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SUPERIOR COURT OF NEW JERSEY
MERCER COUNTY
LAW DIVISION

JERMAINE CURRY,	:	<u>CIVIL ACTION</u>
	:	Docket No. MER-L-1590-18
	:	
Plaintiff	:	
v.	:	
	:	
NEW JERSEY STATE PRISON,	:	
	:	
And	:	
	:	
STATE OF NEW JERSEY	:	
DEPARTMENT OF CORRECTIONS,	:	
GLENN TRAHAN,	:	
ANTONIO CAMPOS,	:	
CALVIN BRYANT,	:	
VICTOR HORNE, STEPHEN JOHNSON,	:	
AND JOHN DOES 1-10,	:	
AND JANE DOES 1-10,	:	
	:	
Defendants.	:	

FIFTH AMENDED VERIFIED COMPLAINT

The Plaintiff, Jermaine Curry, by and through his counsel, the Hamilton Law Firm P.C., brings these claims against the Defendants, New Jersey State Prison and the New Jersey State Department of Corrections as follows:

PARTIES, JURISDICTION AND VENUE

1. The Plaintiff Jermaine Curry resides at ***** , New Jersey.
2. The Plaintiff, Jermaine Curry is employed as a Senior Corrections Officer (SCO) by the NJ State Department of Corrections and is assigned to work at the New Jersey State Prison.

3. The State of New Jersey Department of Corrections employs SCO Curry and is located at Whittlesey Road, Trenton, New Jersey 08625.
4. The New Jersey State Prison is a maximum-security prison within the Department of Corrections and is the location where SCO Curry is physically assigned to work. It is located at 2nd and Cass Streets, Trenton, New Jersey.
5. Glenn Trahan is an individual residing within the State of New Jersey and is a civilian employee employed by the New Jersey Department of Corrections and was assigned to work as an Institutional Trade Instructor (ITI) at NJSP at all times relevant to this action.
6. Antonio Campos is an individual residing within the State of New Jersey and is employed by the New Jersey Department of Corrections and was assigned to work as an Assistant Administrator at NJSP at all times relevant to this action.
7. Calvin Bryant is an individual residing within the State of Pennsylvania and is a civilian employee of the NJ Department of Corrections and was assigned to work as an Institutional Trade Instructor at the NJSP as all times relevant to this action.
8. Rose Rowell is an individual residing within the State of New Jersey and is a civilian employee of the NJ Department of Corrections and was assigned to work as an Institutional Trade Instructor at the NJSP as all times relevant to this action. Additional employees named in the caption are all employees of the NJ Department of Corrections.
9. Victor Horne is an individual residing within the State of New Jersey and is an employee of the NJ Department of Corrections.
10. Stephen Johnson is an individual residing within the State of New Jersey and is an employee of the NJ Department of Corrections.
11. Venue is properly laid in the Superior Court of New Jersey, Monmouth County based upon the residence of the Plaintiff.
12. The Superior Court of New Jersey, Law Division has jurisdiction over this matter as the Plaintiff seeks damages in excess of \$300,000 in compensation for their claims against the Defendants.

FACTS COMMON TO ALL COUNTS

13. The Plaintiff reiterates, the averments of fact set forth in Paragraphs 1 through 12 of the Amended Complaint as though recited herein verbatim and at length.
14. SCO Curry began training at the NJDOC as a recruit on January 17, 2011 and began his work assignment at the NJSP on May 5, 2011.
15. On May 25, 2013, he was assigned to work in the Cookhouse at the NJSP and began work there on June 8, 2013.
16. From May 5, 2011 through June 8, 2013, SCO Curry had no performance issues alleged against him nor did he have any complaints about his working environment.
17. As the NJSP is a maximum-security correctional facility, SCO Curry is responsible for enforcing the Standard Operating Procedures (SOPs) in the Cookhouse and any failure to adhere to or enforce those SOPs would result in subjecting him to disciplinary action or termination.
18. The promulgation and enforcement of safety protocols and standard operating procedures is paramount to ensuring the safety of all law enforcement and civilian employees who work within a maximum security corrections facility such as the New Jersey State Prison.
19. Institutional Trade Instructors (ITI) are civilian employees of the NJ DOC and NJSP.
20. The NJ DOC and the NJSP do not require ITIs to undergo the same rigorous security and corrections training as the law enforcement employees.
21. The ITIs are, however, required to know and follow the SOPs for the areas in which they are assigned to work.
22. In October 2013, ITI Bryant refused to follow the SOP regarding the removal of cooking utensils from the secure utensil closet. ITI Bryant instructed an inmate to get the utensils he needed directly from the Secure Closet without recording the utensils in the utensil log.
23. When SCO Curry heard this instruction, he immediately confronted both ITI Bryant and the inmate to advise them of the SOP.
24. When ITI Bryant refused to comply with the SOP, SCO Curry had no choice but to use his walkie-talkie to call Sgt. Gil.
25. Sgt. Gil came to the scene immediately and reiterated the procedure for ITI Bryant.

