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LAURA HESTER; SAFIYA H. DANIELS, JAMES GARRISON, III; JONATHAN A. GILES, II; ZENA GURLEY; LAQUAN L. HUDSON; BRIAN M. SHIRDEN, THOMAS SPRINGS, MELVIN L. WEBB and JOSE MARTINEZ, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

NEW JERSEY TRANSIT; CHIEF JOSEPH BOBER, in an individual and corporate capacity; DEPUTY CHIEF JOSEPH KELLY, in an individual and corporate capacity; CAPTAIN EDWARD IANDOLI, in an individual and corporate capacity; and JOHN and JANE DOES 1-20,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – ESSEX COUNTY
DOCKET NO.: ESX-L-2614-09

Civil Action

AMENDED COMPLAINT AND JURY DEMAND

Plaintiffs Laura Hester ("Hester"), Safiya H. Daniels ("Daniels"), James Garrison, III ("Garrison"), Jonathan A. Giles, II ("Giles"), Zena Gurley ("Gurley"), Laquan L. Hudson ("Hudson"), Brian M. Shirden ("Shirden"), Thomas Springs ("Springs"), Melvin L. Webb ("Webb"), and Jose Martinez ("Martinez") (collectively herein referred to as "Plaintiffs"), by way of Complaint against Defendants New Jersey Transit ("NJ Transit"), Chief Joseph Bober ("Bober"), Deputy Chief Joseph Kelly ("Kelly"), and Captain Edward Iandoli ("Iandoli") (collectively herein referred to as "Defendants"), say:

THE PARTIES

1. During all times relevant to this Complaint, Plaintiffs were and continue to be employees of Defendant NJ Transit as the term "employees" is defined by the New Jersey Law Against Discrimination N.J.S.A. 10:5-1, et seq. ("LAD").

2. The Defendant NJ Transit is a person and employer as defined by the LAD. During all times relevant to this Complaint, Defendant NJ Transit was and is the employer of the Plaintiffs as that term is defined by the LAD.

3. During all times relevant to this Complaint, Chief Bober was an upper manager of Defendant NJ Transit and aided and abetted in the harassment, discrimination and retaliation as more fully alleged herein.

4. During all times relevant to this Complaint, Deputy Chief Kelly was an upper manager of Defendant NJ Transit and aided and abetted in the harassment, discrimination and retaliation against Plaintiffs as more fully alleged herein.

5. During all times relevant to this Complaint, Captain Iandoli was an upper manager of Defendant NJ Transit and aided and abetted in the harassment, discrimination and retaliation as more fully alleged herein.

6. During all times relevant to this Complaint, John and Jane Does 1-20 are individuals working at Defendant NJ Transit who aided and abetted the discriminatory, retaliatory and harassing actions against Plaintiffs.

VENUE

7. Pursuant to Rule 4:3-2, venue is proper in Essex County because the events underlying Plaintiffs' causes of action substantially occurred in Essex County, New Jersey.

Defendant NJ Transit's business operations are located in Essex County, and several of the Plaintiffs reside in Essex County, New Jersey.

BACKGROUND – COMMON TO ALL COUNTS

8. As described more fully herein, Defendant NJ Transit and Defendants Bober, Kelly, Iandoli and others have engaged in a continuing pattern and practice of harassment, disparate treatment, discrimination and retaliation against minority and female employees, including, but not limited to assessing unfair and harsher discipline, instigating arbitrary and unfounded Internal Affairs charges and investigations, discriminatory work assignments, discriminatory performance standards and evaluations, and unfair, closer and more stringent monitoring and oversight.

9. As set forth herein, Defendant NJ Transit's work environment was and currently is characterized by retaliation against any employee who complains about, resists, and/or otherwise opposes this illegal conduct. Defendants Bober, Kelly, Iandoli and others have utilized Defendant NJ Transit's Internal Affairs as an instrument to punish persons who oppose, complain about, or resist their harassing and illegal activities. Internal Affairs acted as Bober's enforcer for his discriminatory and retaliatory policies by investigating and, in most instances, punishing those who opposed him.

10. Defendant NJ Transit's EEO and CEPA office similarly conspired and cooperated with the Defendants to cover up and perpetuate this illegal conduct. Rather than prevent and remedy the illegal conduct, the EEO office's affirmative actions and omissions encouraged Defendants to further engage in the retaliatory, discriminatory and harassing conduct. The various individuals who conspired and cooperated with the Defendants in the

harassment, retaliation, and discrimination were rewarded by more favorable treatment, better opportunities and other forms of protection and cover.

11. Plaintiffs and other employees at Defendant NJ Transit knew that the complaint and investigation system was an arm of the discriminating upper management, which was used by defendant Bober to learn who opposed his discriminatory practices and to retaliate against them.

12. Throughout his career at NJ Transit, Bober openly and overtly engaged in discriminatory conduct toward minority employees in the presence of others. Minority employees were affected by the hostile and polluted work environment created by Bober and tolerated by NJ Transit. For example, Bober referred to Darryl Hampton, an African-American male officer, as "knuckles" specifically referring to an outrageous racial stereotype comparing African-Americans to apes, because gorillas drag their knuckles on the ground.

13. Bober also used racially offensive terms to refer to other African-American employees as "niggers" in the presence of other police officers.

14. African-American employees of Defendant NJ Transit have made complaints of racial harassment against NJ Transit and Bober. Defendants refused to take prompt and effective remedial action.

15. Similarly, Iandoli has repeatedly stated in the presence of other African-American officers that, "there ain't no niggers in NASCAR". These statements were offensive and degrading to African-American officers.

16. Defendant NJ Transit negligently, recklessly and/or intentionally (a) failed to have in place a well publicized and enforced anti-harassment and anti-retaliation policy; (b) failed to properly train its employees regarding compliance with any anti-harassment and

anti-retaliation policy; (c) failed to properly supervise its employees to ensure compliance with any anti-harassment and anti-retaliation policy; (d) failed to make an unequivocal commitment from the top of the organization to any anti-harassment and anti-retaliation policy as not just words but backed up by consistent practice; and (e) failed to protect Plaintiffs and others similarly situated from abuse, harassment, discrimination and retaliation in the workplace.

17. Defendant NJ Transit negligently, recklessly and/or intentionally failed to take prompt, appropriate and/or reasonable remedial steps to prevent, stop and remedy the harassment and retaliation aimed at Plaintiffs. By and through its agents, Defendant NJ Transit fostered a discriminatory, harassing and retaliatory atmosphere and allowed actions, which consisted of harassment, discrimination, and retaliation in violation of the LAD.

FIRST COUNT
(Allegations By Laura Hester)

18. Plaintiffs repeat the previous allegations as set forth at length herein.

19. Hester is the first African-American female officer in the history of NJ Transit. As described in detail below, throughout Hester's tenure at NJ Transit, Defendants and those working in concert with them discriminated against her, undermined her authority, retaliated against her, humiliated her and otherwise caused a hostile environment.

20. In 2005, Hester was moved to Secaucus as the officer in charge. At Secaucus, Bober further targeted Hester for retaliation and created a hostile environment in a variety of ways. Bober unfairly and harshly criticized Hester in front of her peers and subordinates, denied training for her officers, made derogatory comments about her command, and otherwise failed to recognize the accomplishments of Secaucus under Hester's command. In fact, as a result of Hester's command, Chief Bober received an award from the Bergen

County Traffic Association. This awarded recognized Secaucus for its productivity and cross enforcement in Bergen County.

21. On or about December 29, 2006, Hester was promoted to Captain. At that time Hester was provided a company vehicle and Bober informed her "to use it as you need it." In response to Hester's request, Bober specifically gave her permission to pick up her children from school utilizing the vehicle.

22. Hester's first assignment was as a relief captain.

23. In addition, Hester was charged with performing command inspection for all of the NJ Transit stations to ensure compliance with New Jersey Attorney General Guidelines.

24. In March 2007, Hester was featured in the NJ Transit newspaper as the first African American and first female captain. Shortly thereafter, Bober advised Hester that she was "being used" by NJ Transit and discouraged her from interviewing with the Star Ledger, which wanted to do an article about Hester. Bober was annoyed by the attention that Hester received as a result of the promotion. Based on Bober's request, Hester did not allow the newspaper to interview her.

25. In July 2007, Hester replaced Captain Lucarelli as the officer in charge of Central Communications Center ("CCC"), Records, Policy and Procedure, Special Events and the Computer Aided Dispatch project.

26. Bober continued his discriminatory and harassing conduct, including, but not limited to: (i) abusing Hester during morning conference calls with her peers, (ii) ridiculing Hester in front of subordinates, (iii) placing excessive demands on Hester, and (iv) giving Hester more follow ups than any other captain.

27. In order to accommodate Bober's increasing demands, Hester requested permission from Bober to train officers on the dispatcher duties. Bober flatly rejected this request and then further targeted Hester by placing more demands on her command notwithstanding the personnel shortages, and targeted her chain of command for discipline.

