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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JASON CARTY,

Plaintiff,

v.

TOWNSHIP OF WESTAMPTON; C.
ANDRE DANIELS, Mayor, individually
and in his official capacity; ABRAHAM
LOPEZ, Deputy Mayor, individually and
in his official capacity; MAUREEN
SMITH-HARTMAN, individually and in
her official capacity,

Defendants.

Civil Action No.

**COMPLAINT AND DEMAND FOR
TRIAL BY JURY**

Plaintiff, Jason Carty, by way of Complaint against the Defendants, Township of Westampton; C. Andre Daniels, Mayor, individually and in his official capacity; Abraham Lopez, Deputy Mayor, individually and in his official capacity; Maureen Smith-Hartman, individually and in her official capacity; hereby avers:

PARTIES

1. Plaintiff, Jason Carty, residing at 10 Middleton Drive, Township of Lumberton, County of Burlington, State of New Jersey, is the former Fire Chief/Director for the Township of Westampton and former campaign operative for democratic Township Committee candidates for Westampton Township.

2. Defendant, the Township of Westampton (hereinafter, the “Westampton”) is a public entity, which duly exists and is incorporated under the laws of the State and acting under the color of State law.

3. Defendant, Westampton is vested with the government and management of the Westampton Township Fire Department (hereinafter, the “Department”).

4. The Department is a public agency duly organized to enforce the laws of the State of New Jersey within the jurisdiction of Westampton.

5. Defendant, C. Andre Daniels (hereinafter, “Daniels”) is the Mayor of Westampton, and at all times relevant hereto acted individually and in his official capacity and under the color of State law.

6. Defendant, Abraham Lopez (hereinafter, “Lopez”) is the Deputy Mayor of Westampton, and at all times relevant hereto acted individually and in his official capacity and under the color of State law.

7. Defendant, Maureen Smith-Hartman (hereinafter “Smith-Hartman”) is a Committee member for Westampton, and at all times relevant hereto acted individually and in her official capacity and under the color of State law.

JURISDICTION

8. This is an action alleging violations of Plaintiff's civil rights filed pursuant to 42 U.S.C. § 1983 and the First Amendment of the United States Constitution.

9. Plaintiff participated in political expression in support of candidates and their policies, which expression is entitled to constitutional protection as it goes to the heart of the First Amendment.

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

11. Plaintiff also invokes the pendent jurisdiction of this Court pursuant to 28 U.S.C. § 1367 to consider claims arising under State Law, as each such claim arises out of the same nucleus of operative facts as those that give rise to Plaintiff's Federal claims.

COUNT I

Retaliation for First Amendment Activity

12. In October 2015, the Township and Plaintiff Jason Carty executed an employment contract in which Plaintiff would be appointed to the position of Fire Chief and Director of Emergency Services for the Department for a period of five years, expiring in December 2019, which memorialized the terms of Plaintiff's employment.

13. Pursuant to the aforementioned five-year employment contract, Plaintiff was appointed to the position of Fire Chief and Director of Emergency Services for the Department in January 2016.

14. In or about January 2016, Defendants Lopez and Smith-Hartman were sworn in as Deputy Mayor and Committee Person for Westampton, respectively.

15. Both Lopez and Smith-Hartman ran for Committee as republicans.

16. Lopez was appointed as liaison to the Fire Department and Emergency Services, and consistently refused to speak with Plaintiff about cost-saving measures or any other information about the departments.

17. On or about April 4, 2016, an ordinance passed second reading purporting to eliminate Plaintiff's position and create a new position of Fire Chief.

18. The only difference between Plaintiff's job description and the position newly created by ordinance was the addition of a requirement which Plaintiff did not meet.

19. Following the passage of the ordinance, Plaintiff was immediately terminated from his position.

20. The Deputy Chief was then promoted to Fire Chief.

21. The elimination of the Fire Chief/Director of Emergency Services position was in retaliation for Plaintiff's involvement in the campaign of former and current democratic Township committee members.

22. In fact, during the course of their campaigns Lopez and Hartman-Smith raised as a campaign issue Plaintiff's role in directing two recent democratic campaigns, taking to social media to refer to Plaintiff's appointment as "patronage."

