaintiff, the City "constructively discharged" Plaintiff thereby depriving her of a vested property right under the laws of the State of New and United States in violation of Plaintiff's civil rights, as protected by the New Jersey Civil Rights Act, NJSA10:6-2.

394. As a result of such wrongful actions, Plaintiff has suffered and will continue to suffer lost wages in the amount of at least \$1,300,000.00

395. As a result of the City's illegal actions, Plaintiff has been damaged in an amount to be proven at trial but which is in excess of \$2,000,000.00.

396. Pursuant to NJSA 10:6-2(f), Plaintiff demands all attorney’s fees and costs, including expert costs, to prosecute the within lawsuit, as a result of the City’s deprivation of Plaintiff’s civil rights.

WHEREFORE, Plaintiff demands judgment against the City in an amount to be proven at trial but which is in excess of \$2,000,000.00, for any and all damages sustained by Plaintiff as a result of the City’s illegal conduct plus all attorney’s fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT SEVEN

**(Violation of the New Jersey Civil Rights Act as to the City:
Interference of Plaintiff’s Rights By Threat, Intimidation, and Coercion)**

397. Plaintiff re-alleges each and every fact set forth above as if set forth herein at length.

398. In relevant part, NJSA 10:6-2(c) provides:

Any person...whose exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with or attempted to be interfered with, by threats, intimidation or coercion by a person acting under the color of law, may bring a civil action for damages...

[Emphasis added].

399. In 2002, Plaintiff was appointed clerk of the City and as of December 6, 2013, enjoyed tenure in such position pursuant to NJSA 40A:9-133.7.

400. NJSA 40A:9-133.7 is a “law of this State.”

401. As a tenured clerk for the City, Plaintiff was entitled to permanent employment, terminable only for cause after a proper hearing before the New Jersey Department of Community Affairs.

402. Specifically, NJSA 40A:9-133.7 provides that a municipal clerk cannot suffer any adverse employment action “for political reasons.”

403. Plaintiff, therefore, possessed a legitimate claim of entitlement to the job position of municipal clerk for the City until she chose to retire.

404. As such, because of the New Jersey statutory proscriptions regarding a municipal clerk's tenured status, Plaintiff possessed a vested property right to her job, which is protected by the 14th Amendment of the United States Constitution.

405. Accordingly, Plaintiff had a vested right to her position as clerk, as provided by both, the "laws of this State" and as "secured" by "the Constitution or laws of the United States."

406. By constructively discharging the Plaintiff, the City interfered with Plaintiff's vested property right to her job as clerk of the City by imposing intolerable working conditions that no reasonable employee in Plaintiff's situation could possibly endure.

407. Such interference, as shown by the offensive acts explained thoroughly above, were certainly performed by threat, intimidation and coercion, and include but are certainly not limited to:

- a. Greenman's and Canestrino's two hour imprisonment of Plaintiff in her office on September 17th ;
- b. The ambushing of Plaintiff with the City's unconscionable ultimatum threatening termination if Plaintiff did not immediately resign;
- c. Labrosse's unlawful threat to take away "comp" time from Plaintiff;
- d. Canestrino's demand that Plaintiff provide an hourly log of her daily activities;
- e. Canestrino's accusation that Plaintiff was committing by theft by submitting phony time sheets; and
- f. Greenman's threats on September 16, 2013;

408. Further, the November 25th Resolution also interfered with Plaintiff's 14th Amendment protected property right to her job as well as her tenure rights under New Jersey statute.

409. As a result, the City interfered by threat, intimidation and coercion of Plaintiff's rights under the laws of the State of New and United States in violation of Plaintiff's civil rights, as protected by the New Jersey Civil Rights Act, NJSA10:6-2.

410. As a result of such wrongful actions, Plaintiff has suffered and will continue to suffer lost wages in the amount of at least \$1,300,000.00

411. As a result of the City's illegal actions, Plaintiff has been damaged in an amount to be proven at trial but which is in excess of \$2,000,000.00.

412. Pursuant to NJSA 10:6-2(f), Plaintiff demands all attorney's fees and costs, including expert costs, to prosecute the within lawsuit, as a result of the City's deprivation of Plaintiff's civil rights.