28. Bober regularly demeaned Hester by referring to her as Lieutenant Hester (rather than Captain) at Compstat meetings. This denigrating conduct was done on several occasions and obviously to the pleasure of Bober and the other officers in the room, who openly laughed at this mockery of Hester. Bober also assigned Hester additional work that no other captains were required to do which, in turn, interfered with her ability to focus on her primary command responsibilities.

29. Around the same time, Bober attempted to pit Hester against a female lieutenant, Kathleen Shanahan. Bober would repeatedly tell Hester not to trust Lieutenant Shanahan claiming that she lied in a case that NJ Transit had lost. At that time, Lieutenant Shanahan was the relief lieutenant covering CCC officers who were on vacation. When she did not have a position to cover for CCC, Lieutenant Shanahan worked for Hester in the records division. Bober directed Hester not to let Shanahan see any important records, but instead ordered that Shanahan input motor vehicle tickets into the computer -- a demeaning and menial task for a lieutenant. Bober also directed Hester to "keep an eye" on Lieutenant Shanahan.

30. Shortly thereafter Lieutenant Shanahan was transferred to the busiest work shift at the CCC in Newark. This was known as the "punishment detail". Bober immediately implemented a pattern of harassment against Shanahan and tried to coerce Hester to join the discrimination and retaliation. When Hester refused, Bober accused her of taking

Shanahan's side. Bober then threatened Hester's job by telling her that she did not want to be a captain because she refused to "write up" subordinates as directed by Bober. Hester refused stating that it was not her practice to write up subordinates for matters that could not be substantiated.

31. In or around October of 2007, Hester questioned Bober about his preferential treatment of Investigator Maureen Scianimanico ("Scianimanico"), who was allowed to receive management excused time, although captains were not compensated for their additional work hours. Scianimanico was/is one of Bober's inner circle and enforcer.

32. In November of 2008, Bober advised Hester that she was taking over South Region 1 command. Hester accepted the opportunity and requested to select her executive officer - - a standard practice at Defendant NJ Transit. Bober refused and advised her that he had decided that Sergeant Reichert ("Reichert") would be assigned as Hester's executive officer.

33. Thereafter, unbeknownst to Hester, Reichert was reassigned to another position and therefore, Hester was not assigned a sergeant. Moreover, while Bober had initially told Hester that he was going to relieve her of her duties as head of CCC and allow her to run South Region 1, this never happened. Thus, Hester was responsible for two different chains of commands in two parts of the state without any executive officer to assist. Each time Hester requested support, Bober told her to "suck it up". Similarly situated white, male officers were treated more favorably than Hester.

34. Bober placed more demands on Hester by requiring her to attend conference calls and deal with ministerial matters. None of these demands were placed on the other white captains. At that time Hester was in charge of CCC, policy and procedure, Camden,

Atlantic City, Trenton, special events and the CAD project with an average of 20 to 30 follow ups per day. These follow ups did not allow Hester to get her other work done and it was clear that Bober was setting her up for failure.

35. On or about December 26, 2007, Captain Kelly sent Hester an email to investigate Lieutenant Shanahan for allegedly not searching a female prisoner in North Penn Station. When Hester was initially assigned this investigation, she spoke with Iandoli from Internal Investigations and asked him to assign it to another officer because she was too busy covering two commands. Iandoli refused for reasons that Hester later found were pretextual. Iandoli directed Hester to at least charge Lieutenant Shanahan with unsatisfactory work performance. Hester was shocked by this directive because she had not even performed an investigation and it appeared as though Bober and Iandoli had determined beforehand that Shanahan was guilty. Following Hester's investigation, she determined that Lieutenant Shanahan did not violate any policies and, therefore, did not refer charges to Internal Affairs.

36. Shortly thereafter, two officers working for Hester in South Region 1 worked overtime on their vacation. When Hester put them in for overtime pay, she was advised by Bober that they would not be paid. Bober screamed at her that she did not know the contract and she did not know what she was doing. After belittling Hester, Bober authorized the pay for the two officers because it was in accordance with NJ Transit policy. Hester was subjected to harassing and abusive conduct by Bober on a regular basis.

37. In furtherance of his policy and practice of discrimination, harassment and retaliation, on or about December 31, 2008, Bober and Kelly went to Camden to inspect the conditions of the workplace. Following a so-called inspection, Bober sent Hester an email ridiculing the condition of the Camden workplace. Bober also demeaned and harassed

Sergeant Webb, an African-American officer stationed at Camden, about the conditions. In response to Bober's inspection, Sergeant Webb took pictures of the command, which demonstrated that Bober had lied about the conditions. In response to Bober's email, Hester went to Camden to inspect the conditions and determined that they were not as Bober had described them.

38. Thereafter, during a proposed Amtrak strike, Bober ostracized Hester by having a meeting with all of the captains about it with the exception of Hester. Hester was marginalized and not given any information at all about the strike.

39. In late January of 2008, Officer Onesti ("Onesti") submitted a charge against Deputy Captain Kelly for violation of policies and procedures. Hester forwarded the investigation to Internal Affairs, but it was sent back to her by Lieutenant Iandoli, who stated that he wanted her to investigate it first before referring it. Hester informed Iandoli that the Attorney General's guidelines as well as NJ Transit's policies and procedures required that she forward the investigation to Internal Affairs so it could conduct a full investigation. Iandoli again refused to investigate the claim and informed Hester that it was her job to "weed out" charges at her level so officers "could not just make claims against command staff." After Hester told Iandoli that there was a conflict of interest because she was a witness to some of the complaints, Bober, Kelly and Iandoli expressed their dissatisfaction with Hester's decision. It was clear to Hester that they wanted her to find no merit with Onesti's charge and dismiss it without any Internal Affairs investigation. At the same time, Bober began to refer as Lieutenant Iandoli as "captain". Shortly thereafter, Iandoli, who regularly did Bober's bidding -- no matter how illegal or unethical -- was promoted.

40. On or about February 12, 2008, Bober called Hester into his office. Internal Affairs officers Iandoli and Scianimanico were also present. They began asking Hester several questions about the Shanahan investigation and specifically how and why Hester exonerated Shanahan. For over an hour, the group grilled Hester with questions about the investigation and falsely accused her of not following proper procedure. During the meeting it became clear that the group wanted Hester to change her conclusions regarding Shanahan. When Hester advised the group that she would not change her conclusions, Investigator Scianimanico stated that she (Scianimanico) would have to "salvage the investigation." Hester was then told not to discuss the meeting with anyone. Hester believed that Bober and his inner circle were attacking Shanahan as part of their pattern and practice of retaliation.

41. As a result of not charging Shanahan, Hester became the target of an Internal Affairs investigation for the first time in her fourteen (14) year career.

42. Shortly thereafter, Lieutenant Rodgers ("Rodgers"), a union official, was accused of violating transit policy and procedure. Bober directed Hester to perform an investigation. Since Rodgers did not have this type of error in the past, Hester recommended counseling. Bober, who had previously voiced anti-union sentiment on numerous occasions, insisted that a complete investigation be performed.

43. Around the time of the Rodgers' investigation, Bober mistakenly forwarded Hester an email critiquing her performance and implying that she violated policy and procedure. When Hester reviewed this email, she responded that Bober was setting her up for failure by giving her two commands of duty in two different part of the state without help. She also informed him that she was aware that three (3) lieutenants had emailed him

requesting to be her executive officer, but he never replied to any of them. Hester concluded the email stating that she was being harassed by Bober.

44. At a meeting shortly thereafter, Bober accused Hester of not cooperating with his investigation. In response to Hester's continuing complaints about the hostile work environment, Bober told her that he didn't think she wanted to be part of his command staff.

45. Two days after that meeting, Hester received an email to report to Internal Affairs in connection with an investigation into her conduct in the Shanahan investigation. She advised Investigator Scianimanico that she wanted to retain an attorney. Scianimanico advised Hester that she was not entitled to an attorney and ordered her to report for the meeting. Scianimanico's directive was in violation of Hester's legal rights.

46. Hester retained an attorney who sent a letter to Defendant NJ Transit stating that Hester's rights had been violated and threatening a lawsuit if such violations continued.

47. In response to that letter, Internal Affairs scheduled a meeting and Hester brought Lieutenant Marinelli with her as a representative. At the start of the meeting, Internal Affairs said that Lieutenant Marinelli could attend, but not say anything because Hester was not entitled to any representation. Hester was asked the same questions that the group, e.g., Bober, Iandoli and Scianimanico, had confronted her with earlier in the month regarding the Shanahan investigation. Internal Affairs, like Bober, continued to focus on the unsubstantiated allegation by a male subordinate that Lieutenant Shanahan did not perform her duty because it was "beneath her".

48. Hester requested a copy of the tape of her Internal Affairs interview, but in violation of policy and procedure, Internal Affairs never produced the tape.

49. Shortly thereafter, Hester was then questioned by Bober regarding the timeliness of her investigations. When white officers, like Lieutenant Armbruster, handed in late investigation reports, Bober never questioned the timeliness of their reports.

