

LOUIS A. ZAYAS, ESQ. (LZ-1881)  
LAW OFFICES OF LOUIS A. ZAYAS, L.L.C.  
8901 Kennedy Boulevard  
North Bergen, N.J. 07047  
Counsel for the Plaintiff  
(201) 977-2900

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

JOSEPH FREDERICKS,	) Case No.:
	)
Plaintiff,	)
v.	) COMPLAINT
	)
TOWNSHIP OF WEEHAWKEN, MAYOR )	
RICHARD TURNER, AND TOWN )	
MANAGER JAMES MARCHETTI, )	
Individually and in Official Capacities. )	
Defendants. )	

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The Plaintiff JOSEPH FREDERICKS, by and through his attorney, LOUIS A. ZAYAS of the LAW OFFICES OF LOUIS A. ZAYAS, L.L.C. alleges the following upon information and belief:

**INTRODUCTION**

1. This is a civil action brought by the Plaintiff Joseph Fredericks for damages and injunctive relief under the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1 et seq, New Jersey Civil Rights Statute, and Title 42 U.S.C. §1983.

2. Plaintiff Joseph Fredericks (“Fredericks”) is the Tax Collector for the Township of Weehawken, a position he has held since 1994.

3. Defendant Township of Weehawken is a municipality organized by virtue of New Jersey law and pursuant to that law. (“Weehawken” or “Township.”) Defendant Weehawken is sued to effect the full declaratory, injunctive and compensatory damages demanded by the Plaintiff.

4. Defendant Mayor Richard Turner Defendant Mayor Richard F. Turner (“Mayor Turner”) is the duly elected Mayor of Weehawken. Mayor Turner is the one of the final decision-makers responsible for setting official policy for Weehawken. Mayor Turner is sued in his official and individual capacity for purposes of effecting the full declaratory, injunctive, compensatory, and punitive damages demanded by the Plaintiff.

5. Defendant James Marchetti (“Marchetti”) is a citizen of New Jersey, residing in Township of Weehawken. Marchetti was and still is the town manager employed by Weehawken. Marchetti is sued in his official and individual capacity for purposes of effecting the full declaratory, injunctive, compensatory, and punitive damages demanded by the Plaintiff.

### **FACTS**

6. The Township of Weehawken is organized as a Faulker form of government where the mayor serves primarily in a ceremonial capacity. Under the town charter, the town manager is designated as the person responsible for the day-to-day operation in Weehawken. In essence, Weehawken governs through resolutions passed by the town council. The purpose of this form of government is to remove political influence from interfering with business and purpose of government.

7. Under the town’s charter, Mayor Turner is not empowered or authorized to influence the decision of any town official or department head, including those assigned to the police department, tax department, tax assessor department, and recycling department.

8. Fredericks is the Tax Collector of Weehawken, a position he has held since 1994. He is licensed by the State of New Jersey and governed by New Jersey Division of Local Government and New Jersey Statutes. Throughout his employment with

Weehawken, Frederick's routinely complained to the Defendants regarding improper, if not unlawful, activities, including complaining to Marchetti about Mayor Turner's unlawful interference with the day-to-day operations of Weehawken, a matter of public interest and concern to the citizens of Weehawken since it touches upon good government.

9. On or about September 20, 2010 Fredericks provided Police Lieutenant Richard DeCosmis, a plaintiff alleging corruption and civil rights violations by the Township of Weehawken and Mayor Turner in a federal lawsuit, a signed certification alleging similar unlawful activities by Weehawken, Mayor Turner; and Marchetti.

10. Upon learning of Fredericks allegations of wrongdoing against them, the aforementioned Defendants have subjected Fredericks to a pattern of retaliator treatment continuing to the present as it relates to the terms and condition of his employment with Weehawken. For example, Fredericks was scheduled to attend the yearly Saul A. Wittes Foundation Educational Seminar on October 7, 2010. Although the seminar was approved by Marchetti, the Defendants withdrew their financial support the day before the seminar and informed that he could no longer attend despite the fact that Weehawken had paid for this seminar for the last sixteen (16) years.

11. Fredericks was also scheduled to attend the 44<sup>th</sup> Annual Tax Collector's and Treasurers' Spring Conference for which he had attended as Weehawken's Tax Collector for seventeen (17) years. Although the Town Manager and Finance Committee had approved a voucher for Fredericks for the past 17 years, and had already signed a voucher for 2010, the Defendants' cancelled the voucher immediately prior to the conference.

