

EXHIBIT A

SEIGEL LAW FIRM LLC
Jacqueline Rosa – 009372010
505 Goffle Road
Ridgewood, NJ 07450
(201) 444-4000

JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

Plaintiff,

DOCKET NO. BER-L-

vs.

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE in his
official capacity as acting Borough Clerk of
the Borough of Leonia, JUDAH ZEIGLER,
in his official capacity as Mayor of the
Borough of Leonia, JOHN DOE
MAINTENANCE COMPANIES 1-5

Civil Action

**COMPLAINT IN LIEU OF
PREROGATIVE WRITS**

Defendants.

Plaintiff, JACQUELINE ROSA (herein “Plaintiff”), residing in Edgewater, New Jersey, by
way of Complaint against Defendants, alleges as follows:

NATURE OF ACTION

This is an action in lieu of prerogative writs challenging the validity of an ordinance enacted
by the Borough of Leonia.

PARTIES

1. Plaintiff is an interested party affected by the enactment of Defendant, Borough of Leonia’s
ordinance §194-25.1 and §194-25.2. Plaintiff’s right to travel on public streets and freely enjoy
public streets for the purpose of transportation have been denied, violated and infringed upon by
the actions of the Defendants. Plaintiff is a resident of Edgewater, NJ, who commutes through
Leonía on a weekly basis, to travel to and from her home. Plaintiff has standing to bring this

action because this case involves a substantial public interest, and the Plaintiff has a private interest.

2. Defendant, Borough of Leonia (“Borough”) is the municipality enacting ordinance §194-25.1 and §194-25.2, and infringing upon Plaintiff’s rights.

3. The Defendant Borough of Leonia Council (“Council”) is the governing body of the municipality and is responsible for enacting and passing municipal ordinances.

4. The Defendant, Tom Rowe (“Rowe”), was the acting Borough Clerk for the Borough of Leonia, and in that capacity in the official custodian of records.

5. The Defendant, Judah Zeigler, (“Zeigler”) is the mayor of the Borough of Leonia and approved ordinance §194-25.1 and §194-25.2

FIRST COUNT

CHALLENGE TO THE VALIDITY OF ORDINANCE §194-25.1 and §194-25.2

6. Plaintiff repeats and realleges the statements in numbers 1-5.

7. On January 22, 2018, the Borough put into effect ordinance §194-25.1, which was signed by defendant Rowe and Zeigler and approved by the Council. This ordinance amends chapter 194 to include “temporary closing of streets.”

8. The Ordinance specifically mandates that over seventy streets will be closed to the public during designated hours, unless that person is a resident of the specific street, or needing access to his or her home within the Borough, or can name a business they are going to.

9. The Ordinance states that the seventy plus streets will be closed daily from 6:00am to 10:00am and from 4:00pm to 9:00pm.

10. Any person who is not a resident of the Borough, or who cannot produce valid documentation will be fined two hundred dollars as listed in §194-25.2.

11. Ordinance §194-25.1 and §194-25.2 violates Plaintiff's right to freedom of travel and are facially and presumptively invalid.

12. Ordinance §194-25.1 and §194-25.2 are arbitrary, capricious, and unreasonable.

13. The validity of Ordinance §194-25.1 and §194-25.2 are a matter of public interest rather than private interests and requires adjudication. Ordinance §194-25.1 and §194-25.2 cause a continuing public harm to travel.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 and §194-25.2 are void and of no effect, for interest and costs of suit, attorney's fees, and for other such relief as the Court deems just and equitable.

SECOND COUNT

ORDINANCE §194-25.1 IS IN VIOLATION OF N.J.S.A. 39:4-8

14. Plaintiff repeats and realleges the statements in numbers 1-13.

15. N.J.S.A 39:4-8 states that any ordinance, resolution, or regulation which places any impact on a State roadway shall require the approval of the commissioner.

16. The Borough has closed over seventy streets, many of which connect to State Highway Route 4, Route 80, and the New Jersey Turnpike.

17. Closing these roads during commuting hours has resulted in an increase in traffic on all three State Highways and would therefore also increase the safety of commuters on these highways.

18. The Borough has not sought approval from the Commissioner and is in direct violation of N.J.S.A 39:4-8.

19. N.J.S.A 39:4-8 also states that municipality that is enacting the ordinance, must provide appropriate notice to the adjoining municipality or county before enacting such ordinance. No such prior notice was given.