50. In early March of 2008, Hester was told to contact Richard Andreski ("Andreski"), the Executive Assistant to Executive Director of Defendant NJ Transit, Sarles. Hester called Mr. Andreski and advised him about the harassment and retaliation that she and others were experiencing at the hands of Bober. Andreski assured Hester that Executive Director Sarles knew that Bober had excessive charges against him and was generally abusing his powers. Mr. Andreski told Hester that "they were trying to work something out but could not go into the details."

51. In March 2008 Hester's attorney wrote to Scianimanico complaining about the preferential treatment of subordinate male officers at the expense of female supervisors.

52. NJ Transit never conducted any investigation into Hester's complaints of discrimination, harassment and retaliation.

53. Thereafter, on or about March 19, 2008, two sergeants were promoted to lieutenant, but neither of those individuals was assigned within Hester's chain of command.

54. On March 20, 2008, in accordance with Bober's directive and as a result of fear of retaliation, Hester submitted her charges in the Rodgers case.

55. The following day, Hester was the subject of an anonymous Internal Affairs complaint and investigation. She was told by Lieutenant Iandoli that the complaint involved her driving her son home in a police car. Hester advised Iandoli that she would bring a representative to the meeting to which Iandoli protested. Hester brought her attorney and was advised that the attorney could sit in on the meeting, but not participate. At that time,

Hester's attorney made it clear that Defendant NJ Transit's Internal Affairs investigation was interfering with her client's rights guaranteed by the Attorney General's guidelines. During that meeting, Hester produced an October 31, 2007 email wherein Bober had provided her permission to use the vehicle to pick up her children on the way home from work. Hester heard nothing further regarding this pretextual and retaliatory internal affairs complaint.

56. On or about March 31, 2008, Hester responded to Phillip Isaac ("Isaac"), the New Jersey Transit CEPA officer, to answer questions about a complaint by Lieutenant Rodgers against Bober. During the interview, Hester told Isaac in the presence of Kim Debendictis that Bober had forced her to charge Rodgers. Hester informed them that when she failed to file charges in the Shanahan case, she became the subject of an Internal Affairs investigation for the first time in her career. Hester explained to them that she did not want to charge Rodgers, but her job was threatened by Bober. In response to that, Isaac quoted a book from the Hitler régime stating words to the effect that " just because you were ordered to do something is not an excuse for doing it." Hester explained that she followed Bober's orders because she was threatened by and in fear of further retaliation from Bober. Hester explained that she had complained about these matters to Bober, but advised Isaac that this was a formal complaint regarding Bober's illegal conduct. Isaac responded that he was only interested in the case before him and he had no interest in Hester's claims of abuse and retaliation against Bober. Isaac was openly hostile to Hester during this meeting.

57. Defendant NJ Transit conducted no investigation into Hester's complaint of harassment, discrimination and retaliation.

58. In the beginning of April, 2008, Hester submitted a performance evaluation on Dispatcher Zena Gurley, an African-American. Gurley's performance was exceptional and Hester believed it warranted an "exceeds expectation" evaluation.

59. As part of his pattern and practice of discrimination against women and African-Americans, Bober refused to accept Gurley's performance evaluation and, on several occasions, returned it to Hester to be lowered. Hester refused this illegal directive. Bober's objections persisted and finally Hester was required to attend a meeting with Bober and Kelly to justify her evaluation of Gurley.

60. At the same time, Hester completed Dispatcher O'Neil's, a white, male dispatcher, performance evaluation and evaluated him as exceeds expectations, which Bober did not have any problem approving.

61. In or around the same time Hester applied and interviewed for Deputy Chief but the position was given to Amberg, a less qualified, white male.

62. On or about April 7, 2008, Hester attended a second meeting with Isaac. Again during that meeting, Isaac tried to get Hester to acknowledge that the charges against Rodgers were warranted. Hester maintained that she was coerced and threatened by Bober to file the charges. In retaliation, later that day, in the presence of her peers and subordinates, Bober berated and belittled Hester during a telephone conference.

63. On or about April 18, 2008, Isaac issued a letter in the Rodgers matter recommending that the charges be dropped. In that letter, Isaac stated that Hester did not want to pursue the charges against Rodgers but did so due to fear of retaliation by Bober and Internal Affairs just as they had done in the Shanahan matter. Shortly thereafter, Bober initiated an Internal Affairs investigation into Hester's chain of command.

64. During this time period, Bober continued to harass Hester over various insignificant issues. For example, he expressed his displeasure with Hester wearing a short-sleeved shirt notwithstanding the fact that it was permitted by policy and procedure. Bober told Hester that he preferred that his captains wear long sleeves at all times - - a violation of policy and procedure. In addition, all of the other captains were issued NJ Transit police trench coats, but Hester was excluded.

65. By way of further example, Bober harassed Hester for several weeks regarding the creation of a vacation schedule. Bober made Hester recreate the document on multiple occasions for no reason other than to harass Hester. This conduct by Bober further marginalized and demeaned Hester.

66. Thereafter, Hester was informed by Bober that he had assigned Lieutenant Armbruster to her Atlantic City command. Hester was not only perplexed by this assignment because historically captains were permitted to select their lieutenant, but also troubled because she knew that Armbruster was part of Bober's inner circle. It soon became clear that Armbruster was sent to undermine Hester's authority and he did so by consistently violating the chain of command, speaking disparagingly about Hester in front of others, and otherwise inappropriately usurping Hester's authority as captain.

67. On or about May 9, 2008, in a meeting with captains, Bober alleged that information was leaking out to the union leadership and being used against the department during contract negotiations. Bober made it clear that he was anti-union and it was management (non-union) against workforce (union). He also stressed that he wanted no information being shared with any of the officers to be used against NJ Transit.

68. Shortly thereafter, newly appointed Deputy Chief Kelly wasted no time becoming a surrogate for Bober and started harassing Hester about flyers that some of her officers handed out to commuters. As per Kelly's instruction, Hester identified the officers who handed out the flyers along with the dates of their activities. Kelly then compared this information to the officers' activity reports. Several of the officers did not document these flyer activities because it had not been required in the past. Kelly nevertheless directed Hester to counsel the five officers within her chain of command about the failure to document.

69. Believing this counseling to be inappropriate, Hester talked to other captains regarding whether or not Kelly had questioned them about their officer's activities and the distribution of flyers. Hester learned that no other captains were questioned and no other officers were counseled in connection with this flyer incident.

70. Thereafter, Kelly began to inappropriately monitor Hester. Hester was required to send Kelly an email every time she left South Jersey to go to Newark -- something no other captain was required to do.

71. Kelly and Bober would tag team Hester on various issues. On one occasion, Kelly called into the CCC in connection with a robbery and Bober could be heard in the background shouting, "I don't give a fuck about Hester, it's her responsibility." They would also send emails on the same topic back and forth to Hester. Kelly and Bober conspired with one another to harass and retaliate against Hester.

72. On or about July 3, 2008, Bober called Hester into his office before a Compstat meeting. Bober stated that Lieutenant Thomas had "thrown her under the bus." Bober explained that Thomas stated that Hester had sent him an email stating that he would

be a good candidate for executive officer position in South Jersey. Bober told Hester to send him an email about the selection process and state that she chose Lieutenant Armbruster for executive officer. Hester advised Bober that she did not select Lieutenant Armbruster and that she was not going to lie for Bober. Instead, Hester sent an email stating that she attended a meeting about the selection process for executive officer and Lieutenant Armbruster was selected.

73. Thereafter, Bober called Hester into his office again and stated that he needed a more specific email regarding the selection of Armbruster. Bober directed Hester to lie about the selection process. Bober became angry when Hester refused to lie as he requested.

74. On June 14, 2008, Bober reassigned a total of five (5) officers from the South Region 1 command to Northern New Jersey. Notwithstanding the fact that Hester had four (4) openings in her commands, she was not provided with any of the transferred officers. In fact, around this time Bober placed greater demands on her requiring more citations for motor vehicle violations and more arrests for theft of services.

75. Kelly also continued the harassment against Hester. While Hester was on vacation, and notwithstanding the fact that other captains were covering her responsibilities, Kelly sent her emails requesting information, which required immediate follow up upon her return to work. Kelly sent a total of seven (7) emails that required immediate attention upon her return. Kelly did not make these demands of other similarly situated white, male officers.

76. Bober continued to harass, discriminate against and retaliate against Hester in front of her contemporaries and subordinates. Notwithstanding the fact that Hester's statistics were comparable with other commands, Bober unfairly criticized her performance and selectively enforced rules and regulations against the officers within her command.

77. In August of 2008, Kelly reassigned two of Hester's officers within her chain of command to different locations without giving Hester any prior notice. This type of unilateral personnel order was not done in other commands and is further evidence of the disparate, discriminatory and retaliatory treatment afforded Hester.

78. Bober treated the white captains more favorably than Hester. Bober frequently socialized with the other captains, but ostracized and demeaned Hester.