23. Jose F. Sosa, the campaign manager for Lopez and Hartman-Smith, sent a text to the Mayor of a neighboring town prior to the election indicating that he would be

demanding Plaintiff's resignation and claiming that, if Plaintiff refused to resign, he would be terminated when Lopez and Smith-Hartman won the election.

24. After their appointment to the Township Committee, Defendants opened a baseless internal affairs investigation into Plaintiff's department. After it became clear there was no wrongdoing, the attorney conducting the investigation admitted that the investigation was a "fishing expedition."

25. Defendants claimed they needed to eliminate Plaintiff's position to avoid raising taxes, but this claim is belied by the fact that Lopez neither met with nor discussed Plaintiff's cost-saving proposals, and by the statements made by Lopez and Hartman-Smith both during their campaigns and after their appointments referring to Carty's position as "patronage."

26. Moreover, Defendants' actions almost resulted in a loss of a federal grant to the Township in an amount that far exceeded Plaintiff's salary.

27. Since terminating Plaintiff, the defendants have promoted three firefighters to Lieutenants and hired at least one additional firefighter.

28. The First Amendment protects individuals from retaliation by government officials on the basis of political affiliation.

29. Plaintiff was employed by a public agency in a position that does not require political affiliation.

30. Plaintiff engaged in conduct protected by the First Amendment by supporting Democratic candidates whose policies he supported.

31. Defendants retaliated against Plaintiff for the exercise of his First Amendment rights by eliminating his position in violation of his contract.

32. As a result of Defendants' actions, Plaintiff was damaged.

WHEREFORE, Plaintiff Jason Carty demands judgment against Defendants jointly, severally, and in the alternative for reinstatement of his contract, compensatory damages including damages for emotional distress, loss of reputation, lost wages and other personal injury, punitive damages, pre and post judgment interest, equitable remedies, and all costs of suit.

COUNT II
(New Jersey Civil Rights Violation)

33. Plaintiff repeats all of the allegations of the First Count and incorporates the same herein as if set forth at length.

34. The New Jersey Constitution enshrines a right to free speech for all New Jersey citizens.

35. The State protects its citizens from retaliation for the exercise of the rights guaranteed them under its Constitution.

36. As described at length above, Plaintiff was terminated from his position as a result of his participation in protected First Amendment activity.

37. As a direct and proximate result of Defendants' actions, Plaintiff suffered damages including, but not limited to: emotional distress; embarrassment; humiliation; suffered loss of income and other benefits; injury to his reputation; and other personal injuries.

WHEREFORE, Plaintiff Jason Carty demands judgment against Defendants, jointly, severally, and in the alternative, for reinstatement of his contract, compensatory damages, including damages for emotional distress, loss of reputation, personal injury, back pay, front pay, consequential damages, punitive damages, pre and post judgment interest, reasonable attorneys' fees and the cost of suit and any other damages the Court deems equitable and just.

COUNT III
Punitive Damages

38. Plaintiff repeats all of the allegations set forth in the first two Counts and incorporates the same herein as if set forth at length.

39. The actions of Defendants were outrageous and demonstrate a pattern and practice by Defendants of interference in Plaintiff's constitutionally protected rights.

40. A defendant's willful indifference gives rise to liability for punitive damages.

41. Defendants' acts of retaliation were performed with malicious and reckless indifference to Plaintiff's constitutionally protected rights.

42. Defendants' actions justify the imposition of punitive damages.

WHEREFORE, Plaintiff Jason Carty demands judgment against Defendants, jointly, severally, and in the alternative, for compensatory damages, including damages for emotional distress, loss of reputation, personal injury, back pay, front pay, consequential damages, punitive damages, pre and post judgment interest, reasonable attorneys' fees and the cost of suit and any other damages the Court deems equitable and just.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury as to all issues.

ATTORNEYS HARTMAN, CHARTERED

By: /s/ Katherine D. Hartman (KDH8357)
KATHERINE D. HARTMAN, ESQ.

Dated: March 22, 2017

DESIGNATION OF TRIAL COUNSEL

Katherine D. Hartman, Esquire, of Attorneys Hartman, Chartered is hereby designated as trial counsel in the within matter.

ATTORNEYS HARTMAN, CHARTERED

By: /s/ Katherine D. Hartman (KDH8357)
KATHERINE D. HARTMAN, ESQ.

Dated: March 22, 2017