20. The Borough's new ordinance places an increased burden on surrounding municipalities, some including Fort Lee, Teaneck and Edgewater, which will see an increase in commuting traffic from the state highways.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

THIRD COUNT

ORDINANCE §194-25.1 IS IN VIOLATION OF N.J.S.A 39:4-197.

21. Plaintiff repeats and realleges the statements in numbers 1-20.

22. N.J.S.A. 39:4-197 requires that a municipality may not pass an ordinance that alters or nullifies any provisions of N.J.S.A. 39:4-197 without the approval of the Commissioner.

23. The Borough's ordinance is in clear violation of the intended nature of N.J.S.A 39:4-8 and N.J.S.A. 39:4-197, and does not fall into any of the exceptions.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

FOURTH COUNT

ORDINANCE §194-25.1 IS IN VIOLATION N.J.S.A 39:4-197.2

24. Plaintiff repeats and realleges the statements in numbers 1-23.

25. N.J.S.A 39:4-197.2, states that a municipality may not regulate traffic on a county road unless it complies with N.J.S.A. 39:4-197, and has consent or the governing body of the county.

26. For reasons listed under Count Three, the Borough is not in compliance with N.J.S.A 39:4-197.

27. The Borough has limited traffic on parts of Fort Lee Road, Broad Avenue, Grand Avenue, and Bergen Boulevard, all of which are county roads except Broad Avenue. Broad Ave, Grand Ave and Bergen Boulevard run through both Bergen and Hudson counties.

28. By blocking off the roads to the public, the Borough has limited the public's ability to drive on roads that run through multiple municipalities and counties.

29. The Borough failed to get consent from the governing body of Bergen county and is therefore in violation of N.J.A. 39:4-197.2.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

FIFTH COUNT

ORDINANCE §194-25.2 IS IN VIOLATION of N.J.S.A 39:4-94.2

30. Plaintiff repeats and realleges the statements in numbers 1-29.

31. The Borough has enacted a two hundred dollar (\$200.00) fine for any vehicle who violates ordinance §194-25.1.

32. N.J.S.A 39:4-94.2 specifically states that anyone who drives a vehicle over or upon the closed section of the highway, road or street which he knows or should have reason to know has been closed to traffic shall be subject to a fine of no more than \$100.00.

33. The Borough has unilaterally decided on a fee they can charge to motorists which is in direct violation of state law.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.2 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, plaintiff designates Jacqueline Rosa as trial counsel.

CERTIFICATION PURSUANT TO RULE 4:5-1

Pursuant to Rule 4:5-1, the undersigned certifies that the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated.

SEIGEL LAW FIRM LLC


Jacqueline Rosa, Esq.
Pro Se Plaintiff

Dated: January 30, 2018

Civil Case Information Statement

Case Details: BERGEN | Civil Part Docket# L-000750-18

Case Caption: ROSA JACQUELIN VS BOROUGH OF LEONIA

Case Initiation Date: 01/30/2018

Attorney Name: JACQUELINE M ROSA

Firm Name: SEIGEL LAW LLC

Address: 505 GOFFLE RD
RIDGEWOOD NJ 074500000

Phone:

Name of Party: PLAINTIFF : Rosa, Jacquelin

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: ACTIONS IN LIEU OF PREROGATIVE WRITS

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Hurricane Sandy related? NO

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? YES

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

01/30/2018
Dated

/s/ JACQUELINE M ROSA
Signed

EXHIBIT B

FILED
FEB 06 2018
BONNIE J. MIZDOL, A.J.S.C.

Prepared by the Court

JACQUELINE ROSA

Plaintiff

**SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY
LAW DIVISION**

DOCKET NO. L-750-18

vs.