79. Captain Hester engaged in further protected activity in the trial of Theresa Frizalone v. New Jersey Transit Corporation, Chief Joseph Bober and Captain Kevin Amberg, individuals in their official capacity as well as individual capacities, Docket number ESX-L-2630-06. During that trial, Hester truthfully testified to the pervasive discriminatory and retaliatory environment present at NJ Transit under Bober's leadership. Following her testimony, Deputy Attorney Generals Noreen Kemether and Pamela Gresham accused Hester of committing perjury during her testimony, which is a terminable offense under NJ Transit's policies and procedures. In so doing, Deputy Attorney Generals Kemether and Gresham joined in the retaliation against Hester, violated the protections of the attorney/client privilege and further jeopardized Hester's employment and caused emotional distress.

80. During the Frizalone trial Internal Affairs Investigator Scianimanico was called by NJ Transit as a witness. In her testimony Scianimanico participated in the retaliation against Hester for her truthful testimony by attacking Hester's work performance and claiming that Hester had lied on the witness stand.

81. In fact, Scianimanico lied under oath on the witness stand when she claimed that Hester had never complained of discrimination. Scianimanico had personally received a letter from Hester's attorney in March 2008 complaining of disparate treatment of officers.

82. Defendants' actions against Plaintiff Hester constitute harassment, retaliation, and discrimination in violation of the LAD.

83. As a result of Defendants' actions, Plaintiff Hester has suffered and continues to suffer severe mental anguish, humiliation, pain, distress, physical injury and exacerbation of existing physical conditions and reputational damage, as well as loss of earnings and other employment benefits.

SECOND COUNT
(Allegations By Safiya Daniels)

84. Plaintiffs repeat the previous allegations as set forth at length herein.

85. Plaintiff Safiya Daniels is an African-American police officer hired by NJ Transit on or about July 21, 2002.

86. Since her employment began, Daniels has been the victim of, and witnessed against other female and African-American employees, a continuing pattern and practice of discrimination, harassment, and retaliation.

87. In or around August of 2005, Daniels arrested an individual by the name of Arthur Wakefield for aggravated assault, resisting arrest and possession of a weapon.

88. Following this arrest, Wakefield filed charges against Daniels. In connection with that criminal complaint, subpoenas for Daniels were sent to NJ Transit but Daniels never received the subpoenas. As a result, and unbeknownst to Daniels, a warrant was issued for her arrest in connection with the Wakefield complaint.

89. In September 2005, Daniels received a phone call from Lieutenant Keelan informing her that there was a warrant out for her arrest and that she needed to turn herself in. Keelan told Daniels that NJ Transit would process her in-house.

90. Upon arriving at Penn Station on her day off, Daniels was the subject of ridicule by her co-workers. NJ Transit, in violation of its own policy, did not provide Daniels with any legal representation and, therefore, the judge was unaware that Daniels had been charged in her official capacity in connection with an arrest.

91. Two weeks later, again as a result of NJ Transit's failures, additional arrest warrants were issued for Daniels. Finally, Daniels appeared without representation and got the case dismissed based upon her own reports and *pro se* representation.

92. Throughout Daniels' career, she had been denied training opportunities, which were provided to white officers.

93. In July of 2006, Daniels was called to Internal Affairs and falsely accused of sleeping on duty. She was questioned in a hostile and unprofessional way by Captain Ricciardi. She was called to Internal Affairs for a second interview and asked the same questions again. Notwithstanding the hostility of these interviews, Daniels was never charged.

94. On several occasions, Daniels was warned by her immediate supervisor Sergeant Capriglione that she is the subject of the monthly sergeant meetings and that Bober was out to get her because she is an African-American female.

95. As part of defendants' pattern and practice of discrimination, harassment and retaliation against women and African-Americans, Daniels' performance was monitored unlike similarly situated non-minority employees and her performance was unfairly criticized.

96. On several occasions, Bober shunned Daniels in the presence of other officers. On some occasions Bober walked into a room, shook the hands of the other officers but pointedly ignored Daniels, causing her embarrassment.

97. More recently, Daniels has been harassed by the chain of command about the length of her hair. On several different occasions, she has been counseled for her hair allegedly touching her collar. White officers with their hair touching their collars have not been counseled.

98. On or about August 8, 2008, Daniels was informed by Sergeant Springs that Deputy Chief Kelly made negative comments about her performance. Specifically, Kelly contacted Springs to send over one of his best officers to take a theft report at 1 Penn Plaza. When Springs told Kelly that he was sending Daniels, Kelly told him to send somebody else. When Springs disagreed, Kelly insisted and, in accordance with Kelly's discriminatory instructions, a white officer with less seniority was sent to take the arrest report.

99. Daniels has been given discriminatory job assignments, including assignments considered punishment.

100. On September 23, 2008, Daniels was selected by Captain Stiehler to hand out flyers at Penn Station for six hours, although white male officers had to carry out similar assignments for only two hours.

101. Defendant NJ Transit's actions against Plaintiff Daniels constitute harassment, discrimination and retaliation in violation of the LAD.

102. As a result of Defendants' actions, Plaintiff Daniels has suffered and continues to suffer severe mental anguish, humiliation, pain, distress, physical injury and

exacerbation of existing physical conditions and reputational damage, as well as loss of earnings and other employment benefits.

THIRD COUNT
(Allegations By James Garrison, III)

103. Plaintiffs repeat the previous allegations as set forth at length herein.

104. James Garrison is an African-American police officer hired by NJ Transit on or about July 21, 2002.

105. Since his employment began, Garrison has been a victim of, and witnessed against other African-American employees, a continuing pattern and practice of discrimination, harassment and retaliation.

106. As part of a continuing pattern and practice of discrimination against African Americans, Garrison was selectively charged on or about August 5, 2004 for calling out sick on July 4, 2004. These charges were filed by Sergeant Armbruster. The charges against Garrison went unresolved until March 3, 2008, during which period the charges affected his opportunities at NJ Transit. In fact, during that time, Officer Garrison was turned down twice for positions in the detective bureau and once for the justice team.

107. Unlike Garrison's white counterparts, every time he was sick he was required to bring in a doctor's note.

108. Although Garrison was routinely denied opportunities in the detective bureau, there were occasions where he was temporarily assigned to a detective position.

109. On or about April 2 through April 6, 2007, Garrison was assigned to the detective bureau along with two other African-Americans and one Hispanic officer. During this period, the minority officers conducted an investigation that lead them to two individuals, who were extensively involved in forging NJ Transit bus passes. Following this

investigation, all that was left to do was to arrest these two individuals. Instead, Bober and Iandoli allegedly shut down the investigation.

110. However, nearly a year and a half later in November of 2008, these two individuals were arrested and it was determined that they were extensively involved in forgery operations. None of these minority officers were credited with any part of the investigation, rather a group of white officers received all of the credit.

111. Thereafter, on or about March 5, 2008, Garrison was forced to accept a one-day suspension. Garrison was denied a fair hearing and the documentation to prove his absence was ignored.

112. Thereafter, on or about March 11, 2008, Garrison was attacked while responding to a call at the Broad Street station. As a result of this attack, Garrison sustained various injuries, which required him to miss work and go out on Workers' Compensation.

113. In connection with that incident, Sergeant Armbruster falsely completed a Workers' Compensation form, which created the impression that Garrison was responsible for the incident and his injury. Sergeant Armbruster's report was in direct contradiction to the report Garrison submitted on this matter.

114. When a white officer was injured in connection with an arrest, he was not faulted on the Workers' Compensation form.

115. On or about March 13, 2008, Armbruster told Garrison to revise his report because it sounded too much like Garrison was trying to "cover his ass".

116. Thereafter, on or about March 17, 2008, at approximately 6:00 a.m., Armbruster called Garrison and told him to change his report and threatened him in connection with the report.

117. On or about April 7 and 8, 2008, Garrison's six-year-old son was sick and he was required to stay home with him. On both dates, NJ Transit sent sergeants to Garrison's home to check up on him. This harassing and discriminatory conduct was because of Garrison's race.

118. On or about April 10, 2008, Garrison was called into Captain Stiehler's office and required to produce a doctor's note on behalf of his son. This request was a violation of Defendant NJ Transit's policy and procedure. Garrison refused to provide the note.

119. As a result of that refusal, Captain Stiehler provided Garrison with a letter of reprimand and ordered him to sign it. At that time, Garrison informed Captain Stiehler that he was being harassed and discriminated against. Following that statement, Stiehler backed down from his written reprimand.

120. On or about December 9, 2008, Garrison damaged a NJ Transit vehicle while exiting the Raritan train yard. As per policy and procedure, Garrison timely reported the incident and filled out the appropriate paperwork. Garrison's supervisor at the time, Thomas Springs, another African-American employee, submitted his investigation with details and recommendations.

121. Thereafter, Bober conducted an "unofficial investigation" that targeted both Garrison and Springs. No Internal Affairs investigation number was ever assigned to this case. Instead Bober conducted an investigation behind the scenes in an effort to implicate two minority officers in connection with the same incident. Garrison was required to provide a taped statement of what happened.