WHEREFORE, Plaintiff demands judgment against the City in an amount to be proven at trial but which is in excess of \$2,000,000.00, for any and all damages sustained by Plaintiff as a result of the City's illegal conduct plus all attorney's fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT EIGHT
**(Violation of the New Jersey Civil Rights Act as to the Council Defendants, personally:
Deprivation of Plaintiff's Rights)**

413. Plaintiff re-alleges each and every fact set forth above as if set forth herein at length.

414. In relevant part, NJSA 10:6-2(c) provides:

Any person who has been deprived of any substantive due process or equal protection rights, privileges, immunities secured by the Constitution or laws of

the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State...acting under color of law, may bring a civil action for damages...

415. In 2002, Plaintiff was appointed clerk of the City and as of December 6, 2013, enjoyed tenure in such position pursuant to NJSA 40A:9-133.7.

416. NJSA 40A:9-133.7 is a “law of this State.”

417. As a tenured clerk for the City, Plaintiff was entitled to permanent employment, terminable only for cause after a proper hearing before the New Jersey Department of Community Affairs, as was known to the Council Defendants.

418. Specifically, NJSA 40A:9-133.7 provides that a municipal clerk cannot suffer any adverse employment action “for political reasons.”

419. Plaintiff, therefore, possessed a legitimate claim of entitlement to the job position of municipal clerk for the City until she chose to retire.

420. As such, because of the New Jersey statutory proscriptions regarding a municipal clerk’s tenured status, Plaintiff possessed a vested property right to her job, which is protected by the 14th Amendment of the United States Constitution.

421. Plaintiff’s constitutional and statutory rights were clearly established at the time each of the Council Defendants’ committed acts to deprive Plaintiff of those rights.

422. Accordingly, Plaintiff had a vested right to her position as clerk, as provided by both, the “laws of this State” and as “secured” by “the Constitution or laws of the United States.”

423. The Council Defendants were certainly well aware that Plaintiff enjoyed tenure pursuant to the New Jersey statutory authority and were aware, therefore, of Plaintiff’s vested rights to her position.

424. By constructively discharging the Plaintiff, the Council Defendants deprived Plaintiff of her vested property right to her job as clerk of the City by imposing intolerable working conditions that no reasonable employee in Plaintiff's situation could possibly endure.

425. Further, the November 25th Resolution also deprived Plaintiff of her 14th Amendment protected property right of her job of which each Council Defendant voted affirmatively.

426. Further, the Council Defendants ambushed Plaintiff on November 25, 2013 with an unconscionable ultimatum: resign or be fired.

427. Therefore, without repeating each and every act of intolerable treatment stated above inflicted upon Plaintiff, the Council Defendants each took measures to "constructively discharged" Plaintiff thereby depriving her of a vested property right under the laws of the State of New and United States in violation of Plaintiff's civil rights, as protected by the New Jersey Civil Rights Act, NJSA10:6-2.

428. As a result of such wrongful actions, Plaintiff has suffered and will continue to suffer lost wages in the amount of at least \$1,300,000.00

429. As a result of the City's illegal actions, Plaintiff has been damaged in an amount to be proven at trial but which is in excess of \$2,000,000.00.

430. Pursuant to NJSA 10:6-2(f), Plaintiff demands all attorney's fees and costs, including expert costs, to prosecute the within lawsuit, as a result of the City's deprivation of Plaintiff's civil rights.

WHEREFORE, Plaintiff demands judgment against the Council Defendants, individually, jointly and severally, in an amount to be proven at trial but which is in excess of \$2,000,000.00, for any and all damages sustained by Plaintiff as a result of the Council

Defendants' illegal conduct plus all attorney's fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT NINE

**(Violation of the New Jersey Civil Rights Act as to the Council Defendants, personally:
Interference of Plaintiff's Rights By Threat, Intimidation, and Coercion)**

431. Plaintiff re-alleges each and every fact set forth above as if set forth herein at length.

432. In relevant part, NJSA 10:6-2(c) provides:

Any person...whose exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with or attempted to be interfered with, by threats, intimidation or coercion by a person acting under the color of law, may bring a civil action for damages...

[Emphasis added].

433. In 2002, Plaintiff was appointed clerk of the City and as of December 6, 2013, enjoyed tenure in such position pursuant to NJSA 40A:9-133.7.