26. Following this incident and continuing through March 2015, SCO Curry suffered severe and ongoing retaliation from the other ITIs in the Cookhouse without any support from the NJSP or the DOC leadership.
27. From October 2013 onwards, the ITIs in the Cookhouse instructed the inmates not to give SCO Curry any respect or compliance of rules and regulations under the threat of being written up or removed from that duty.
28. In January 2014, while SCO Curry was assigned to work in the Cookhouse area, an inmate brought the officers their lunch and ITI Bryant, upon witnessing this, told the inmates not to give SCO Curry his lunch and verbally threatened SCO Curry. ITI Bryant continued to follow SCO Curry out of the office while yelling epithets and being verbally abusive to SCO Curry in front of the inmates, thereby undermining his authority.
29. SCO Curry called Lt. Van Morter for help who sent Sgt. Reardon to the scene.
30. SCO Curry wrote an incident report and both he and ITI Bryant received reprimands in their files.
31. SCO Curry was removed from his placement in the Cookhouse for 4 months, returning on May 2, 2014.
32. He was placed on a schedule that changed his working hours and physical location randomly making childcare scheduling and coverage for his family very difficult.
33. As soon as he returned to the Cookhouse, the ITI retaliation resumed.
34. On May 4, 2014, ITI Glenn Trahan also refused to follow the utensil SOP which requires that once the inmates are done using the utensils, they must be cleaned and logged and counted and placed back in the utensil closet by the corrections officer.
35. ITI Trahan took the utensils and placed them in his office and wouldn't give them to SCO Curry to return to the utensil closet.
36. SCO Curry immediately called a Sergeant for assistance and SCO Curry was given the utensils to return to the closet.
37. SCO Curry wrote up an incident report but ITI Trahan, a white male, was not reprimanded or re-educated on the SOPs.

38. On March 8, 2014, while SCO Curry and ITI Trahan were passing each other in the 1A "sally port" ITI Trahan called SCO Curry a "fucking punk."
39. ITI Trahan continued to be verbally abusive and to undermine SCO Curry's authority with the inmates, creating a dangerous situation in the maximum security prison by refusing to follow SOPs while working in the cookhouse within SCO Curry's presence.
40. On May 25, 2014, ITI Rose Rowell accused SCO Curry of having contraband when he shared his approved lunch with another corrections officer.
41. In October 2014, ITI Trahan told the inmates that they were allowed to take extra food with them despite specific orders given to the Cookhouse officers by Lt. Van Morter to enforce the food menu policy. When SCO Curry heard this, he reiterated the policy regarding "swag" (extra non-menu items of food) and how inmates were not permitted to have access to this or to remove it from the Cookhouse. ITI Trahan instructed the inmates to disregard SCO Curry's instructions and reiteration of the policy.
42. That evening at 6:00 p.m. when the inmates were searched before leaving for the day, they were discovered to have "swag" on their persons and were written up for their violation.
43. On November 16, 2014, ITI Rowell purposely delayed SCO Curry's inspection and release of the food carts yelling "I'm in charge" and telling the inmates not to listen to SCO Curry.
44. SCO Curry wrote another incident report but no action was taken and the harassment continued.
45. Later that month, in November 2014, the ITIs anonymously informed the Major that they had overheard SCO Curry saying he felt threatened for his life and safety because cans and lids were being opened and left lying around in the Vegetable Room.
46. SCO Curry not only denied making this statement but also explained that under the SOP, he would never be in the Vegetable Room at the same time as open cans and lids and inmates and accordingly, there would never be any such threat.
47. Despite always following the SOP, SCO Curry was removed from the Cookhouse assignment for two days over Thanksgiving, forcing him to miss the holiday with his family.

48. On December 15, 2014, ITI Trahan refused to allow SCO Curry to collect and secure the utensils before allowing the trash to be taken out which is a clear violation of the Cookhouse SOPs.
49. ITI Trahan specifically instructed inmates not to listen to SCO Curry or to give him the utensils.
50. SCO Curry notified Sgt. Murl of the issue. When Sgt. Murl instructed ITI Trahan to hand over the utensils, SCO Curry noticed that the issued utensils did not match the utensil log.
51. SCO Curry made a copy of the utensil log and wrote an incident report as yet another example of ITI Trahan not following the SOP and endangering the lives and safety of the corrections officers and institutional staff.
52. SCO Curry brought his incident report to the office and was instructed by the Central Command Center Keeper, Lt. Hubert that he would not be given the Incident Report Control Number, despite the fact that he had been provided same for all prior incident reports.
53. On March 26, 2015, inmates approached SCO Curry and informed him that they and the ITIs needed to get canned goods from the canned goods room and then the inmates would open the food cans in the Vegetable Room, a workstation; SCO Curry complied. As SCO Curry completed inspection of the vegetable room, ITIs Trahan and Bryant escorted the inmates to the Vegetable Room; ITI Trahan entered the workstation with (2) inmates.
54. While SCO Curry was patting down one of the inmates, ITI Trahan retrieved the can opener and proceeded to open cans with the inmates inside the workstation which is a violation of the SOP which required that all persons other than the inmates be outside the locked room when cans were being opened. SCO Curry immediately instructed ITI Trahan to stop what he was doing and to leave the room for his safety at which ITI Trahan aggressively looked at SCO Curry and stated "fuck it and fuck you". ITI Trahan refused to comply with the SOP and continued to open cans, leaving sharp lids within reaching distance of the inmates.
55. SCO Curry then ordered the inmates from the room, radioed for Sgt. Keaton (area sergeant) and temporarily secured the door for ITI Trahan's safety. SCO Curry then searched/wanded the inmates and secured the inmates in another room.
56. When SCO Curry returned to open the door for ITI Trahan, ITI Trahan began yelling racially offensive slurs then hit the metal grating window with the can opener towards SCO Curry's face.