122. Upon information and belief, when Bober realized that he could not implicate either one of the African-American officers, he dropped the matter, but never informed anyone.

123. NJ Transit did not investigate or remediate Garrison's complaint of discrimination.

124. Defendants' actions against Plaintiff Garrison constitute harassment, discrimination and retaliation in violation of the LAD.

125. As a result of Defendants' actions, Plaintiff Garrison has suffered and continues to suffer severe mental anguish, humiliation, pain, distress, physical injury and exacerbation of existing physical conditions and reputational damage, as well as loss of earnings and other employment benefits.

FOURTH COUNT
(Allegations By Jonathan A. Giles, II)

126. Plaintiffs repeat the previous allegations as set forth at length herein.

127. Jonathan A. Giles, II is an African-American police officer hired by NJ Transit on or about January 18, 2002. He began his career with NJ Transit Corporation as a Junior Scheduler in the Scheduling Department from 1999-2001. In mid-2001, Giles joined NJ Transit Police Department as a civilian employee in the Records Department until 2002 when he became a police officer.

128. Since his employment began, Giles has been a victim of, and witnessed against other African-American employees, a continuing pattern and practice of discrimination, harassment and retaliation. DB, in turn, filed charges against various officers, including Giles and Shirden.

129. Beginning in January of 2008, Giles was harassed, intimidated and retaliated by the department of Internal Affairs' Senior Investigator Scianimanico in connection with the arrest of DB.

130. Without Giles' knowledge or consent, Internal Affairs contacted the Secaucus Municipal Court and tried to have the charges dismissed against Giles. After numerous court appearances, DB was found guilty of disorderly person's conduct and the charges against the police officers were subsequently dropped.

131. In furtherance of defendants' continuing pattern and practice of discrimination, harassment and retaliation against African-Americans, Senior Investigator Scianimanico attempted to testify on behalf of DB against NJ Transit police officers (including Plaintiff Giles). Because Scianimanico had no personal knowledge of the facts, her testimony was stricken.

132. Notwithstanding Giles' exoneration at the trial, on or about June 18, 2008, he was notified to appear at Internal Affairs in connection with the DB matter. Giles was charged with unsatisfactory performance to which he pled not guilty.

133. Giles complained about Scianimanico's participation in the Internal Affairs investigation because she was biased and had acted improperly in the underlying matter. Scianimanico was unprofessional and abusive in response and demanded that Giles leave his own Internal Affairs meeting.

134. During the course of Giles' employment with Defendant NJ Transit, he repeatedly observed the targeting of African-American employees for disparate treatment, harassment and retaliation by Bober. Internal Affairs knowingly participated in Bober's discriminatory conduct.

135. On February 4, 2007, Giles was involved in arresting an individual with a significant criminal history and outstanding arrest warrants. This individual charged Giles with stealing his baseball hat and $15.00.

136. In connection with this charge, Internal Affairs tried to get Giles to appear for an interview without any representation. In fact, as is her practice, at least with respect to African-American employees, Inspector Scianimanico affirmatively tried to limit Giles' legal rights in connection with this investigation.

137. Giles was not interviewed by Internal Affairs for a year. Contrary to the exculpatory evidence produced during the investigation, as part of a pattern and practice of discrimination, Giles was charged with Major Discipline (Six Days Suspension up to Termination), Unsatisfactory Performance, and Truthfulness.

138. On or about May 5, 2007, Giles was charged with Devotion to Duty in connection with an incident involving off duty officers having a barbeque and consuming alcoholic beverages on NJ Transit property. Giles was the only African American police officer on duty in Hoboken at that time of the incident. Internal Affairs interviewed Giles and found Giles innocent of consuming alcoholic beverages.

139. Nonetheless, Internal Affairs charged Giles with Devotion to Duty for consuming two hamburgers and a bottle of water. Despite the fact, barbeques are a tradition amongst members of NJ Transit Police Department while on duty and off duty. Upon information and belief, when white officers attended barbeques, they did not receive any discipline.

140. In 2006, Giles assisted another officer with an arrest of an individual with significant mental history, who was known to be violent. Giles assisted by completing an

inmate personal property form. Several months later, the individual claimed that he was missing $500.00 in cash.

141. Two years later, in 2008, despite the 45-day ruling requiring officers to be timely charged, Internal Affairs interviewed all of the African-American officers involved in the arrest.

142. During the interview, Scianimanico was abusive and insulting to Giles.

143. The Internal Affairs investigation found no wrongdoing, but Scianimanico nevertheless charged the African-American officers with filing an improper report. As part of a pattern and practice of discrimination, Giles and the other African-American officers were denied a hearing on these discriminatory charges.

144. Defendant NJ Transit's actions against Plaintiff Giles constitute harassment, discrimination and retaliation in violation of the LAD.

145. As a result of Defendants' actions, Plaintiff Giles has suffered and continues to suffer severe mental anguish, humiliation, pain, distress, physical injury and exacerbation of existing physical conditions and reputational damage, as well as loss of earnings and other employment benefits.

FIFTH COUNT
(Allegations By Zena Gurley)

146. Plaintiffs repeat the previous allegations as set forth at length herein.

147. Zena Gurley is an African-American, female dispatcher hired by NJ Transit on or about September, 2001.

148. Since her employment began, Gurley has been a victim of, and witnessed against other female and African-American employees, a continuing pattern and practice of discrimination, harassment and retaliation.

149. As part of defendants continuing pattern and practice of discrimination and harassment, Gurley has been subjected to discriminatory and unfair criticism of her job performance, and discriminatory application of policies and procedures.

150. For example, on or about October 22, 2008, Gurley received a ten (10) day suspension in connection with two (2) counts of insubordination for actions that occurred on May 29, 2008 and June 11, 2008. On these dates, Gurley left work at the end of her shift in accordance with medical restrictions agreed to by NJ Transit medical department. This suspension was issued notwithstanding the fact that she had medical paperwork supporting her restrictions and she was provided insufficient guidance and training on the issue. When other non-minority employees engaged in comparable conduct, they did not receive similar discipline.

151. As part of his continuing pattern and practice of discrimination, Bober improperly interfered with and negatively affected Gurley's performance evaluation. Despite the recommendation by Captain Hester that Gurley's performance "exceeds expectation," Bober repeatedly attempted to have the chain of command change that rating.

152. When he was unsuccessful in doing so, Bober waited until a change in the chain of command and then directed Lieutenant Dawes to downgrade the evaluation. Subsequently Dawes contacted Hester and advised her that the evaluation was being downgraded due to Gurley being suspended twice.

153. Notably, these previous suspensions were direct retaliation against Gurley.

154. In addition, at Bober's direction Lieutenant Dawes would perform well checks on Gurley in violation of NJ Transit policy and procedure. These well checks were aimed at

punishing Gurley. Gurley was treated differently than white employees who engaged in protected leave.

155. On or about April 20, 2006, Gurley filed an EEO complaint with NJ Transit.

156. On or about October 31, 2006, Gurley was advised that there was insufficient cause to find discrimination. NJ Transit EEO conducted an inadequate and deliberately indifferent investigation into Gurley's complaints.

157. Defendant NJ Transit's actions against Plaintiff Gurley constitute harassment, discrimination and retaliation in violation of the LAD.

158. As a result of Defendants' actions, Plaintiff Gurley has suffered and continues to suffer severe mental anguish, humiliation, pain, distress, physical injury and exacerbation of existing physical conditions and reputational damage, as well as loss of earnings and other employment benefits.

SIXTH COUNT
(Allegations By Laquan L. Hudson)

159. Plaintiffs repeat the previous allegations as set forth at length herein.

160. Laquan L. Hudson is an African-American police officer hired by NJ Transit on or July 30, 2001.

161. Since his employment began, Hudson has been a victim of, and witnessed against other African-American employees, a continuing pattern and practice of discrimination, harassment and retaliation.

162. Throughout his tenure with NJ Transit, Hudson received numerous commendations and was promoted to the rank of Detective in December of 2004.

163. During his employment, he was subjected to a hostile work environment, disparate treatment and terminated because of his race.

164. On or about December 5, 2006, Bober observed Hudson speaking with Reginald Grant, an African-American claims adjuster for NJ Transit.

165. Following this conversation, Hudson reported to the garage, where he was confronted by Iandoli. Iandoli snapped at Hudson, "what did you do to the Chief". When Hudson replied, "nothing", Iandoli stated, "well Bober just saw you talking to Reggie Grant in the hallway and he just called me up yelling for me to get you because Reggie was organizing the black officers to rise up against him."

166. On several different occasions following the Grant incident, Hudson would see Bober within NJ Transit Police Department Headquarters. Hudson would salute and verbally greet Bober, but Bober completely ignored him.

167. After Hudson approached Captain Hester and advised her of these facts and the escalating discriminatory treatment by Bober, Hester advised Hudson that Bober had the capacity to hurt his career if he felt that Hudson was being subversive to his regime.

168. Accordingly, Hester advised Hudson to speak with Bober to assure him of the fact that there was no "conspiracy" by the African-American officers to unite against him.