434. NJSA 40A:9-133.7 is a "law of this State."

435. As a tenured clerk for the City, Plaintiff was entitled to permanent employment, terminable only for cause after a proper hearing before the New Jersey Department of Community Affairs, as was known to the Council Defendants.

436. Specifically, NJSA 40A:9-133.7 provides that a municipal clerk cannot suffer any adverse employment action "for political reasons."

437. Plaintiff, therefore, possessed a legitimate claim of entitlement to the job position of municipal clerk for the City until she chose to retire.

438. As such, because of the New Jersey statutory proscriptions regarding a municipal clerk's tenured status, Plaintiff possessed a vested property right to her job, which is protected by the 14th Amendment of the United States Constitution.

439. Accordingly, Plaintiff had a vested right to her position as clerk, as provided by both, the “laws of this State” and as “secured” by “the Constitution or laws of the United States.”

440. Plaintiff’s constitutional and statutory rights were clearly established at the time each of the Council Defendants’ committed acts to interfere with those rights by “threat, intimidation and coercion.”

441. The Council Defendants were certainly well aware that Plaintiff enjoyed tenure pursuant to the New Jersey statutory authority and were aware, therefore, of Plaintiff’s vested rights to her position.

442. By constructively discharging the Plaintiff and committing the repugnant acts set forth herein, the Council Defendants interfered with Plaintiff’s vested property right to her job as clerk of the City by imposing intolerable working conditions that no reasonable employee in Plaintiff’s situation could possibly endure.

443. Such interference, as shown by the offensive acts explained thoroughly above, were certainly performed by threat, intimidation and coercion, and include but certainly not limited to:

- a. Greenman’s and Canestrino’s two hour imprisonment of Plaintiff in her office on September 17th ;
- b. The ambushing of Plaintiff with the City’s unconscionable ultimatum threatening termination if Plaintiff did not immediately resign;
- c. Labrosse’s unlawful threat to take away “comp” time from Plaintiff;
- d. Canestrino’s demand that Plaintiff provide an hourly log of her daily activities;
- e. Canestrino’s accusation that Plaintiff was committing theft by submitting phony time sheets;
- f. Greenman’s threats on September 16, 2013;

444. Further, the November 25th Resolution, as approved by each of the Council Defendants, also interfered with Plaintiff's 14th Amendment protected property right to her job as well as her tenure rights under New Jersey statute as a form of public intimidation and coercion to force Plaintiff's resignation.

445. As a result, the Council Defendants interfered by threat, intimidation and coercion of Plaintiff's rights under the laws of the State of New and United States in violation of Plaintiff's civil rights, as protected by the New Jersey Civil Rights Act, NJSA10:6-2.

446. As a result of such wrongful actions, Plaintiff has suffered and will continue to suffer lost wages in the amount of at least \$1,300,000.00.

447. As a result of the Illegal Defendants' illegal actions, Plaintiff has been damaged in an amount to be proven at trial but which is in excess of \$2,000,000.00.

448. Pursuant to NJSA 10:6-2(f), Plaintiff demands all attorney's fees and costs, including expert costs, to prosecute the within lawsuit, as a result of the City's deprivation of Plaintiff's civil rights.

WHEREFORE, Plaintiff demands judgment against the Council Defendants, individually, jointly and severally, in an amount to be proven at trial but which is in excess of \$2,000,000.00, for any and all damages sustained by Plaintiff as a result of the Council Defendants' illegal conduct plus all attorney's fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT TEN
(Violation of NJSA 34:19-1, et. seq. as to the City)

449. Plaintiff re-alleges each and every fact set forth above as if set forth herein at length.

450. The Conscientious Employee Protection Act (“CEPA”), NJSA 34:19-1, et. seq., and commonly known as New Jersey’s “whistleblower statute,” protects employees from adverse employment action as a result of the employee reporting, complaining, objecting and/or disclosing an employer’s unlawful conduct and/or an action the employee reasonably believes is unlawful.

451. The City was Plaintiff’s employer and is included in the definition of an “employer” pursuant to NJSA 34:19-1, et. seq.