12. While Fredericks had always been permitted to attend the Tax Collectors and Tax Association of New Jersey Executive Board Meetings on township time, the Defendants required that Frederick use his vacation time after he submitted his certification

alleging wrongdoing by the Defendants.

13. In furtherance of Defendants' retaliatory scheme, Frederick was also denied compensation for work performed in Weehawken. In March of 2009, Township Manager Marchetti approached Fredericks with the prospect of adding an additional job: that of administering the newly implemented tax abatement program in Weehawken. The Defendants agreed that Fredericks would receive \$10,400 for his work between May 1, 2009 and June 30, 2010. When Weehawken was unable to pay right away, Fredericks agreed to defer the agreed upon compensation until June 30, 2010. After July 1, 2010, the salary for these additional responsibilities would be \$7,800 annually. Fredericks has not received any of the payment he is due for his work in the tax abatement program. Not only was Fredericks required to spend many extra hours learning about tax abatements, but he was also required to travel to other municipalities and meet with their tax abatement officials. He worked with all of the people who have purchased tax-abated properties, doing more work than was required of him.

14. On August 2, 2010, and again on September 17, 2010, Fredericks wrote to Marchetti requesting payment for his work in the Weehawken Township Tax Abatement Program. Marchetti did not respond until after Fredericks had signed certification in the DeCosmis federal case, and denied Fredericks payment.

15. Effective June 30, 2010, Weehawken employees received a four percent raise in their salaries. Fredericks, however, was denied this raise without justification. The Tax Collector is one of four statutory officers that are covered by N.J.S.A. 40A:9-165, which states:

No ordinance shall reduce the salary of, or deny without good cause an increase in salary given to all other municipal officers and employees to, any tax assessor, chief financial officer, tax collector or municipal clerk during the term for which he shall have been appointed.

16. Marchetti told Fredericks that he would not receive a raise because “he was already overpaid,” which was a pretext to punish him for engaging in whistle-blowing and First Amendment protected activities.

17. By denying Fredericks payment for his work in the Tax Abatement Program and denying him the raise he was entitled to, Weehawken reduced the pension Fredericks would otherwise have been entitled to.

18. On September 23, 2010 Fredericks received a letter from Richard Barsa, Weehawken’s Finance Director, stating that “effective immediately” Fredericks would have to report to him or CFO Lisa Toscano, and that all future correspondence and communications would have to be approved by the Finance Director or CFO prior to distribution.

19. On October 25, 2010, Fredericks received a letter from Marchetti requesting a meeting to discuss his existing salary. Marchetti claims that Fredericks was receiving payment for recreation supervisory duties that he had not performed, and wanted to reduce Frederick’s salary and recoup the excess.

19. On November 11, 2010, Fredericks received a letter from Marchetti stating that he took unapproved vacation time. Fredericks’ vacation time had in fact been approved. Fredericks met with Marchetti on November 23, 2010. Marchetti told Fredericks, through the town attorney, that he was being denied compensation and accused him of being overcompensated, a baseless allegation used to retaliate against Frederick.

20. As a result of Frederick’s protected activities, the Defendants have created a hostile work environment because of his protected activities and free speech.

**I.**  
**COUNT ONE**  
**NEW JERSEY CONSCIENTIOUS**  
**EMPLOYEE PROTECTION ACT (“CEPA”)**  
**N.J.S.A. 34:19-1 *et seq.***

21. The Plaintiff repeats and realleges the allegations set forth above as if fully set forth herein.

22. Plaintiff complained to defendants of unlawful criminal and otherwise improper activities in Weehawken. Such complaints constitute protected activities under CEPA.

23. As a result of his complaints of unlawful activities in Weehawken, including the filing of the instant federal lawsuit, Weehawken, Mayor Turner, and Marchetti, engaged in a continuing pattern of retaliatory actions from at least July 2008 to the July 2011, against Plaintiff as alleged herein.

24. As a result of the aforementioned, Plaintiff suffered and constitutes to suffer economic and emotional distress damages to be determined by a jury. Because of Defendants’ conduct was willful and malicious, Plaintiff seeks punitive damages to be determined by a jury.