CIVIL ACTION

**BOROUGH OF LEONIA,
BOROUGH OF LEONIA
COUNCIL, TOM ROWE, in
His official capacity as acting
Borough Clerk of the Borough
of Leonia, JUDAH ZEIGLER, in
his official capacity as Mayor of
the Borough of Leonia, JOHN DOE
MAINTENANCE COMPANIES
1-5**

Defendant

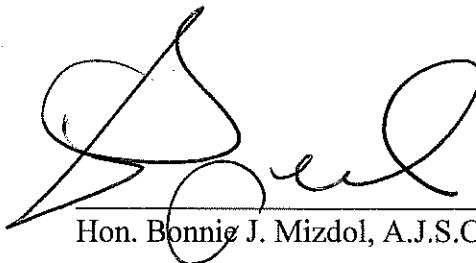
ORDER

THIS MATTER having come before this court, *sua sponte*, and as Plaintiff is the daughter of a Bergen County Superior Court Recall Judge, and in order to avoid any appearance of impropriety, and for good cause shown,

IT IS on this 6th day of February, 2018,

ORDERED the above captioned matter is hereby transferred to the Hudson vicinage, and it is

FURTHER ORDERED the Law Division, Bergen County, will transfer the file to Hudson County, for assignment as deemed appropriate by the Hon. Peter F. Bariso, Jr., A.J.S.C.



Hon. Bonnie J. Mizdol, A.J.S.C.

EXHIBIT C

SEIGEL LAW FIRM LLC
Jacqueline Rosa – 009372010
505 Goffle Road
Ridgewood, NJ 07450
(201) 444-4000

JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

Plaintiff,

DOCKET NO. BER-L-0750-18

vs.

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE in his
official capacity as acting Borough Clerk of
the Borough of Leonia, JUDAH ZEIGLER,
in his official capacity as Mayor of the
Borough of Leonia, JOHN DOE
MAINTENANCE COMPANIES 1-5

Civil Action

**AMENDED
COMPLAINT IN LIEU OF
PREROGATIVE WRITS**

Defendants.

Plaintiff, JACQUELINE ROSA (herein “Plaintiff”), residing in Edgewater, New Jersey, by
way of Complaint against Defendants, alleges as follows:

NATURE OF ACTION

This is an action in lieu of prerogative writs challenging the validity of an ordinance enacted
by the Borough of Leonia.

PARTIES

1. Plaintiff is an interested party affected by the enactment of Defendant, Borough of Leonia’s
ordinance §194-25.1 and §194-25.2. Plaintiff’s right to travel on public streets and freely enjoy
public streets for the purpose of transportation have been denied, violated and infringed upon by
the actions of the Defendants. Plaintiff is a resident of Edgewater, NJ, who commutes through
Leonía on a weekly basis, to travel to and from her home. Plaintiff has standing to bring this

action because this case involves a substantial public interest, and the Plaintiff has a private interest.

2. Defendant, Borough of Leonia (“Borough”) is the municipality enacting ordinance §194-25.1 and §194-25.2, and infringing upon Plaintiff’s rights.

3. The Defendant Borough of Leonia Council (“Council”) is the governing body of the municipality and is responsible for enacting and passing municipal ordinances.

4. The Defendant, Tom Rowe (“Rowe”), was the acting Borough Clerk for the Borough of Leonia, and in that capacity in the official custodian of records.

5. The Defendant, Judah Zeigler, (“Zeigler”) is the mayor of the Borough of Leonia and approved ordinance §194-25.1 and §194-25.2

FIRST COUNT

CHALLENGE TO THE VALIDITY OF ORDINANCE §194-25.1 and §194-25.2

6. Plaintiff repeats and realleges the statements in numbers 1-5.

7. On January 22, 2018, the Borough put into effect ordinance §194-25.1, which was signed by defendant Rowe and Zeigler and approved by the Council. This ordinance amends chapter 194 to include “temporary closing of streets.”

8. The Ordinance specifically mandates that over seventy streets will be closed to the public during designated hours, unless that person is a resident of the specific street, or needing access to his or her home within the Borough, or can name a business they are going to.

9. The Ordinance states that the seventy plus streets will be closed daily from 6:00am to 10:00am and from 4:00pm to 9:00pm.

10. Any person who is not a resident of the Borough, or who cannot produce valid documentation will be fined two hundred dollars as listed in §194-25.2.

11. Ordinance §194-25.1 and §194-25.2 violates Plaintiff's right to freedom of travel and are facially and presumptively invalid.

12. Ordinance §194-25.1 and §194-25.2 are arbitrary, capricious, and unreasonable.

13. The validity of Ordinance §194-25.1 and §194-25.2 are a matter of public interest rather than private interests and requires adjudication. Ordinance §194-25.1 and §194-25.2 cause a continuing public harm to travel.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 and §194-25.2 are void and of no effect, for interest and costs of suit, attorney's fees, and for other such relief as the Court deems just and equitable.