452. The facts serving as the predicate of Plaintiff’s CEPA claim are separate and distinct from the factual predicates of Plaintiff’s other claims and are substantially independent thereof.

453. The Sunshine Law, NJSA 10:4-14, provides that “[e]ach public body shall keep reasonably comprehensible minutes of all of its meetings showing...the subjects considered, the actions taken...and any other information required to be shown in the minutes by law, which shall be promptly available to the public...”

454. NJSA 10:4-17 assesses monetary penalties for “any person” who violates the Sunshine Law.

455. NJSA 40A:9-133 provides that “[t]he municipal clerk shall (1) act as secretary of the [City] and custodian ...of all minutes...[and] (2)... keep a journal of the proceedings of every meeting...”

456. Therefore, Plaintiff's job duties included keeping the "minutes" of each public meeting of the City council, both the "public" session and the "closed" session of the meetings.

457. As part of the Sunshine Law, New Jersey mandates that a public employee must receive prior written notice from a public employer before City officials can discuss his/her job performance so that said employee can choose to have such discussion in public, commonly referred as a "Rice Notice."

458. In her over ten years as City clerk, as was the practice of her predecessor, Plaintiff would circulate the minutes of each meeting two or three weeks after the particular meeting.

459. As to the City, the "minutes" are then posted online so that the general public can readily ascertain what transpired at a meeting or a City resident can obtain a "hard copy" format of the minutes from the City clerk's office.

460. Accordingly, it is vital that the "minutes" of meetings of the Mayor and Council are accurately recorded pursuant to the Sunshine Law.

461. During the "closed" session of the September 16th COW meeting, Canestrino and Greenman addressed Plaintiff's job performance.

462. Specifically, Greenman accused Plaintiff of having a "no show job."

463. It was also during the September 16th COW meeting that Plaintiff was blamed by the City for paying an outstanding invoice at the September 3, 2013 meeting of the City and Council.

464. No Rice Notice had been given to Plaintiff advising her that the City Council would address her job performance at the September 16th COW meeting.

465. As the statute requires Plaintiff to keep an accurate record of the minutes of all meetings of the Mayor and Council, Plaintiff included these topics in the “minutes” she circulated to the Council Defendants on or about October 18, 2013.

466. Later that same afternoon of October 18th, Canestrino, as Deputy Mayor, and Greenman, as a councilwoman, appeared in Plaintiff’s office at City Hall to force her to fraudulently alter the minutes by eliminating the portions regarding 1) Canestrino’s and Greenman’s discussion about Plaintiff’s job performance, which violated the Sunshine Law; 2) Greenman’s “no show job” comment; and 3) Canestrino’s blaming Plaintiff for the City’s payment of an invoice at the September 3rd meeting, off three acts of which violated the Sunshine Law.

467. Apparently, by this point in time, the Council Defendants had become aware that the City’s actions at the September 16th COW meeting as to Plaintiff violated State law.

468. As New Jersey statute mandates that Plaintiff, as municipal clerk, accurately prepare the minutes of the meetings, Plaintiff immediately verbally objected to her superiors’ instructions to revise the minutes in such a fraudulent manner.

469. Plaintiff’s objection was reasonable as she believed she was being forced to participate in an activity that was 1) fraudulent; 2) an express violation of the Sunshine Law; and 3) a violation of the State statute proscribing that a municipal clerk shall keep a “journal of the proceedings of every meeting.”

470. It is readily apparent that Greenman and Canestrino were now covering up three Sunshine Law violations by demanding that, in a further violation of the Sunshine Law, Plaintiff fraudulently alter the minutes.

471. Plaintiff thereafter immediately disclosed and reported to Labrosse, the City's Mayor, and the other Council Defendants, all of whom were Plaintiff's superiors, in writing, that the City was attempting to fraudulently revise the minutes to cover up the Sunshine Law violations.

472. Despite Plaintiff's objection, complaint, and reporting of the unlawful activity, a revised set of fraudulent minutes were approved by the City and the Council Defendants to cover up the City's previous unlawful conduct at the September 16th COW meeting.

473. The Council Defendants essentially covered up Sunshine Law violations by committing another Sunshine Law violation.

474. As a result of Plaintiff's 1) refusal to participate in the fraudulent revision of the September 16th COW minutes and 2) reporting to her superiors about the fraudulent revision of the September 16th COW minutes, the City took retaliatory action against the Plaintiff by constructively discharging her, including passing the November 25th Resolution to suspend and terminate Plaintiff.