57. Concerned about an escalating situation, SCO Curry radioed for his area sergeant again and simultaneously ran to the office to call for help. When Sgt. Keaton and the lieutenant arrived in the area, Sgt. Keaton, Lt. Kennedy and SCO Curry returned to the Vegetable Room, at which Sgt. Keaton instructed SCO Curry to open the door and let ITI Trahan out.
58. When SCO Curry attempted to secure the cans and lids, SCO Curry was instructed to immediately go to the Assistant Administrator's office and write a special custody report.
59. Since this incident, SCO Curry has been removed from the Cookhouse assignment and has been assigned to work in the Rotunda.
60. This has affected his working hours and his childcare obligations.
61. ITI Trahan, under direction of Assistant Administrator Campos, filed a Complaint against SCO Curry that resulted in an investigation by the Special Investigations Division of the NJ DOC.
62. None of SCO Curry's prior complaints regarding ITI Trahan, ITI Rowell, or ITI Bryant ever resulted in any internal investigations.
63. The Special Investigations Division concluded that SCO Curry was at fault and the investigation did not take into consideration the prior history between SCO Curry and ITI Trahan.
64. The Special Investigations Division did not take into account ITI Trahan's own repeated violations of the safety SOPs.
65. SCO Curry was found responsible in a departmental hearing held in September 2015 and was subjected to 60 days suspension as discipline.
66. He immediately appealed the Disciplinary finding.
67. SCO Curry was notified that his appeal was denied on February 9, 2018.
68. SCO Curry continues to be subject to ongoing severe and pervasive retaliatory treatment that has caused him great emotional stress requiring him to seek treatment that has been ongoing.
69. In February 2017, SCO Curry was awarded a new job posting as *North/South Compound Inside Sanitation Relief Officer*.

70. SCO Curry had won the bid for this position that physically began in late April 2017.
71. On May 5, 2017, Lt. Victor Horne told SCO Curry "You look too comfortable in your new spot" and moved SCO Curry multiple times during the shift from his bid assignment to *North/South General Assignment Officer*, a lower bid position.
72. From May 2017 through July 5, 2017, any time that Lt. Horne was on duty at the same time that SCO Curry reported to his post as *North Compound Inside Sanitation Relief Officer*, he was moved to be the *N/S General Assignment Officer*.
73. Lt. Horne never provided a reason for this change in position.
74. No other SCOs have been removed from their "bided" position in this way.
75. On Friday, May 5, 2017, SCO Curry complained to his supervisors through an official written report but nothing was done.
76. In response, SCO Curry's supervisors ordered him to speak with Lt. Horne directly and would not provide him with any protection against his harasser.
77. On May 5, 2017, SCO Curry submitted an EED Complaint detailing his anxiety and distress at having to speak with his harasser, Lt. Horne.
78. On May 7, 2017, SCO Curry submitted a supplemental report detailing how Lt. Horne and other supervisors were colluding to harass and intimidate him.
79. On May 18, 2017, NJSP administration ordered Lt. Crothers to confiscate SCO Curry's departmental "weapons card" without reasonable basis or any explanation.
80. On June 12, 2017, SCO Curry underwent counseling and evaluation at Stress Care of NJ and was cleared to return to work without any limitations.
81. On June 14, 2017, NJ Employee Advisory Services also cleared SCO Curry for work without any limitations.
82. SCO Curry sought return of his weapons card and to date, has not been given his weapons card.
83. On June 1, 2017, SCO Curry was once again written up for alleged "insubordination" by Lt. Horne and current administration due to the incident he complained about concerning Lt. Horne on May 5, 2017.

84. No other employee holding the North Compound Inside Sanitation Relief Officer position prior to SCO Curry was ever moved by Lt. Horne to serve as the general assignment officer.
85. SCO Curry has requested a transfer out of the NJ State Prison on numerous occasions but has been denied same on the alleged basis that he cannot transfer while he has a pending disciplinary issue.
86. SCO Curry filed an appeal of the decision to suspend him from work for the prior incidents referenced in this Complaint (pp. 50-62).
87. Clearly, SCO Curry has suffered and continues to suffer an ongoing pattern of harassment, intimidation, workplace bullying as retaliation for his write-ups and complaints against several supervisors.
88. As a part of the Defendants' ongoing harassment and retaliation against SCO Curry, he has also been denied the opportunity to seek promotions to the position of Sergeant.
89. SCO Curry applied to take the Sergeant's exam on December 9, 2014.
90. However, SCO Curry was informed that he could not take the sergeant's exam if he had disciplinary charges pending against him.
91. SCO Curry applied to take the Sergeant's exam again on November 20, 2017.
92. However, one again, the departmental charges filed against him prevented him from qualifying to take the exam.
93. As a direct result of the Defendants' retaliatory "write ups", SCO Curry has been deprived of the opportunity to take the Sergeant's exam and has suffered financial damages as a direct result of being prevented from seeking promotion.
94. The Plaintiff has suffered and continues to suffer severe and ongoing economic and emotional distress as a direct result of the Defendants' retaliatory actions against SCO Curry.

Ongoing Pattern of Harassment, Intimidation, Discrimination and Retaliation

95. There are numerous instances of retaliation by the Defendants that follow the same pattern.
96. When a corrections officer raises an issue about a supervisor's behavior or treatment, the officer is deemed to be insubordinate.

97. The officer is then written up for insubordination or some other alleged violation.
98. Often the officer is removed from the “bided” post and given a rotating schedule.
99. Then, prior to the hearing on his write-up, the officer is offered a “settlement” where he or she has to admit to the insubordination, has to be suspended without pay for a certain number of days, or risk going through with the hearing and receiving a guaranteed 120 day suspension.
100. This intimidation process is routinely used on any employee who files a complaint against a supervisory officer.
101. This intimidation process creates a chilling effect on the officers working for the Defendants.
102. The threat of suspension for 120 days without pay has a real and financial impact upon the officers, discouraging them from speaking up about how they are being mistreated.
103. Interestingly, this policy only applies to officers of color.
104. Caucasian officers receive 5 or 10 days suspensions for major violations like negligently discharging ammunition in the Tower while inmates are in the yard or having an accident in a state vehicle while transporting inmates because the officer was talking on his cell phone.
105. The minimum suspension imposed upon officers of color is for 120 days.
106. Further, the departmental hearings to determine the officers’ suspension are not fairly conducted.
107. At the Plaintiff’s Departmental Hearing that took place on May 1, 2018, the hearing panel contained two members who had previously prosecuted cases against him and were clearly biased.
108. When the Plaintiff objected to their presence, they exited the room to make a phone call and then returned and advised him that he should take the “settlement” admitting to insubordination and accepting a 61 day unpaid suspension or proceed with the hearing and receive a minimum of 120 days.
109. This “settlement” required that the Plaintiff waive all of his claims, including this lawsuit, against the State of New Jersey.