SECOND COUNT

ORDINANCE §194-25.1 IS IN VIOLATION OF N.J.S.A. 39:4-8

14. Plaintiff repeats and realleges the statements in numbers 1-13.

15. N.J.S.A 39:4-8 states that any ordinance, resolution, or regulation which places any impact on a State roadway shall require the approval of the commissioner.

16. The Borough has closed over seventy streets, many of which connect to State Highway Route 4, Route 80, and the New Jersey Turnpike.

17. Closing these roads during commuting hours has resulted in an increase in traffic on all three State Highways and would therefore also increase the safety of commuters on these highways.

18. The Borough has not sought approval from the Commissioner and is in direct violation of N.J.S.A 39:4-8.

19. N.J.S.A 39:4-8 also states that municipality that is enacting the ordinance, must provide appropriate notice to the adjoining municipality or county before enacting such ordinance. No such prior notice was given.

20. The Borough's new ordinance places an increased burden on surrounding municipalities, some including Fort Lee, Teaneck and Edgewater, which will see an increase in commuting traffic from the state highways.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

THIRD COUNT

ORDINANCE §194-25.1 IS IN VIOLATION OF N.J.S.A 39:4-197.

21. Plaintiff repeats and realleges the statements in numbers 1-20.

22. N.J.S.A. 39:4-197 requires that a municipality may not pass an ordinance that alters or nullifies any provisions of N.J.S.A. 39:4-197 without the approval of the Commissioner.

23. The Borough's ordinance is in clear violation of the intended nature of N.J.S.A 39:4-8 and N.J.S.A. 39:4-197, and does not fall into any of the exceptions.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

FOURTH COUNT

ORDINANCE §194-25.1 IS IN VIOLATION N.J.S.A 39:4-197.2

24. Plaintiff repeats and realleges the statements in numbers 1-23.

25. N.J.S.A 39:4-197.2, states that a municipality may not regulate traffic on a county road unless it complies with N.J.S.A. 39:4-197, and has consent or the governing body of the county.

26. For reasons listed under Count Three, the Borough is not in compliance with N.J.S.A 39:4-197.

27. The Borough has limited traffic on parts of Fort Lee Road, Broad Avenue, Grand Avenue, and Bergen Boulevard, all of which are county roads except Broad Avenue. Broad Ave, Grand Ave and Bergen Boulevard run through both Bergen and Hudson counties.

28. By blocking off the roads to the public, the Borough has limited the public's ability to drive on roads that run through multiple municipalities and counties.

29. The Borough failed to get consent from the governing body of Bergen county and is therefore in violation of N.J.A. 39:4-197.2.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

FIFTH COUNT

ORDINANCE §194-25.2 IS IN VIOLATION of N.J.S.A 39:4-94.2

30. Plaintiff repeats and realleges the statements in numbers 1-29.

31. The Borough has enacted a two hundred dollar (\$200.00) fine for any vehicle who violates ordinance §194-25.1.

32. N.J.S.A 39:4-94.2 specifically states that anyone who drives a vehicle over or upon the closed section of the highway, road or street which he knows or should have reason to know has been closed to traffic shall be subject to a fine of no more than \$100.00.

33. The Borough has unilaterally decided on a fee they can charge to motorists which is in direct violation of state law.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.2 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

SIXTH COUNT

ORDINANCE §194-25.1 IS A VIOLATION OF PLAINTIFF'S

CIVIL RIGHTS UNDER 42 U.S. CODE §1983.

34. Plaintiff repeats and realleges the statements in numbers 1-33.

35. U.S. Code §1983 guarantees Plaintiff her civil rights under the law.

36. Defendants' are violating Plaintiff's Fifth Amendment rights of basic liberty.

37. Plaintiff has a constitutional right to travel freely without being stopped and questioned

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

SEVENTH COUNT

ORDINANCE §194-25.1 IS A VIOLATION OF THE INTERSTATE COMMERCE

CLAUSE

38. Plaintiff repeats and realleges the statements in numbers 1-33.

39. The Interstate Commerce Clause, found in Article 1, Section 8 of the US Constitution states that a state may not pass legislation that discriminates against or excessively burdens interstate commerce.