475. The Council Defendants, as upper management of the City, actually participated in the adverse employment action taken against the Plaintiff.

476. The City's conduct violated Plaintiff's CEPA rights entitling Plaintiff to attorney's fees, costs, and punitive damages pursuant to NJSA §34:19-5.

WHEREFORE, Plaintiff demands judgment against the City in an amount to be proven at trial but which is in excess of \$2,000,000.00, for any and all damages sustained by Plaintiff as a result of the City's illegal conduct plus all attorney's fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT ELEVEN
**(Violation of NJSA 34:19-1, et. seq.
as to the Council Defendants, individually)**

477. Plaintiff re-alleges each and every fact set forth above as if set forth herein at length.

478. The Council Defendants are considered “employers” under CEPA as they are individuals acting directly or indirectly on behalf of the City with the City’s consent pursuant to NJSA 34:19-1, et. seq..

479. The Council Defendants, as the City’s Mayor, Deputy Mayor, and Council members, are the upper management of the City.

480. The Sunshine Law, NJSA 10:4-14, provides that “[e]ach public body shall keep reasonably comprehensible minutes of all of its meetings showing...the subjects considered, the actions taken...and any other information required to be shown in the minutes by law, which shall be promptly available to the public...”

481. NJSA 10:4-17 assesses monetary penalties for “any person” who violates the Sunshine Law.

482. NJSA 40A:9-133 provides that “[t]he municipal clerk shall (1) act as secretary of the [City] and custodian ...of all minutes...[and] (2)... keep a journal of the proceedings of every meeting...”

483. Therefore, Plaintiff’s job duties included keeping the “minutes” of each public meeting of the City council, both the “public” session and the “closed” session of the meetings.

484. As part of the Sunshine Law, New Jersey mandates that a public employee must receive prior written notice from a public employer before City officials can discuss his/her job

performance so that said employee can choose to have such discussion in public, commonly referred as a “Rice Notice.”

485. In her over ten years as City clerk, as was the practice of her predecessor, Plaintiff would circulate the minutes of each meeting two or three weeks after the particular meeting.

486. As to the City, the “minutes” are then posted online so that the general public can readily ascertain what transpired at a meeting or a City resident can obtain a “hard copy” format of the minutes from the City clerk’s office.

487. Accordingly, it is vital that the “minutes” of meetings of the Mayor and Council are accurately recorded pursuant to the Sunshine Law.

488. During the “closed” session of the September 16th COW meeting, Canestrino and Greenman addressed Plaintiff’s job performance.

489. It was also during the September 16th COW meeting that Plaintiff was blamed by the City for paying an outstanding invoice at the September 3, 2013 meeting of the City and Council.

490. No Rice Notice had been given to Plaintiff advising her that the City Council would address her job performance at the September 16th COW meeting.

491. As the statute requires Plaintiff to keep an accurate record of the minutes of all meetings of the Mayor and Council, Plaintiff included these topics in the “minutes” she circulated to the Council Defendants on or about October 18, 2013.

492. Later that same afternoon of October 18th, Canestrino and Greenman, as part of the City’s upper management, appeared in Plaintiff’s office at City Hall to force her to fraudulently alter the minutes by eliminating the portions regarding 1) Canestrino’s and Greenman’s discussion about Plaintiff’s job performance; 2) Greenman’s “no show job”

comment; and 3) Canestrino's blaming Plaintiff for the City's payment of an invoice at the September 3rd meeting, all three topics of which violated the Sunshine Law.

493. Apparently, by this point in time, the Council Defendants had become aware that the Council Defendants violated State law.

494. As New Jersey statute mandates that Plaintiff, as municipal clerk, accurately prepare the minutes of the meetings, Plaintiff immediately verbally objected to her superiors' instructions to revise the minutes in such a fraudulent manner.

495. The Council Defendants, specifically Greenman and Canestrino, were attempting to cover up Sunshine Law violations by committing a further Sunshine Law violation.