110. This pattern of harassment and intimidation follows in retaliation for an officer of color filing a complaint against management.
111. This pattern of harassment and intimidation creates a chilling effect, thereby rendering any complaint and employee protection measures alleged to be in place at the NJSP entirely ineffective.
112. On December 28, 2018, Plaintiff was interviewed by EED in connection with a co-worker's harassment complaint against a superior officer at the NJ State Prison.
113. The Plaintiff served as a witness for this harassment suffered by his co-worker and signed the "New Jersey State Policy Prohibiting Discrimination in the Workplace" (the "Policy") on December 28, 2018.
114. This Policy specifically includes the following language:

"All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigatory process. During the course of an investigation, it may be necessary to discuss the claims with the person(s) against whom a complaint has been made and other persons who may have relevant knowledge. It may also be necessary to disclose information to persons with a legitimate need to know about the matter. All persons who are interviewed or otherwise advised of a complaint are directed not to discuss any aspect of the investigation with others. Failure to comply with this confidentiality directive may result in disciplinary action, up to and including removal."

115. The Policy also contains a "Prohibition Against Retaliation" as follows:

"Retaliation against any person who either alleges that she or he was the victim of discrimination/harassment, provides information in the course of an investigation into claims of discrimination/harassment in the workplace, or opposes a discriminatory practice, is prohibited by the Policy. Any employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under the Policy will not be subject to adverse employment consequences based upon such involvement or be the subject of other retaliation."

116. On December 28, 2018, the same day that the Plaintiff was interviewed by EED in his co-worker's harassment investigation, Administration prepared a "Letter of Counseling" to issue to the Plaintiff regarding an EED finding related to the May 5, 2017 incident.

117. The Letter of Counseling was given to the Plaintiff by Asst. Superintendent Amy Emrich on January 24, 2019.
118. The Letter of Counseling states that "Please be advised that EED has concluded its investigation into the allegation of discrimination/harassment based on race, color, sex, gender, religion, disability, sexual harassment and retaliation filed by yourself. The EED investigation confirmed your use of the comment "I'll do it if it'll make his dick bigger." The EED has determined that the comment made by yourself is a C-31 violation of a Policy Prohibiting Discrimination in the Workplace."
119. The Letter of Counseling relates to an incident which allegedly took place on **May 5, 2017**.
120. At the Departmental Hearing which took place in May 2018, Lt. Victor Horne, about whom the Plaintiff is accused of making the comment in question on May 5, 2017, denies hearing the comment.
121. At the Departmental Hearing which took place in May 2018, none of the witnesses called by Lt. Horne testified to hearing this comment.
122. At the Departmental Hearing which took place in May 2018 relating to the May 5, 2017 incident, the Plaintiff denied ever making the comment.
123. At that Departmental Hearing which took place in May 2018, the Plaintiff was charged with "insubordination" related to the May 5, 2017 incident, and was issued a 120 day suspension, which has been fully served.
124. The Letter of Counseling issued to the Plaintiff is dated 12/28/18 but was issued to him on January 24, 2019.
125. The Letter of Counseling issued to the Plaintiff dated December 28, 2018, is in retaliation for the Plaintiff's cooperation and testimony in a co-worker's harassment/discrimination complaint against the NJ State Prison.
126. The Letter of Counseling dated December 28, 2018, is in clear violation of the Policy prohibiting retaliation against the Plaintiff as set forth in the Policy he was required to sign on December 28, 2018.
127. The Defendants have violated their own Policy regarding confidentiality and retaliation against employees who participate in harassment and discrimination investigations in the workplace.

128. The Defendants, in violating their own Policy, have retaliated against the Plaintiff for engaging in protected activity by issuing him a Letter of Counseling for an incident for which he has already been suspended.

The Harmon Assault

129. In an ultimate act of retaliation, Officer Curry was suspended without pay on August 1, 2019, for an incident that took place on June 9, 2019.
130. Officer Curry's usual and normal posting was to be located inside the 1DD booth checking IDs.
131. That morning, however, Officer Curry was posted outside the booth and assigned to doing "pat down" checks by Sgt. Micheal Haywood.
132. If Curry was in the booth, as is his usual posting, Officer Harmon would not have been able to engage with him.
133. Officer Curry was speaking with another officer at the NJSP premises when Officer Harmon interjected offensive and inflammatory comments into his conversation.
134. Officer Harmon continued to interject comments into Officer Curry's private discussion in a concerted attempt to provoke an altercation.
135. Officer Harmon had attempted this same tactic on the prior day to no avail as Officer Curry had walked away from him, ignoring his comments.
136. On June 9, 2019, once again, Officer Curry stepped away from Officer Harmon to avoid a confrontation.
137. Officer Harmon swung at Officer Curry, hitting him in the shoulder.
138. At the August 2019 Hearing, Ofc. Curry was accused of not providing all details of the incident.
139. In fact, he had prepared one Addendum report containing the full details of the entire incident and had submitted same to his supervisor less than 24 hours following the incident.
140. The Administrative Lieutenant, Michael Ptaszenski, had refused to consider the Addendum Report as a valid submission.
141. Officer Curry did not swing at Officer Harmon and Officer Harmon was not injured; Ofc. Curry, however was transported to Corporate Health for shoulder