40. State regulations affecting interstate commerce, whose purpose or effect is to gain for those within the state an advantage at the expense of those without, or to burden those out of the state without any corresponding advantage to those within, impinge on the Plaintiff's Constitutional rights.

41. The Borough cannot enact an ordinance that favors only the residents of its town, and discriminates against non-residents and commuters within and out of New Jersey.

WHEREFORE, Plaintiff demands judgment against Defendants, for a declaration that Ordinance §194-25.1 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.


DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, plaintiff designates Jacqueline Rosa as trial counsel.

CERTIFICATION PURSUANT TO RULE 4:5-1

Pursuant to Rule 4:5-1, the undersigned certifies that the matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated.

SEIGEL LAW FIRM LLC

A handwritten signature in black ink, reading "Jacqueline Rosa", is written over a horizontal line. The signature is fluid and cursive.

Jacqueline Rosa, Esq.
Pro Se Plaintiff

Dated: February 12, 2018

EXHIBIT D

BRIAN M. CHEWCASKIE, ESQ.
Attorney ID #021201984
Gittleman Muhlstrock & Chewcaskie
2200 Fletcher Avenue
Fort Lee, NJ 07024
201-944-2300
Attorney for Defendants, Borough of Leonia, Borough of
Leonia Council, Tom Rowe and Judah Zeigler

JACQUELINE ROSA,

Plaintiff

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:HUDSON COUNTY

Docket No. HUD-L-000607-18

vs.

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE in his
capacity as acting Borough Clerk of the
Borough of Leonia, JUDAH ZEIGLER, in
his official capacity as Mayor of the Borough
of Leonia, JOHN DOE MAINTENANCE
COMPANIES 1-5,

Defendants

ANSWER & AFFIRMATIVE DEFENSES

Defendants, Borough of Leonia, Borough of Leonia Council, Tom Rowe and
Judah Zeigler, by way of Answer to the Complaint in Lieu of Prerogative Writs, says:

NATURE OF ACTION

Defendants leaves Plaintiff to her proofs with regard to the nature of the action.

PARTIES

1. Defendants deny the allegation of Paragraph 1 of the Complaint.

2. Defendants admit that the Borough of Leonia enacted Ordinances Nos. §194-25.1 and §194-25.2 and denies the remaining allegations of Paragraph 2 of the Complaint.

3. Defendants admit that the Borough Council is the legislative body of the municipality in accordance with N.J.S.A. 40A:60-6.

4. Defendants deny the allegations of Paragraph 4 of the Complaint, Thomas Rowe is the Police Chief of the Borough of Leonia and at all relevant time periods was the acting Borough Administrator. The Borough Clerk is the custodian of records.

5. Defendants admit that Judah Zeigler is the Mayor of the Borough of Leonia.

FIRST COUNT

6. Defendants repeat and reiterates each and every answer to Paragraphs 1 through 5 of the Complaint as if set forth at length herein.

7. Ordinance §194-25.1 speaks for itself and Defendants deny the remaining allegations of Paragraph 7 of the Complaint.

8. Ordinance §195-25.1 speaks for itself and Defendants deny the remaining allegations of Paragraph 8 of the Complaint.

9. Ordinance §194-25.1 speaks for itself.

10. Defendants deny the allegations of Paragraph 10 of the Complaint.

11. Defendants deny the allegations of Paragraph 11 of the Complaint.

12. Defendants deny the allegations of Paragraph 12 of the Complaint.

13. Defendants deny the allegations of Paragraph 13 of the Complaint.

WHEREFORE, Defendants demand judgment against the Plaintiff as follows:

- a. Dismissing Plaintiff's Complaint;
- b. Costs of suit and attorney's fees;
- c. For such other relief as the Court deems just and equitable.

SECOND COUNT

14. Defendants repeat and reiterate each and every answer to the allegations set forth in Paragraphs 1 through 13 of the Complaint as if more fully set forth at length herein.

15. N.J.S.A. 39:4-8 speaks for itself.

16. Defendants deny the allegations set forth in Paragraph 16 of the Complaint.

17. Defendants deny the allegations of Paragraph 17 of the Complaint.

18. Defendants deny the allegations of Paragraph 18 of the Complaint as approval from the Commissioner of the Department of Transportation is not required in accordance with statutes made and provided.