25. Fredericks disclosed information about Weehawken’s illegal acts.

26. As a result of the aforementioned, Plaintiff suffered and constitutes to suffer economic and emotional distress damages to be determined by a jury. Because of Defendants’ conduct was willful and malicious, Plaintiff seeks punitive damages to be determined by a jury.

**II.**  
**COUNT TWO**  
**42 U.S.C. §1983**  
**TOWNSHIP OF WEEHAWKEN**

27. Defendant Township of Weehawken, being a "person" within the meaning and intentment of 42 U.S.C. § 1983, acting under the color of the statutes, ordinances, regulations, customs, and/or usages of the

State of New Jersey and Township of Weehawken, has infringed upon Plaintiff's constitutional rights under the First Amendment to the United States Constitutions as follows:

- (a) freedom of speech,
- (b) freedom of association
- (c) freedom to petition the government for relief Constitution.

28. Defendant intentionally, knowingly, or with deliberate indifference to the rights of Plaintiff failed to train, instruct, supervise, control and/or discipline defendants in the performance of their duties as public officials.

29 As a direct and proximate cause of the aforementioned, Plaintiff was deprived of his Constitutional right secured by the First Amendment to the United States Constitution. As a result of the foregoing, Plaintiff has suffered and will continue to suffer economic, emotional and psychological damages in an amount to be determined by a jury.

**III.**  
**COUNT THREE**  
**42 U.S.C. §1983**  
**MAYOR TURNER & MARCHETTI**

30 All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.

31. Defendant Mayor Turner and Marchetti were, and still are, public officials with policy-making authority. Acting under the color of law, Mayor Turner and Marchetti deliberately and willfully infringed upon Plaintiff's constitutional rights to free speech, freedom of association, and to petition the government for relief afforded to him under the First Amendment to the United States Constitution as alleged herein.

33. As a direct and proximate cause of the aforementioned, Plaintiff was deprived of his constitutional right secured by the First Amendment to the United States Constitution. As a result of the foregoing, Plaintiff has suffered and will continue to suffer economic, emotional and psychological

damages in an amount to be determined by a jury. Because of Mayor Turner's willful and malicious conduct, Plaintiff seeks punitive damages in his individual capacity to be determined by a jury.

**IV.**  
**COUNT FOUR**  
**N.J. Civil Rights Act, N.J.S.A. 10:61 et seq.**  
**Free Speech**

34. Plaintiff repeats each and every allegation as though the same were recited herein at length.

35. Defendants, by and through its elected officials, have infringed and violated Plaintiff's constitutional right to engage in free speech afforded under the Constitution of the State of New Jersey.

36. As a direct and proximate result of defendants' actions, plaintiff suffered economic and emotional damages in an amount to be determined by a jury.

**V.**  
**COUNT FIVE**  
**N.J. Civil Rights Act, N.J.S.A. 10:61 et seq.**  
**Right to Petition for Redress of Grievances**

37. Plaintiff repeats each and every allegation as though the same were recited herein at length.

38. As a result of his protected activities, Defendants, by and through its elected officials and agents, have infringed, violated, retaliated, and interfered with Plaintiff's constitutional right to petition for redress of grievances secured under the Constitution of the State of New Jersey.

39. As a direct and proximate result of defendant's actions, Plaintiff suffered economic and emotional damages in an amount to be determined by a jury.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs pray that this Court enter an order finding as follows:

(a) That a declaratory judgment be issued that the Plaintiff's rights have been violated as alleged above;

(b) that Defendants violated Plaintiffs civil rights;

(c) that the Plaintiffs recover from the Defendants, jointly and severally, compensatory damages, exemplary and punitive damages, treble damages, attorney's fees, post judgment interest, and such other monetary relief as may be deemed appropriate in amounts to be determined at trial;

(d) that the Plaintiffs recover from the Defendants, jointly and severally, prejudgment interest to the maximum extent permitted by law;

(f) and that the Court grant such other and further relief as it deems just and proper.

**JURY TRIAL DEMANDED**

Plaintiffs request a trial by jury on all issues so triable.

DATED: September 16, 2011

By: IS/LOUIS A. ZAVAS, ESQ.  
LOUIS A. ZAYAS, Esq. (LZ-1881)