496. Plaintiff's objection was reasonable as she believed she was being forced to participate in an activity that was 1) fraudulent; 2) a violation of the Sunshine Law; and 3) a violation of the State statute proscribing that a municipal clerk shall keep a "journal of the proceedings of every meeting."

497. It is readily apparent that Greenman and Canestrino were now covering up the Sunshine Law violations and demanding, in a further violation of the Sunshine Law, that Plaintiff fraudulently alter the minutes.

498. Plaintiff thereafter immediately disclosed and reported to Labrosse, the City's Mayor, and the other Council Defendants, all of whom were Plaintiff's superiors, in writing, that the Council Defendants were attempting to fraudulently alter the minutes.

499. Despite Plaintiff's objection, complaint, and reporting of the unlawful activity, a revised set of fraudulent minutes were approved by the Council Defendants to cover up the Council Defendants' unlawful conduct at the September 16th COW meeting.

500. The Council Defendants, therefore, successfully covered up Sunshine Law violations by committing another.

501. As a result of Plaintiff's 1) refusal to participate in the fraudulent revision of the September 16th COW minutes and 2) reporting to her superiors about the fraudulent revision of the September 16th COW minutes, the Council Defendants took retaliatory action against the Plaintiff by constructively discharging her, including passing the November 25th Resolution to suspend and terminate Plaintiff.

WHEREFORE, Plaintiff demands judgment against the Council Defendants, individually, jointly and severally, in an amount to be proven at trial but which is in excess of \$2,000,000.00, for any and all damages sustained by Plaintiff as a result of the Council Defendants' illegal conduct plus all attorney's fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT TWELVE

(Violation of NJSA: 10:5-1, et. seq. Creation of a Hostile Work Environment as to the City)

502. Plaintiff re-alleges each and every fact set forth above as if set forth herein at length.

503. NJSA 10:5-1, et. seq., New Jersey's Law Against Discrimination Act, bans same gender discrimination and harassment.

504. The City never would have treated Plaintiff the way that it did if Plaintiff was a male.

505. The actions by the City in creating intolerable, unconscionable and offensive working conditions would not have occurred but for Plaintiff's female gender.

506. Similarly situated employees in equivalent positions in the City who were males never received the type of intolerable treatment Plaintiff suffered.

507. The City's unconscionable and intolerable acts were certainly pervasive and severe enough to make a reasonable woman believe that the conditions of employment were altered and that her working environment was hostile and abusive.

508. As a result of the City's harassment and intolerable working conditions, Plaintiff was constructively discharged from her employment on December 6, 2013.

509. Plaintiff has been damaged in an amount to be proven at trial but which is in excess of 2,000,000.00.

510. Under the LAD, Plaintiff is also entitled to attorney's fees (including fee enhancement), costs and because of the willful malicious and wanton nature of the City's behavior, an award of punitive damages.

WHEREFORE, Plaintiff demands judgment against the City in an amount to be proven at trial but which is in excess of \$2,000,000.00, for any and all damages sustained by Plaintiff as a result of the City's illegal conduct plus all attorney's fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT THIRTEEN

(Violation of NJSA: 10:5-1, et. seq. Aiding and Abetting the Creation of a Hostile Work Environment as to Greenman, Canestrino and Labrosse)

511. Plaintiff re-alleges each and every fact set forth above as if set forth herein at length.

512. Greenman and Canestrino aided and abetted in the City's harassment of Plaintiff, including but not limited to, by ordering the City's personnel director to stand guard at Plaintiff's office door while Greenman and Canestrino imprisoned Plaintiff in her office for two hours.

513. Greenman aided in the harassment of Plaintiff by verbally threatening her multiple times and by scolding “I’ll deal with you later” on September 16th.

514. Greenman and Canestrino further aided and abetted the City’s harassment of Plaintiff by continuing to bully Plaintiff between mid-September 2013 through December 6, 2013.

515. Labrosse aided and abetted the City’s harassment of Plaintiff by ignoring Plaintiff’s several complaints to him about the treatment she was suffering.

516. Plaintiff has been damaged in an amount to be proven at trial but which is in excess of 2,000,000.00.

517. Under the LAD, Plaintiff is also entitled to attorney’s fees (including fee enhancement), costs and because of the willful, malicious and wanton nature of Labrosse’s, Greenman’s and Canestrino’s respective behavior, an award of punitive damages.