- pain in which the department intentionally withheld this medical report from the record.
142. One of the “eyewitnesses” interviewed by the Special Investigations Division (SID), Ofc. Tiffany Barrett, was the same individual who provided “eyewitness” testimony against Ofc. Curry in the Lt. Horne incident.
 143. In a videotaped recording, Ofc. Barrett testified that “Ofc. Curry [was] the aggressor during the altercation. Ofc. Barrett stated that Ofc. Harmon was, “not laid back”, however, Ofc. Harmon did not appear as aggressive as Ofc. Curry.” (SID Report, July 8, 2019)
 144. Ofc. Barrett testified to observing all of the details of the assault from inside the booth while other officers, present near Ofc. Curry did not provide the same details.
 145. At the August 2019 Hearing, Ofc. Barrett testified that Ofc. Harmon was also aggressive but “she did not witness either officer strike one another.” (See SID Report, p.2)
 146. The SID Report also details that “Sgt. Haywood witnessed both officers attempt to punch one another.” (SID Report, July 8, 2019)
 147. Sgt. Haywood testified in the SID Report that “he saw Ofc. Harmon take a step back and throw a closed fist punch at Ofc. Curry. ... Ofc. Curry jumped back and avoided being punched.” (SID Report, July 8, 2019)
 148. At the August 2019 Hearing, Ofc. Harmon admits to swinging first.
 149. The Administrative Lieutenant, Michael Ptaszenski, stated that Ofc. Harmon was likely scared for his life by Ofc. Curry’s words, thereby justifying his physical attack.
 150. Ofc. Harmon has been a corrections officer for 8 years and is in direct contact with maximum security prison inmates every day.
 151. Ofc. Harmon is taller and physically larger than Ofc. Curry.
 152. Ofc. Harmon was returned to work while Ofc. Curry was suspended without pay.
 153. Ofc. Harmon does not have any claims currently pending against the NJSP.
 154. In the SID Report, Ofc. Abouzi testified that he was assisting in pat downs when “Ofc. Harmon and Ofc. Curry engaged in a verbal disagreement.”

155. Ofc. Abouzied, standing adjacent to Ofc. Curry, does not testify that Ofc. Curry attacked Ofc. Harmon as describes the incident with equal fault to Ofc. Harmon and Ofc. Curry.
156. Ofc. Curry was suspended without pay while Ofc. Harmon returned to work with full pay and benefits.
157. Despite being the individual in closest proximity to the incident, Ofc. Abouzied was not permitted to testify at the Departmental Hearing on August 19, 2019, and was transferred to Second Shift a few days before the hearing took place.
158. The State, by and through its employees and the SID have conspired to paint Officer Curry as the aggressor in this incident when he was the victim.
159. The State and its employees have done so with the express purpose of retaliating against Officer Curry for his pending lawsuit against the Defendants and to provide fodder to terminate his employment and remove him from the workplace.
160. The State notified Officer Curry that effective August 1, 2019, he was to be suspended without pay pending the Departmental Hearing.
161. As is clear from prior departmental hearings in both the Cookhouse Incident, and the Lt. Horne incident, Officer Curry will not be given a fair and unbiased hearing and will be found guilty of the charges assessed against him.
162. The Plaintiff has been damaged and continues to be damaged by the Defendants' negligent, intentional, wanton and willful actions of harassment and retaliation as detailed herein.
163. Officer Curry was suspended without pay while Officer Harmon, the aggressor, was returned to work at full pay and full benefits.
164. On August 19, 2019, Officer Curry appeared before a departmental hearing ("August 2019 Hearing").
165. The August 2019 Hearing lasted approximately 4 hours and the hearing panel heard testimony from Ofc. Barrett, the alleged eyewitness, whose statement substantially differed and exaggerated the testimony she had already provided to the SID.
166. To date, and despite requests for same, the State has refused to provide the recordings of the witness interviews referenced in the SID report.

167. The hearing also included testimony from Officer Harmon who admits that he swung first at Officer Curry.
168. This detail was missing from the SID Report as well as Ofc. Curry's special custody report for medical treatment and the NJ State Employer's 1st Report of Accidental Injury or Occupational Disease report needed to authorize transport to the hospital for shoulder injury.
169. Despite being the aggressor, Officer Harmon was returned to work at full pay and full benefits while Officer Curry was suspended without pay.
170. On the prior day, Officer Harmon had attempted to start an altercation with Officer Curry but Officer Curry had ignored him and walked away.
171. Officer Curry has not received pay or benefits since August 1, 2019.
172. Officer Curry was officially separated from employment on September 4, 2019, the date of the Final Notice of Disciplinary Action, confirming his termination.
173. Officer Curry's application for unemployment benefits has been denied as the State has painted Officer Curry as the aggressor in this alleged assault even though Officer Harmon has admitted to swinging first and Officer Curry was injured during the assault.
174. The Plaintiff has been damaged and continues to be damaged by the Defendants' negligent, intentional, wanton and willful actions of harassment and retaliation as detailed herein.

COUNT I

Violation of the Conscientious Employee Protection Act NJSA 34:19-1 et. seq. (All Defendants)

175. The Plaintiff reiterates the averments of fact set forth in paragraphs 1 through 174 of the Fifth Amended Complaint as though recited herein verbatim and at length.
176. SCO Curry has suffered a pattern of ongoing, severe and pervasive harassment, intimidation and bullying as retaliation for his complaints against ITI Bryant and ITI Trahan for their failure and blatant refusal to follow Correction Facility SOPs and safety guidelines.
177. SCO Curry personally observed ITI Trahan's refusal to follow proper safety procedures in properly securing cooking utensils, including knives, at the Cookhouse of the NJ State Prison.