169. On Monday January 15, 2007, Hudson met with Bober and told him that there was no "conspiracy", and that Grant and he were just discussing a rail fatality for which Grant was the claims investigator.

170. Bober was unassuming during the exchange and ultimately claimed that "my concern with Reggie is personal and that's all I wanted to hear, if there's nothing more to it then I'm satisfied". The meeting left Hudson shaken and he decided to secure a position with another agency as soon as the opportunity presented itself.

171. On or about February 27, 2007, Hudson submitted a urine sample in connection with his application to the Essex County Prosecutor's Office after receiving a conditional offer of employment. In completing the medical form, Hudson inadvertently omitted a prescription that he was taking. Ultimately, the urine analysis tested positive for this prescription drug.

172. On March 9, 2007, Hudson was summoned to Bober's office via telephone by then Captain Kelly. Although it was Hudson's day off, Kelly advised Hudson that "The Boss" (Bober) had an investigation he wanted to Hudson to conduct.

173. Upon his arrival Hudson was advised by Bober and in the presence of Kelly and NJ Transit Labor Relations Representative Roselyn West that he was "fired", and that his name would be reported to the NJ State Police Drug Registry. Because of the underlying circumstances, Hudson asked Bober not to fire him at which time Bober appeared to contact someone from the Essex County Prosecutor's Office. Bober then stated that he would only suspend Hudson without pay.

174. At that time Hudson was stripped of his semi-automatic service weapon, detective badge and police and company identification cards. On that same date at 11 p.m. Hudson contacted Bober and advised him that he had found research that suggested that an appetite suppressant listed on his medical form could have caused a positive urinalysis for amphetamines.

175. Bober responded that it was late and assured Hudson that we would settle it all on Monday, March 12, 2007.

176. On March 12, 2007, Hudson went to Bober's office. At that meeting, Bober insisted upon Hudson's termination, contrary to his prior statements, and served him with a

notice of termination effectively immediately. A union attorney advised Bober at the meeting that the termination was illegal because Hudson had not been charged and denied a hearing. Bober replied, "I do not have to give him anything".

177. As Hudson was leaving the office, he was confronted by Lieutenant Marinelli who asked Hudson if it was true that he was just fired. When Hudson confirmed this, Lieutenant Marinelli stated words to the effect "a white captain just tested positive for marijuana but nothing happened but a black detective tested positive for amphetamine which is common in appetite suppressants and he gets fired".

178. Following his dismissal, Hudson had a conversation with retired NJ Transit Captain John Ricciardi, who told him that, "Hudson you don't think for one minute that your race didn't play a large part in Bober firing you". When Hudson asked Ricciardi to clarify this statement, he said, "Bober's always had a problem in that area [race] and I've picked up so much of his shit it's ridiculous."

179. Following Hudson's termination, he filed an appeal with the New Jersey Superior Court Appellate Division, which ruled in his favor and rescinded Bober's termination on due process grounds.

180. Bober then charged Hudson with violation of the Attorney General's Drug Policy for Law Enforcement Officers in violation of his rights.

181. Hudson was terminated on March 12, 2007 and was served with charges on August 11, 2008.

182. Bober sent a NJ Transit Police Investigator Edward F. O'Connor to Hudson's residence on August 11, 2008 at 1900 hours. When Hudson went to the door, he was greeted by O'Connor who stated, "welcome back, you won your lawsuit and you are back on the

force. I was sent here to tell you that and to have you sign some documentation surrounding your reinstatement". O'Connor then produced a packet of documents then turned the pages to the last document and stated, "now if you would sign right here I'll give you a copy and you will soon be hearing from the department".

183. Hudson took the packet then turned to the front page of the packet, which revealed a letter addressed to him from Bober and subsequent pages that contained charges.

184. Hudson then advised O'Connor that he would not sign for the packet or any page contained within the packet. Hudson also questioned why O'Connor was at his residence when it was common knowledge that he (Hudson) has counsel on the matter. O'Connor departed the premises abruptly leaving Hudson holding what appeared to be a duplicate copy of the original packet.

185. Defendant NJ Transit's actions against Plaintiff Hudson constitute harassment, discrimination and retaliation in violation of the LAD.

186. As a result of Defendants' actions, Plaintiff Hudson has suffered and continues to suffer severe mental anguish, humiliation, pain, distress, physical injury and exacerbation of existing physical conditions and reputational damage, as well as loss of earnings and other employment benefits.

SEVENTH COUNT
(Allegations By Brian Shirden)

187. Plaintiffs repeat the previous allegations as set forth at length herein.

188. Brian Shirden is an African-America police officer hired by NJ Transit on or about July 25, 1996.

189. Since his employment began, Shirden has been a victim of, and witnessed against other African-American employees, a continuing pattern and practice of discrimination, harassment and retaliation.

190. On or about June 22, 2007, drugs were found in a police car that Shirden had used. Contrary to past practice where drugs in a car would be remanded to the command level, Shirden was charged by Internal Affairs.

191. The discriminatory investigation by Internal Affairs, which was controlled by Bober, found that Shirden had violated NJ Transit policy and procedure.

192. Shirden was issued a letter of reprimand for this violation.

193. When white officers engaged in similar conduct, they were treated more favorably.

194. As discussed in ¶¶129-132, supra, NJ Transit targeted Shirden in the DB matter. Shirden was harassed and discriminated against by Internal Affairs in connection with that investigation. For example, NJ Transit intercepted a subpoena intended for Shirden and tried to isolate him in a further attempt to harass and discriminate against him.

195. Defendant NJ Transit's actions against Plaintiff Shirden constitute harassment, discrimination and retaliation in violation of the LAD.

196. As a result of Defendants' actions, Plaintiff Shirden has suffered and continues to suffer severe mental anguish, humiliation, pain, distress, physical injury and exacerbation of existing physical conditions and reputational damage, as well as loss of earnings and other employment benefits.

EIGHTH COUNT
(Allegations By Melvin Webb)

197. Plaintiffs repeat the previous allegations as set forth at length herein.

198. Melvin Webb is an African-American police officer hired by NJ Transit on or about January 4, 1994.

199. Since his employment began, Webb has been a victim of, and witnessed against other African-American employees, a continuing pattern and practice of discrimination, harassment and retaliation.

200. During his employment, Webb learned from white police officers, John Egger and William Ozupka, that Bober referred to an African-American officer as a "brain dead nigger".

201. During his employment Webb witnessed the discrimination and retaliation against other African-American officers.

202. During his employment Webb witnessed racist, sexist, discriminatory and harassing conduct by white male officers which was condoned and tolerated at the highest levels of NJ Transit. For example, Kelly, when he was a patrolman, confronted a group of African-American kids in Maplewood and called them racially derogatory names. A complaint was filed with Internal Affairs. Because Internal Affairs aided and abetted discrimination and harassment, the racist conduct of Kelly was covered up. Kelly went on to be promoted and to participate with Bober in discriminatory, harassing and retaliatory conduct at the highest levels of command at NJ Transit.

203. During 2001, Webb applied for a promotion to sergeant. As part of a continuing pattern and practice of discrimination on the basis of race, Webb was not promoted despite open positions on the sergeant's list. At the time of the sergeant list, there were two (2) other African-American supervisors in the entire department.

204. Upon information and belief, the Bralton Group, a police consultant, performed a review of the NJ Transit Police Department and determined, among other things, that there was racial discrimination. As a result, the Bralton Group recommended that NJ Transit fill the open sergeant slots with qualified minority officers.

205. In August of 2001, Webb was promoted.

206. At the promotion ceremony, Bober refused to shake the hands of black officers. Indeed, after witnessing Bober shake the hand of Sergeant Iandoli, Webb went up to Bober with his hand extended but Bober refused to shake his hand, causing Webb to be publicly humiliated. When Webb asked Bober what was wrong, Bober told him that he did not want Webb to be there.

207. About a week later in August of 2001, Webb and Sergeant Springs were working in Penn Station. They were approached by Officer Sykowski who informed them that he and officer Armbruster were talking and Armbruster made the comment, "I can't believe they promoted all of them black motherfuckers"

208. In or around late 2001, in an effort to further discriminate against and discredit African-American officers, members of upper management at NJ Transit falsely claimed African-American officers obtained lower scores on the promotion tests, but were promoted regardless.

209. At that time, Deputy Chief Kelly, who was then a sergeant, made comments about the black officers being promoted from the "dummy list".

210. On Memorial Day 2002, Webb was working as the midnight tour supervisor. At the end of his tour, at around 7 in the morning, Bober approached Webb, who asked Bober, "what was he doing at work on Memorial Day and why wasn't he barbequing".

Bober looked at Webb with a straight face and stated, "I'm white". Webb walked away in disbelief and immediately informed another African-American officer, Laquan Hudson, what had taken place.

211. In 2003, following Bober's appointment as Chief, the environment for African-American officers became more hostile and discriminatory. NJ Transit used the drug screening process, which was supposed to be random, to target minority officers. On three (3) successive occasions, Webb was selected to undergo allegedly random drug testing. On one occasion, he was unable to give a urine sample in a timely manner. Kelly charged Webb, but told him that Bober insisted on the charges. Webb was found not guilty of all charges.