WHEREFORE, Plaintiff demands judgment against the Labrosse, Greenman and Canestrino, respectively, in an amount to be proven at trial but which is in excess of \$2,000,000.00, for any and all damages sustained by Plaintiff as a result of their illegal conduct plus all attorney’s fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT FOURTEEN
(Violation of Plaintiff’s Tenure Rights Pursuant to NJSA 40A:9-133.7:
as to the City and Council Defendants)

518. Plaintiff re-alleges each and every fact set forth above as if set forth herein at length.

519. Plaintiff enjoyed tenure as City clerk pursuant to applicable New Jersey statute.

520. As Plaintiff enjoyed tenure, no adverse employment action could be taken against her by the City and Council Defendants “for political reasons.”

521. As Plaintiff enjoyed tenure, she was only subject to termination for good cause after a proper hearing before the New Jersey Department of Community Affairs.

522. As outlined numerous herein, Plaintiff became a political target of the City and Council Defendants from the moment she began residing with Salkin and was considered affiliated with the Opposing Political Group.

523. E-mails amongst City employees and its’ spokesperson are replete with explicit references that Plaintiff was a political foe and affiliated with and/or a supporter of the Opposing Political Group.

524. Evidence of the City’s and Council Defendants’ perception of Plaintiff as a member and/or supporter of the Opposing Political Group is expressly set forth in the Newsletter published by the City.

525. By creating intolerable working conditions for the Plaintiff, the City and the Council Defendants constructively discharged Plaintiff in violation of her tenure rights.

526. By providing Plaintiff with an unconscionable ultimatum, resignation or termination, the City and the Council Defendants violated Plaintiff’s tenure rights.

527. By voting unanimously to suspend and terminate Plaintiff on November 25, 2013, the City and Council Defendants violated Plaintiff’s tenure rights.

528. As a result of the City’s and the Council Defendants’ violation of Plaintiff’s tenure rights, Plaintiff has been damaged in an amount to be proven at trial but which is in excess of 2,000,000.00.

WHEREFORE, Plaintiff demands judgment against the Council Defendants, jointly and severally, in an amount to be proven at trial but which is in excess of \$2,000,000.00, for any and all damages sustained by Plaintiff as a result of their illegal conduct plus all attorney's fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT FIFTEEN
(Defamation: as to the City and Greenman, individually)

529. Plaintiff re-alleges each and every fact set forth above as if set forth herein at length.

530. Greenman, in her individual capacity and/or in her capacity as a councilwoman for the City, called Plaintiff "a coiled snake" to third-parties.

531. She further added, "You may give [her] food and keep [her] warm, [she] will strike at you, nevertheless, given a chance."

532. Greenman published such comments in writing to third-parties.

533. The term snake is very widely known to be a derogatory term which is used to compare a human being to a venomous reptile.

534. Greenman's statement that Plaintiff is "a coiled snake" was a clear, intentional false remark broadcasted to third-parties that lowered Plaintiff's reputation in the Hackensack community.

535. Greenman, Plaintiff's superior, knew Plaintiff was not "a coiled snake" and therefore she knew her statement to be false.

536. Greenman also acted in a complete disregard for the truthfulness or falsity of publishing that Plaintiff was a "snake."

537. As a result, Plaintiff has suffered damages.

WHEREFORE, Plaintiff demands judgment against the City and Greenman, jointly and severally, in an amount to be proven at trial but which is in excess of \$75,000.00, and for any and all damages sustained by Plaintiff as a result of their illegal conduct plus all attorney's fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT SIXTEEN

(Intentional Infliction of Emotional Distress as to All Defendants)

538. Plaintiff re-alleges each and every fact set forth above as if set forth herein at length.

539. The Defendants' conduct towards Plaintiff was outrageous and extreme in character which went beyond all possible bonds of decency.

540. The Defendants was intentionally malicious and for no other reason than Plaintiff's personal relationship and political affiliation.