178. SCO Curry reasonably believed that ITI Trahan's refusal to follow the proper safety SOPs in the presence of inmates in a maximum security prison would create a severe and dangerous safety threat.
179. SCO Curry also reasonably believed that ITI Trahan's refusal to follow proper safety procedures even after being counseled to do so violated public policy and safety requirements of the NJ State Prison.
180. SCO Curry has repeatedly sought the assistance of his superior officers to correct the ITIs' transgressions.
181. ITI Trahan has received no negative disciplinary action while SCO Curry has been removed from his job postings, suspended for 60 days, and has been subject to ongoing threats, harassment, intimidation and reprimands.
182. In every incident involving ITI Trahan, SCO Curry has been singled out for negative treatment while ITI Trahan has remained unscathed and undisciplined.
183. In fact, all of the incidents between ITI Trahan and SCO Curry have been in retaliation for SCO Curry's complaints about ITI Trahan's refusal to follow safety procedures at the State Prison.
184. The Defendants have done nothing to protect SCO Curry from ITI Trahan's retaliatory harassment, intimidation and bullying actions.
185. The NJSP is violating public policy and its own written and documented safety procedures and endangering the lives of its other employees and inmates by refusing to require ITI Trahan to follow the safety procedures.
186. The NJSP is violating public policy and its own written and documented safety procedures and endangering the lives of its other employees and inmates by retaliating against SCO Curry for raising complaints about ITI Trahan's and other employee's refusal to follow proper safety procedures.
187. In fact, the Defendants have taken steps to protect ITI Trahan against these complaints and even promoted ITI Trahan to a higher-supervisory position with a transfer to a different institution.
188. Further, the Defendants have continued to harass, intimidate and target SCO Curry for his other complaints about violations of workplace procedure.
189. SCO Curry has filed numerous other complaints regarding the blatant violations of NJSP standard operating procedures and guidelines.

190. The NJSP has continued to permit the violations of their SOPs while continuing to suspend SCO Curry in retaliation for his complaints.
191. The Defendants' investigation of the March 2015 incident which resulted in SCO Curry's suspension was biased, one-sided and completely without merit as it did not take into account ITI Trahan's history with SCO Curry and his violation of safety protocols in the Vegetable Room.
192. On May 5, 2017, SCO Curry was accused of making a derogatory comment regarding Lt. Victor Horne.
193. The alleged comment was "I'll do it if it'll make his dick bigger."
194. SCO Curry denies making this comment.
195. Lt. Victor Horne denied hearing this comment when he testified at the Departmental Hearing which took place in May 2018.
196. Lt. Horne's witnesses did not have direct knowledge of this alleged comment.
197. Two of the hearing officers who presided over the Department Hearing regarding this comment had been involved in previous investigations against SCO Curry and were neither neutral nor impartial.
198. SCO Curry was repeatedly threatened during the hearing and advised to settle for a lesser charge or receive a "guaranteed 120 day suspension."
199. SCO Curry rejected the settlement offer because it involved dismissing and waiving his rights to all of his civil claims raised in this case.
200. SCO Curry received a 120 day suspension for allegedly making this comment about Lt. Horne.
201. SCO Curry was suspended for advising the Center Keeper that Lt. Horne was harassing him and that he did not feel comfortable speaking with his harasser.
202. The hearing officer on SCO Curry's unemployment compensation application hearing found that the NJ State Prison had improperly suspended SCO Curry for refusing to speak with his harasser.
203. As a result of the May 2018 Administrative hearing, SCO Curry received a 120 day suspension while other SCO's with worse violations received a lower number of days of suspension.

204. SCO Curry was informed on May 1, 2018, that he would be “written up” for his picture appearing in the newspaper article covering this action even though SCO Curry explained that he had no idea how the newspaper got the picture.
205. On December 28, 2018, Plaintiff was interviewed by EED in connection with a co-worker’s harassment complaint against a superior officer at the NJ State Prison.
206. The Plaintiff served as a witness for this harassment suffered by his co-worker and signed the “New Jersey State Policy Prohibiting Discrimination in the Workplace” (the “Policy”) on December 28, 2018 as a part of his testimony on his co-worker’s behalf.
207. This Policy specifically includes the following language:
- “All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigatory process. During the course of an investigation, it may be necessary to discuss the claims with the person(s) against whom a complaint has been made and other persons who may have relevant knowledge. It may also be necessary to disclose information to persons with a legitimate need to know about the matter. All persons who are interviewed or otherwise advised of a complaint are directed not to discuss any aspect of the investigation with others. Failure to comply with this confidentiality directive may result in disciplinary action, up to and including removal.”
208. The Policy also contains a “Prohibition Against Retaliation” as follows: “Retaliation against any person who either alleges that she or he was the victim of discrimination/harassment, provides information in the course of an investigation into claims of discrimination/harassment in the workplace, or opposes a discriminatory practice, is prohibited by the Policy. Any employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under the Policy will not be subject to adverse employment consequences based upon such involvement or be the subject of other retaliation.”
209. On December 28, 2018, the same day that the Plaintiff was interviewed by EED in his co-worker’s harassment investigation, Administration prepared a “Letter of Counseling” to issue to the Plaintiff regarding an incident which took place on May 5, 2017.
210. The Letter of Counseling was given to the Plaintiff by Asst. Superintendent Amy Emrich on January 24, 2019.