212. Thereafter, Kelly subjected Webb to unreasonable monitoring and interference with his duties and responsibilities. Kelly singled Webb out for constant harassment. Webb complained to Kelly about this disparate treatment. Kelly told Webb that if he did not like it in Trenton he should "bid out" to another location. NJ Transit did not provide prompt and effective remedial action in response to Webb's complaint.

213. As a result of this disparate and discriminatory conduct, Webb filed a complaint against Kelly and Bober with EEO. When Webb met with EEO, he explained how various African-American officers were discriminated against and harassed by the chain of command. Following this review, EEO advised him that he did not have enough information to file a complaint based on race. As a result of the EEO office's willful indifference to the overtly discriminatory environment, Webb was abandoned and left to fend for himself. This sent a clear message to other victims of discrimination that no office of NJ Transit would stop the discrimination and harassment.

214. In January, 2004, as a result of his request for a transfer, Webb was reassigned to Camden. As part of a continuing pattern and practice of discrimination and harassment, Webb was the subject of several Internal Affairs complaints. He was exonerated on all of them.

215. In January of 2006, Webb was holding a prisoner for shoplifting who escaped from his custody. The prisoner was later apprehended. Webb was charged with improper care and transportation of a prisoner and received a letter of reprimand.

216. On or about July 25, 2007, Webb was ordered to appear before Internal Affairs to make a taped statement in connection with the investigation. Webb learned that NJ Transit police had forwarded the matter to the Camden County Prosecutor's office for criminal charges. During the NJ Transit interview, as part of a continuing pattern and practice of discrimination against minority officers, Internal Affairs asked Webb numerous personal questions, which his lawyer objected to. Webb was directed to answer subject to being terminated. On November 19, 2007, Webb received charges for conduct unbecoming an officer.

217. On or about September 23, 2007, Webb and another officer were involved in an arrest of a suspect who was high on drugs and very hostile and disorderly during the arrest. Once the individual was arrested and locked up for processing, he constantly spit on Webb as he was processing him. Webb and the other officer tried numerous ways to stop the individual from spitting by putting tape over his mouth. The next day Webb was questioned by Captain Amberg as to why he used tape on the suspect. Webb explained the situation. Thereafter Webb was contacted by Internal Affairs. Captain Amberg advised Webb that he

(Amberg) suggested that Webb be counseled but that Bober denied counseling and demanded that the matter be investigated by Internal Affairs.

218. On November 20, 2007 Webb was charged with unsatisfactory performance for ordering that the tape be placed over a prisoner's mouth to prevent him from spitting.

219. On December 31, 2007 Bober conducted an unannounced inspection of the transportation center in Camden. As part of his continuing pattern and practice of discrimination and harassment Bober pointed out minor problems and exaggerated the poor condition of the office. Bober made several comments that the condition had Camden had gone down since Captain Amberg (a white male) had left and been replaced by Captain Laura Hester (an African American female). These actions and statements were based on Bober's belief of racial stereotypes.

220. Bober called Captain Hester and abusively told her to get the place together using racial stereotypes and demeaning language, claiming they "live like pigs". Webb took pictures of each of the areas for his records and emailed them to Captain Hester with his concerns.

221. Bober regularly disparaged Webb and other African-American employees and subjected them to unfair criticism and discipline. Webb was written up and disciplined for matters that white officers were not criticized for.

222. For instance, white officers were not disciplined for far more serious conduct than Webb such as: (i) sleeping on the job; (ii) stealing money from NJ Transit; (iii) leaving weapons unattended; (iv) leaving place of duty; and (v) leaving command while on duty.

223. Defendant NJ Transit's actions against Plaintiff Webb constitute harassment, discrimination and retaliation in violation of the LAD.

224. As a result of Defendants' actions, Plaintiff Webb has suffered and continues to suffer severe mental anguish, humiliation, pain, distress, physical injury and exacerbation of existing physical conditions and reputational damage, as well as loss of earnings and other employment benefits.

NINTH COUNT
(Allegations By Thomas Springs)

225. Plaintiffs repeat the previous allegations as set forth at length herein.

226. Thomas Springs is an African-America police officer hired by NJ Transit on January 3, 1994.

227. Sine his employment began, Springs has been a victim of, and witnessed against other African-American employees, a continuing pattern and practice of discrimination, harassment and retaliation.

228. In or around August of 2002, Springs was scheduled to attend an Internal Affairs interview at 3 o'clock in the afternoon. Springs' shift started at 2:30 that afternoon and, upon his arrival, there were no other supervisors present at the shift change. As a result, Springs was occupied with his transitional duties and responsibilities.

229. At approximately 3:30 p.m., Springs received a call regarding the Internal Affairs interview. When Springs explained the situation to Richard Goldstein, an Internal Affairs officer, he was told that it was not a problem and the interview would be rescheduled.

230. Thereafter and contrary to what Goldstein had told him, Springs was brought up on additional charges for missing the Internal Affairs interview. Upon information and belief, Bober was responsible for Springs being charged in this situation.

231. During the 2002 Mandatory In-Service Training ("MIST"), Defendant NJ Transit improperly utilized a video of Springs while on duty. The video clearly depicted

Springs as the officer in it. This video allegedly showed Springs violating New Jersey Transit policy by bringing in a gun to interview a detainee. However, a full and fair review of the video demonstrated that Springs adhered to policy and properly secured his weapon prior to the interview.

232. After Springs was showed this video during the MIST training, he immediately complained to Lieutenant Marinelli, who stated that the video was done at Bober's direction. Marinelli told Springs that he would review the situation with Bober and get it corrected. Springs never heard from Marinelli on the video issue.

233. Subsequently, Springs contacted Bober to complain about the video. Bober told Springs that he was never identified in the video and no charges were ever filed, so it was not an issue. Springs told Bober that the video showed him as the officer, that he was the only African-American officer supervisor assigned to that command and, therefore, everyone knew it was him. Bober ignored Springs and instead claimed that Springs had violated policy and refused to discontinue use of the bogus training tape. Bober's actions were discriminatory and meant to demean and harass Springs.

234. In or around 2004, Springs assisted the Newark police in connection with a stabbing incident at the Hilton Hotel. At Bober's insistence, Springs was brought up on seven (7) separate charges for his involvement in that incident. These charges were bogus and discriminatory.

235. Springs subsequently learned that Bober offered a lenient sentence if Springs would accept three of the seven charges. Because he did nothing wrong, Springs refused this deal, which angered Bober.

236. At the trial regarding these charges, the investigating officer, Lieutenant Rodgers, recanted large portions of his investigation. Nonetheless, due to Bober's influence, NJ Transit sustained the charges against Springs.

237. In or about 2006, Bober instructed Captain Amberg to charge Springs with a pattern and practice of misusing sick days.

238. During the Internal Affairs investigation, the investigator acknowledged that Springs had not violated any policy and stated that Bober had instructed him to charge Springs with this policy violation.

239. Following the hearing, the hearing officer recommended dismissal, however, there was a never a final disposition because Bober wanted to keep this charge over Springs head.

240. In or about 2007, Springs was the subject of a complaint by a passenger, who alleged that Springs had threatened to arrest him for leaving his bag unattended at the Trenton rail station. Specifically, this individual had left his bag unattended on repeated occasions at the train station and Springs had informed him that he needed to secure his bag.

241. As part of the investigation, NJ Transit was required to determine whether or not the complaining witness had ever left his bag unattended. During the investigation, NJ Transit representatives admitted that they never reviewed the camera system. Also, during the investigation, Springs produced numerous photos showing the complaining witness leaving his bag unattended.

242. Notwithstanding the undisputed evidence that the complaining witness had falsified the complaint to NJ Transit, Bober threatened to charge Springs.

243. Defendants' actions against Plaintiff Springs constitute harassment, discrimination and retaliation in violation of the LAD.

244. As a result of Defendants' actions, Plaintiff Springs has suffered and continues to suffer severe mental anguish, humiliation, pain, duress, physical injury and exacerbation of existing physical conditions, reputational damages, as well as loss of earning and other employment benefits.

TENTH COUNT

(Allegations by Jose Martinez)

245. Plaintiffs repeat the previous allegations as set forth at length herein.

246. Defendant NJ Transit and Defendants Bober, Kelly, Iandoli and others have engaged in a continuing pattern and practice of harassment, disparate treatment, discrimination and retaliation against Plaintiff Martinez.

247. Plaintiff Jose Martinez ("Martinez"), a Hispanic male, worked as a Conductor for New Jersey Transit from October 1998 through 2001.

248. In 2002, Martinez became a member of the New Jersey Transit Police force.

249. In December 2002, Martinez reported to Lieutenant Joseph D. Kelly in Trenton, New Jersey. Plaintiff performed well at the Trenton command and was complimented on his performance.