541. Such conduct includes:

- a. Targeting Plaintiff for her personal relationship;
- b. Targeting Plaintiff for her perceived political affiliation;
- c. Imprisoning Plaintiff in her office for two hours while stationing another City employee to "stand guard";
- d. Verbally berating Plaintiff on a number of occasions;
- e. Threatening Plaintiff;
- f. Ambushing Plaintiff with an unconscionable ultimatum;
- g. Publicly humiliating and ridiculing Plaintiff during her employment;
- h. Publicly humiliating and ridiculing Plaintiff even after her employment;
- i. Calling Plaintiff a "coiled snake";
- j. Calling Plaintiff "brazen" and "stupid";

- k. Comparing Plaintiff's engagement ring to that of a novelty found in a cracker jacks box;
- l. Attempting to unlawfully change the terms of her compensation;
- m. Ignoring her multiple complaints about her working conditions;
- n. Blaming Plaintiff for mishandling OPRA requests when the Council Defendants knew it was at least a two person job;
- o. Blaming Plaintiff for mistakes in City resolutions when it was others who committed the mistakes;
- p. Demanding Plaintiff keep an hourly log of her daily activities;
- q. Accusing Plaintiff of theft;
- r. The Defendants' effectuation of their intent to "marginalize" Plaintiff; and
- s. Other repugnant conduct.

542. Plaintiff's treating general practitioner/medical doctor prescribed her Xanax and other anti-depressants as a result of the intolerable conditions of Plaintiff's work environment.

543. However, by late November/early December 2013, Plaintiff's medical doctor recommended to Plaintiff to resign from the City because her continued employment under those conditions would even cause her further physical ailments.

544. Another treating medical doctor at this time also recommended to Plaintiff that she had to resign from the City because of the physical toll being inflicted upon Plaintiff as a result of her working environment caused by the Council Defendants.

545. Plaintiff's psychologist at this time, as well, counseled her that she needed to resign her employment with the City because of the intolerable working conditions.

546. Plaintiff's psychologist observed a "downward spiral" of Plaintiff's mental health as a direct and proximate cause of the Defendants' abhorrent conduct.

547. By engaging in a concerted effort to oust Plaintiff, Defendant Rottino is also liable for all emotional and physical distress that has been inflicted upon Plaintiff.

WHEREFORE, Plaintiff demands judgment against all Defendants, jointly and severally, in an amount to be proven at trial but which is in excess of \$2,000,000.00, and for any and all damages sustained by Plaintiff as a result of their illegal conduct plus all attorney's fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

COUNT SEVENTEEN

(Civil Conspiracy as to the Council Defendants and Defendant Rottino)

548. Plaintiff re-alleges each and every fact set forth above as if set forth herein at length.

549. The Council Defendants and Rottino, a high ranking City employee appointed by the Council Defendants, were well aware that Plaintiff possessed tenure as the City's clerk and therefore enjoyed a constitutional protected entitlement to that position.

550. The Council Defendants and Rottino knew that Plaintiff could not suffer any adverse employment actions as a result of any "political reasons."

551. The Council Defendants and Rottino therefore agreed to participate in a scheme to 1) impose offensive and intolerable working conditions upon the Plaintiff to coerce her resignation and 2) create significant pretext to feign good cause to terminate Plaintiff.

552. By doing so, the Council Defendants and Rottino each understood the general objective of the scheme to terminate Plaintiff and make her life miserable, accepted that scheme, and agreed to do their respective part in the furtherance of their respective goal to "marginalize," torment and oust the Plaintiff.

553. Counts 1-16 above, including but not limited to, the violation of Plaintiff's constitutional rights, and the imposition of an intolerable working environment, were overt acts that have resulted in significant damage to Plaintiff.

WHEREFORE, Plaintiff demands judgment against the City, Council Defendants, and Rottino, jointly and severally, in an amount to be proven at trial but which is in excess of \$2,000,000.00, for any and all damages sustained by Plaintiff as a result of their illegal conduct plus all attorney's fees, expert fees, and costs incurred by Plaintiff to prosecute the within lawsuit.

JURY DEMAND

Plaintiff demands a trial by jury.

ARTURI, D'ARGENIO, GUAGLARDI & MELITI, LLP



Jason S. Nunnermacker, Esq.
Attorney for Plaintiff
Mack Centre I
365 W. Passaic Street, Suite 130
Rochelle Park, NJ 07662
201-947-4100
jnunnermacker@aadglaw.com

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