19. Defendants deny the allegations of Paragraph 19 of the Complaint.

20. Defendants deny the allegations of Paragraph 20 of the Complaint.

WHEREFORE, Defendants demand judgment against the Plaintiff as follows:

- a. Dismissing Plaintiff's Complaint;
- b. Costs of suit and attorney's fees;
- c. For such other relief as the Court deems just and equitable.

THIRD COUNT

21. Defendants repeat and reiterate each and every answer to the allegations of Paragraphs 1 through 20 of the Complaint as if more fully set forth at length herein.

22. N.J.S.A. 39:4-197 speaks for itself and Defendants deny the remaining allegations of Paragraph 22 of the Complaint.

23. N.J.S.A. 39:4-8 and N.J.S.A. 39:4-195 speak for themselves and Defendants deny the remaining allegations of Paragraph 23 of the Complaint.

WHEREFORE, Defendants demand judgment against the Plaintiff as follows:

- a. Dismissing Plaintiff's Complaint;
- b. Costs of suit and attorney's fees;
- c. For such other relief as the Court deems just and equitable.

FOURTH COUNT

24. Defendants repeat and reiterate each and every answer to the allegations set forth in Paragraphs 1 through 23 of the Complaint as if more fully set forth at length herein.

25. N.J.S.A. 39:4-197.2 speaks for itself.

26. Defendants deny the allegations of Paragraph 26 of the Complaint.

27. Defendants deny the allegations of Paragraph 27 of the Complaint.

28. Defendants deny the allegations of Paragraph 28 of the Complaint.

29. N.J.S.A. 39:4-197.2 speaks for itself and in accordance with the statutes made and provided consent of the Board of Chosen Freeholders of the County of Bergen was not required.

WHEREFORE, Defendants demand judgment against the Plaintiff as follows:

- a. Dismissing Plaintiff's Complaint;
- b. Costs of suit and attorney's fees;
- c. For such other relief as the Court deems just and equitable.

FIFTH COUNT

30. Defendants repeat and reiterate each and every answer to the allegations set forth in Paragraphs 1 through 29 of the Complaint as if more fully set forth at length herein.

31. Defendants admit that §194-25.2 establishes penalties for violations of Ordinance §194-25.1 and deny the remaining allegations of Paragraph 31 of the Complaint.

32. N.J.S.A. 39:4-94.2 speaks for itself and is not applicable to Ordinance §194-25.2 and Defendants deny the remaining allegations of Paragraph 32 of the Complaint.

33. Defendants deny the allegations of Paragraph 33 of the Complaint.

WHEREFORE, Defendants demand judgment against the Plaintiff as follows:

- a. Dismissing Plaintiff's Complaint;
- b. Costs of suit and attorney's fees;
- c. For such other relief as the Court deems just and equitable.

FIRST AFFIRMATIVE DEFENSE

Plaintiff fails to assert a claim against these Defendants upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrines of legal and equitable waiver.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrines of legal and equitable estoppel.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, because they are asserted in bad faith and purely for purposes of harassment and delay.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims against Defendants are frivolous and fees should be awarded these Defendants pursuant to N.J.S.A. 2A:15-59.1.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's Complaint is time barred by virtue of the provisions of R. 4:69-6(b)(3).

EIGHTH AFFIRMATIVE DEFENSE

Defendants deny any violation of public policy in the State of New Jersey.

NINTH AFFIRMATIVE DEFENSE

Defendants assert that the Plaintiff failed to provide a basis for assertion that she suffered a loss or damages as a result of any alleged incidents against various Defendants.

TENTH AFFIRMATIVE DEFENSE

Plaintiff fails to set forth a claim of Constitutional dimension.

ELEVENTH AFFIRMATIVE DEFENSE

The Plaintiff is barred for failure to state a claim for which relief can be granted.

TWELFTH AFFIRMATIVE DEFENSE

The Defendants did not violate any duty owed to the Plaintiff under common law, statute, regulations or standards.

THIRTEENTH AFFIRMATIVE DEFENSE

The Defendants, at no time, violated any of Plaintiff's protected rights, privileges and/or immunities under the Constitution of the United States.