250. During 2004, after New Jersey Transit transferred Lt. Kelly to Newark, New Jersey, plaintiff Martinez reported to Lt. Theresa Frizalone at the Trenton command. Lt. Frizalone commended plaintiff Martinez's performance.

251. Martinez performed his job well and appreciated working for Lieutenant Frizalone in Trenton after Deputy Chief Kelly left.

252. In 2004, Lt. Kelly appointed Martinez to the "J.U.S.T.I.C.E. Team" in Newark. Martinez did not want to join the "J.U.S.T.I.C.E. Team," because he had already been informed that Sgt. Brian Armbruster was the leading candidate to supervise the J.U.S.T.I.C.E. Team. Sgt. Armbruster had a reputation of discrimination and harassment toward minorities. Martinez was particularly concerned because Sgt. Armbruster was part of Chief Bober's inner circle in Newark.

253. Kelly insisted that Martinez join the "J.U.S.T.I.C.E. Team."

254. As a member of the "J.U.S.T.I.C.E. Team," Martinez reported to Sgt. Brian Armbruster. Armbruster engaged in a pattern and practice of abusing, harassing, discriminating against, and violating the Constitutional rights of minorities including, but not limited to, the following behavior:

A. in Martinez's presence, Armbruster harassed an African-American patron at a Dunkin Donuts, telling him "you black bastard, get the fuck out of here;"

B. in Martinez's presence, Armbruster stopped minority citizens for no reason, frequently abusing Hispanic individuals by calling them "Goya bean" or "wetbacks;"

C. in Martinez's presence, Armbruster stopped minority individuals without any probable cause and would dig his hands into their pockets without any justification;

D. in Martinez's presence, Armbruster asked minority citizens for their "green cards." Armbruster threatened individuals with deportation

regardless of whether they possessed valid identification or other information pertaining to their immigration status; and

E. in Martinez's presence Armbruster called Hispanic individuals "fucking illegals."

255. When Martinez objected to and complained about Armbruster's illegal behavior, Armbruster said: "Oh no, you're not one of those guys . . . sensitive to everything people say." Thereafter, Armbruster made it a point to discriminate against, harass, and abuse minorities in front of plaintiff Martinez.

256. In or about April of 2005, Martinez blew the whistle on Armbruster's racist, discriminatory, harassing and unconstitutional behavior to Captain Kelly.

257. The next day Martinez appeared for work, he heard two individuals yelling in an office at the Newark headquarters. Plaintiff recognized the voices of Chief Bober and Sgt. Armbruster. Chief Bober and Sgt. Armbruster were speaking to each other about Martinez, obviously having been told by then Captain Kelly that Martinez blew the whistle about Armbruster's behavior. Armbruster was screaming, "fucking Martinez, how dare he tell Kelly what I was doing, that fucking rat. I want that spic out of here. I didn't want him in the unit in the first place. I hate that mother fucker, he thinks because he's taking the Sgt.'s test he can disrespect me. I'm gonna get that faggot." Chief Bober then stated, "not to worry." Bober stated that "regardless of how much Martinez studied" and even if he "came out number one," he was "not going to promote Martinez." Bober stated, "I'm not promoting that spic no matter what he does. I'm gonna get all these niggers and spics in line, I promise

I will weed them all out. So you do whatever you have to to get him. We'll take care of his goya ass."

258. After Martinez's whistleblowing, Armbruster refused to speak to him.

259. Shortly after Martinez's whistleblowing, Armbruster held a meeting during which he threatened that anybody who was "complaining to the Captain" would be taken care of.

260. After Martinez complained about and refused to participate in Armbruster's racist, discriminatory, harassing and unconstitutional behavior, Armbruster and Bober repeatedly retaliated against Martinez, including but not limited to, the following:

A. Armbruster charged Martinez with the violation of insubordination for writing a ticket in blue ink;

B. Armbruster ignored, shunned and ostracized Martinez;

C. When Armbruster had to deal with Martinez, it was in order to conduct a pattern and practice of retaliation against him; and

D. Chief Bober had Martinez charged with failing to call the proper authority to take a sick day.

261. When New Jersey Transit promoted Martinez to Sergeant in December of 2006, Bober told Martinez's wife, "I did your 'boy' a favor. Tell him to tone it down. He owes me and now your people can't say I didn't promote one of your guys. Your husband is very vocal."

262. In 2007, New Jersey Transit assigned Martinez to the Atlantic City unit, where he reported to Captain Amberg. Captain Amberg was part of Bober's racist inner circle.

263. Immediately upon his reporting to Captain Amberg, Amberg subjected Martinez to a harassing and hostile work environment. Amberg regularly harassed and retaliated against Martinez including, but not limited to, the following ways:

A. Amberg screaming and yelling at Martinez in front of his co-workers;

B. Amberg attempting to undermine Martinez in all of his activities;

C. Despite Lieutenant Frizalone finding an complaint by a citizen against Martinez unfounded, Amberg required a charge of insubordination and unsatisfactory performance be brought against Martinez; and

D. Amberg viewing Martinez performing roll call on video and nitpicking and criticizing Martinez for alleged shortcomings for which white officers were not chastised.

264. After Amberg was promoted, Martinez reported to Captain Laura Hester. Martinez had absolutely no problems reporting to Captain Hester. Hester complimented Martinez's performance.

265. In or about October of 2008, defendant New Jersey Transit moved Armbruster to work out of the Atlantic City unit. While in training in Newark, Armbruster arranged a meeting with Martinez in the parking lot of the Newark headquarters. During this meeting, Armbruster threatened and intimidated Martinez because he was not writing enough tickets nor making enough arrests, despite that at this time Martinez was a supervisor.

266. On or about April 2, 2009, New Jersey Transit, through defendant Captain Iandoli, suspended Martinez without pay with the statement that, "An immediate suspension is necessary to maintain safety, health, order or effective direction of public services . . ."

New Jersey Transit did not provide any facts at all regarding the nature of the investigation or the nature of the charges to plaintiff Martinez.

267. After Martinez was out of work for six (6) weeks without pay, he had to retain counsel to get a judge to order New Jersey Transit to reinstate his pay.

268. In front of Martinez's family and neighbors, New Jersey Transit Police Officers removed his uniforms and other indicia of his performance as a New Jersey Transit Police Officer from his home, as if he had participated in some grave crime, holding him in false light to his community.

269. On June 9, 2010, having held no hearing whatsoever regarding alleged charges against him, defendant New Jersey Transit, through its acting Chief of Police Joseph Kelly, forbade Martinez from taking the Lieutenant's examination.

270. The previous paragraphs do not exhaustively describe each and every instance of harassment, discrimination and retaliation but merely indicate, by way of example, the unlawful harassment, discrimination and retaliation that defendants have subjected and continue to subject Plaintiff Martinez to.

271. Defendants' actions against Plaintiff Martinez constitute harassment, discrimination and retaliation in violation of the LAD. The above actions of defendants were not perpetrated against white officers or officers who did not object to the aforementioned racist and discriminatory treatment.

272. As a result of Defendants' actions, Plaintiff Martinez has suffered and continues to suffer severe mental anguish, humiliation, pain, duress, physical injury and exacerbation of existing physical conditions, reputational damages, as well as loss of earnings and other employment benefits.

WHEREFORE, Plaintiffs, on behalf of themselves individually and collectively, pray for relief as follows:

A. Compensatory damages, including all reputational and pain and suffering damages;

B. Physical injury and the exacerbation of pre-existing physical conditions;

C. Injunctive relief in the form of promotions as well as removal of individual defendants from office;

D. Reimbursement for negative tax consequences resulting from a jury verdict;

E. Punitive damages;

F. Attorneys' fees and costs of suit;

G. Such other relief as the Court may deem equitable of just.

SMITH MULLIN, PC
Attorneys for Plaintiffs

By: _____
NANCY ERIKA SMITH

Dated: February 9, 2011

JURY DEMAND

Plaintiffs Laura Hester, Safiya H. Daniel, James Garrison, III, Jonathan A. Giles, II, Zena Gurley, Laquan L. Hudson, Brian M. Shirden, Melvin L. Webb and Jose Martinez demand trial by jury on all issues.

SMITH MULLIN, PC
Attorneys for Plaintiffs

By: _____
NANCY ERIKA SMITH

Dated: February 9, 2011

CERTIFICATION PURSUANT TO R. 4:5-1

I, Nancy Erika Smith, certify as follows:

I am a partner in the Law Firm of Smith Mullin PC, attorneys for Plaintiffs Laura Hester, Safiya H. Daniel, James Garrison, III, Jonathan A. Giles, II, Zena Gurley, Laquan L. Hudson, Brian M. Shirden, Melvin L. Webb and Jose Martinez in the above-entitled action. To the best of my knowledge, the matter in controversy is not the subject of any other action pending in any court or arbitration proceeding, no other action or arbitration proceeding is contemplated, and no other parties should be joined in this action.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

SMITH MULLIN, PC
Attorneys for Plaintiffs

By: _____
NANCY ERIKA SMITH

Dated: February 9, 2011