211. The Letter of Counseling states that “Please be advised that EED has concluded its investigation into the allegation of discrimination/harassment based on race, color, sex, gender, religion, disability, sexual harassment and retaliation filed by yourself. The EED investigation confirmed your use of the comment “I’ll do it if it’ll make his dick bigger.” The EED has determined that the comment made by yourself is a C-31 violation of a Policy Prohibiting Discrimination in the Workplace.”
212. The Letter of Counseling relates to an incident which allegedly took place on **May 5, 2017**.
213. At the Departmental Hearing which took place in May 2018, Lt. Victor Horne, about whom the Plaintiff is accused of making the comment in question on May 5, 2017, denies hearing the comment.
214. At the Departmental Hearing which took place in May 2018, none of the witnesses called by Lt. Horne testified to hearing this comment.
215. At the Departmental Hearing which took place in May 2018 relating to the May 5, 2017 incident, the Plaintiff denied ever making the comment.
216. At that Departmental Hearing which took place in May 2018, the Plaintiff was charged with “insubordination” related to the May 5, 2017 incident, and was issued a 120 day suspension, which has been fully served.
217. The Letter of Counseling issued to the Plaintiff is dated 12/28/18 but was issued to him on January 24, 2019.
218. The Letter of Counseling issued to the Plaintiff dated December 28, 2018, is in response to the Plaintiff’s cooperation and testimony in a co-worker’s harassment/discrimination complaint against the NJ State Prison.
219. The Letter of Counseling issued to the Plaintiff dated December 28, 2018, is in clear violation of the Policy prohibiting retaliation against the Plaintiff as set forth in the Policy he was required to sign on December 28, 2018.
220. The Defendants have violated their own Policy regarding confidentiality and retaliation against employees who participate in harassment and discrimination investigations in the workplace.
221. The Defendants, in violating their own Policy, have retaliated against the Plaintiff for engaging in protected activity by issuing him a Letter of Counseling for an incident for which he has already been suspended.

The Harmon Assault

222. In an ultimate act of retaliation, Officer Curry was suspended without pay on August 1, 2019, for an incident that took place on June 9, 2019.
223. Officer Curry's usual and normal posting was to be located inside the 1DD booth checking IDs.
224. That morning, however, Officer Curry was posted outside the booth and assigned to doing "pat down" checks by Sgt. Michael Haywood.
225. If Curry was in the booth, as is his usual posting, Officer Harmon would not have been able to engage with him.
226. Officer Curry was speaking with another officer at the NJSP premises when Officer Harmon interjected offensive and inflammatory comments into his conversation.
227. Officer Harmon continued to interject comments into Officer Curry's private discussion in a concerted attempt to provoke an altercation.
228. Officer Harmon had attempted this same tactic on the prior day to no avail as Officer Curry had walked away from him, ignoring his comments.
229. On June 9, 2019, once again, Officer Curry stepped away from Officer Harmon to avoid a confrontation.
230. Officer Harmon swung at Officer Curry, hitting him in the shoulder.
231. At the August 2019 Hearing, Ofc. Curry was accused of not providing all details of the incident.
232. In fact, he had prepared one Addendum report containing the full details of the entire incident and had submitted same to his supervisor less than 24 hours following the incident.
233. The Administrative Lieutenant, Michael Ptaszenski, had refused to consider the Addendum Report as a valid submission.
234. Officer Curry did not swing at Officer Harmon and Officer Harmon was not injured; Ofc. Curry, however was transported to Corporate Health for shoulder pain in which the department intentionally withheld this medical report from the record.

235. One of the “eyewitnesses” interviewed by the Special Investigations Division (SID), Ofc. Tiffany Barrett, was the same individual who provided “eyewitness” testimony against Ofc. Curry in the Lt. Horne incident.
236. In a videotaped recording, Ofc. Barrett testified that “Ofc. Curry [was] the aggressor during the altercation. Ofc. Barrett stated that Ofc. Harmon was, “not laid back”, however, Ofc. Harmon did not appear as aggressive as Ofc. Curry.” (SID Report, July 8, 2019)
237. Ofc. Barrett testified to observing all of the details of the assault from inside the booth while other officers, present near Ofc. Curry did not provide the same details.
238. The SID Report also details that “Sgt. Haywood witnessed both officers attempt to punch one another.” (SID Report, July 8, 2019)
239. Sgt. Haywood testified in the SID Report that “he saw Ofc. Harmon take a step back and throw a closed fist punch at Ofc. Curry. ... Ofc. Curry jumped back and avoided being punched.” (SID Report, July 8, 2019)
240. At the August 2019 Hearing, Ofc. Harmon admits to swinging first.
241. Ofc. Harmon was returned to work while Ofc. Curry was suspended without pay.
242. Ofc. Harmon does not have any claims currently pending against the NJSP.
243. In the SID Report, Ofc. Abouzied testified that he was assisting in pat downs when “Ofc. Harmon and Ofc. Curry engaged in a verbal disagreement.”
244. Ofc. Abouzied, standing adjacent to Ofc. Curry, does not testify that Ofc. Curry attacked Ofc. Harmon as describes the incident with equal fault to Ofc. Harmon and Ofc. Curry.
245. Ofc. Curry was suspended without pay while Ofc. Harmon returned to work with full pay and benefits.
246. Despite being the individual in closest proximity to the incident, Ofc. Abouzied was not permitted to testify at the Departmental Hearing on August 19, 2019, and was transferred to Second Shift a few days before the hearing took place.
247. The State, by and through its employees and the SID have conspired to paint Officer Curry as the aggressor in this incident when he was the victim.
248. The State and its employees have done so with the express purpose of retaliating against Officer Curry for his pending lawsuit against the Defendants and to

- provide fodder to terminate his employment and remove him from the workplace.
249. The State notified Officer Curry that effective August 1, 2019, he was to be suspended without pay pending the Departmental Hearing.
 250. As is clear from prior departmental hearings in both the Cookhouse Incident, and the Lt. Horne incident, Officer Curry will not be given a fair and unbiased hearing and will be found guilty of the charges assessed against him.
 251. The Plaintiff has been damaged and continues to be damaged by the Defendants' negligent, intentional, wanton and willful actions of harassment and retaliation as detailed herein.
 252. Officer Curry was suspended without pay while Officer Harmon, the aggressor, was returned to work at full pay and full benefits.
 253. On August 19, 2019, Officer Curry appeared before a departmental hearing ("August 2019 Hearing").
 254. The August 2019 Hearing lasted approximately 4 hours and the hearing panel heard testimony from Ofc. Barrett, the alleged eyewitness, whose statement substantially differed and exaggerated the testimony she had already provided to the SID.
 255. To date, and despite requests for same, the State has refused to provide the recordings of the witness interviews referenced in the SID report.
 256. The hearing also included testimony from Officer Harmon who admits that he swung first at Officer Curry.
 257. This detail was missing from the SID Report as well as Ofc. Curry's special custody report for medical treatment and the NJ State Employer's 1st Report of Accidental Injury or Occupational Disease report needed to authorize transport to the hospital for shoulder injury.
 258. Despite being the aggressor, Officer Harmon was returned to work at full pay and full benefits while Officer Curry was suspended without pay.
 259. On the prior day, Officer Harmon had attempted to start an altercation with Officer Curry but Officer Curry had ignored him and walked away.
 260. Officer Curry has not received pay or benefits since August 1, 2019.

261. Officer Curry was officially separated from employment on September 4, 2019, the date of the Final Notice of Disciplinary Action, confirming his termination.
262. Officer Curry's application for unemployment benefits has been denied as the State has painted Officer Curry as the aggressor in this alleged assault even though Officer Harmon has admitted to swinging first and Officer Curry was injured during the assault.
263. This assault constitutes a discrete act by the State and has further added to Officer Curry's damages resulting from the State's retaliation against him.
264. The Plaintiff has been damaged and continues to be damaged by the Defendants' negligent, intentional, wanton and willful actions of harassment and retaliation as detailed herein.
265. The Defendants' retaliatory actions have directly affected the terms and conditions of SCO Curry's employment resulting in lost wages, benefits and other remuneration.
266. SCO Curry has suffered financial damages and severe emotional distress as a direct and proximate result of the individual Defendants' ongoing, severe and pervasive retaliation against him and in direct violation of their own written policies and safety procedures.

WHEREFORE, the Plaintiff seeks damages against all Defendants as follows:

- (a) Compensatory and consequential damages;
- (b) Punitive damages;
- (c) Pre- and post-judgment interest;
- (d) Counsel fees and costs of suit incurred herein; and
- (e) Such other relief that this Court deems just and equitable under the circumstances.

SECOND COUNT

Violation of the NJ Law Against Discrimination
(NJSP and State of New Jersey)

267. The Plaintiff reiterates the averments of fact set forth in Paragraphs 1 through 266 of the Fifth Amended Complaint as though recited herein verbatim and at length.
268. The New Jersey State Prison has demonstrated disparate treatment between Caucasians and employees of color in their employ.

269. This pattern reveals that Caucasians committing violations of workplace procedures and policies are not “written up” as often as employees of color.
270. This pattern also reveals that Caucasians who are “written up” for egregious workplace procedure and policy violations receive few days of suspension, if any at all, than employees of color.
271. The NJSP has demonstrated a pattern of issuing a 120 day suspension for employees of color.
272. Most recently on May 1, 2018, SCO Curry was given a 120 day suspension for insubordination and conduct unbecoming an employee for allegedly making an inappropriate comment regarding Lt. Victor Horne, his supervisor.
273. Lt. Horne testified at the hearing that he never spoke directly with SCO Curry and that he did not hear the comment.
274. The finding was based upon allegations in a report prepared by Sgt. Batie.
275. Sgt. Batie is currently under investigation for falsifying state documents and special custody reports.
276. SCO Barrett whom was mentioned by Lt. Victor Horne to had been an eyewitness admits to not being present when the alleged incident occurred and that she did not hear the comment.
277. SCO Curry received a 120 day suspension for an unsubstantiated charge while other Caucasian employees with serious, proved violations have received “minors” or no disciplinary action at all.
278. A Caucasian SCO who negligently discharged a firearm in the Tower while inmates were in the “yard” only received a 10 day suspension that was subsequently reduced to a 5 day suspension (a “minor”).
279. A Caucasian SCO who was involved in a serious motor vehicle accident caused by speaking on his cell-phone while driving a state vehicle and transporting inmates and then left the scene of the accident without reporting same did not receive any disciplinary action whatsoever.
280. SCOs of color routinely receive more stringent disciplinary actions while Caucasians receive more lenient treatment or no disciplinary action whatsoever.
281. Officer Curry was officially separated from employment on September 4, 2019, the date of the Final Notice of Disciplinary Action, confirming his termination.

282. The “progressive discipline” system employed by the State and the disparate treatment of employees of color have resulted in Officer Curry’s termination.
283. This disparate treatment of employees of different races and skin colors violates the NJ Law Against Discrimination.
284. SCO Curry has been damaged and continues to suffer damages as a direct and proximate result of this discriminatory and disparate treatment by the Defendants.

WHEREFORE, the Plaintiff seeks damages against all Defendants as follows:

- (a) Compensatory and consequential damages;
- (b) Punitive damages;
- (c) Pre- and post-judgment interest;
- (d) Counsel fees and costs of suit incurred herein; and
- (e) Such other relief that this Court deems just and equitable under the circumstances.

HAMILTON LAW FIRM PC
Counsel for the Plaintiff

Ayesha Hamilton, Esq (003521999)

Dated: September 30, 2019

REQUEST FOR A TRIAL BY JURY

The Plaintiff hereby requests a trial by jury in this matter.

HAMILTON LAW FIRM PC
Counsel for the Plaintiff

Ayesha Hamilton, Esq (003521999)

DESIGNATION OF TRIAL COUNSEL

Ayesha Hamilton, Esq. is named as trial counsel in this matter.

HAMILTON LAW FIRM PC
Counsel for the Plaintiff

Ayesha Hamilton, Esq (003521999)

Dated: September 30, 2019

VERIFICATION

I, Jermaine Curry, being of age and sound mind do hereby certify and say:

1. I am the Plaintiff in the above captioned matter;
2. As such, I am familiar with the facts contained in the Fourth Amended Complaint;
3. I hereby certify that the facts contained in this Complaint are based upon my direct, personal knowledge.

Jermaine Curry, Plaintiff

Date: September 30, 2019