FOURTEENTH AFFIRMATIVE DEFENSE

The Defendants acted on reasonable grounds.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claim is a frivolous action without any reasonable basis in law or equity, and cannot be supported by a good faith argument for extension, modification or reversal of existing law.

SIXTEENTH AFFIRMATIVE DEFENSE

Defendants are municipal officials and/or employees who are not liable to Plaintiff because they acted in good faith in the execution or enforcement of the laws of the State of New Jersey.

SEVENTEENTH AFFIRMATIVE DEFENSE

At all times relevant hereto, Defendants acted within the scope of their lawful authority or apparent authority.

EIGHTEENTH AFFIRMATIVE DEFENSE

Defendants have complied with all legal requirements, including, but not limited to, having acted in good faith and having exercised fair discretion in determining this matter.

NINETEENTH AFFIRMATIVE DEFENSE

Defendants did not violate Plaintiff's rights as protected by the United State Constitution.

TWENTIETH AFFIRMATIVE DEFENSE

Defendants did not violate Plaintiff's rights as protected by the New Jersey Constitution.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Plaintiff's federal law claims are a frivolous action without any reasonable basis in law or equity, and cannot be supported by a good faith argument for extension, modification, or reversal of existing law, such that these Defendants are entitled to an award of attorneys' fees. Christianburg Garment v. E.E.O.C., 98 S. Ct. 694 (1978).

TWENTY-SECOND AFFIRMATIVE DEFENSE

These Defendants reserve the right to assert additional defenses upon completion of discovery and investigation.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Brian M. Chewcaskie is hereby designated as trial counsel.

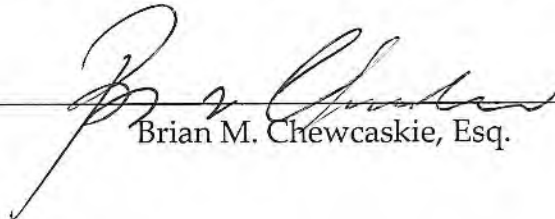
CERTIFICATION PURSUANT TO RULE 4:5-1

I hereby certify that to the best of my knowledge, based on information available to me at this office, the matter in controversy is not the subject of any other action pending in any court or any pending arbitration proceeding and no additional parties are known at this time that should be joined in this action. I further certify that to the best of my knowledge, no other action or arbitration proceeding is contemplated.

CERTIFICATION

I hereby certify that the within Answer, Affirmative Defenses and Designation of Trial Council have been served within the time prescribed by the Rules of Court or as extended by Order of the Court.

GITTLEMAN, MUHLSTOCK & CHEWCASKIE, L.L.P.
Attorneys for Defendants, Borough of Leonia, Borough of
Leonia Council, Tom Rowe and Judah Zeigler

By: _____
Brian M. Chewcaskie, Esq.

Dated: 2/28/18

Civil Case Information Statement

Case Details: HUDSON | Civil Part Docket# L-000607-18

Case Caption: ROSA JACQUELIN VS BOROUGH OF LEONIA

Case Initiation Date: 01/30/2018

Attorney Name: BRIAN M CHEWCASKIE

Firm Name: GITTLEMAN MUHLSTOCK & CHEWCASKIE LLP

Address: 2200 FLETCHER AVE
FORT LEE NJ 07024

Phone:

Name of Party: DEFENDANT : BOROUGH OF LEONIA

Name of Defendant's Primary Insurance Company
(if known): None

Case Type: ACTIONS IN LIEU OF PREROGATIVE WRITS

Document Type: Answer

Jury Demand: YES - 6 JURORS

Hurricane Sandy related? NO

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

02/28/2018
Dated

/s/ BRIAN M CHEWCASKIE
Signed

EXHIBIT E

BRIAN M. CHEWCASKIE, ESQ.
Attorney ID #021201984
Gittleman Muhlstock & Chewcaskie
2200 Fletcher Avenue
Fort Lee, NJ 07024
201-944-2300
Attorney for Defendants, Borough of Leonia, Borough of
Leonia Council, Tom Rowe and Judah Zeigler

JACQUELINE ROSA,

Plaintiff

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:HUDSON COUNTY

Docket No. HUD-L-000607-18

vs.

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE in his
capacity as acting Borough Clerk of the
Borough of Leonia, JUDAH ZEIGLER, in
his official capacity as Mayor of the Borough
of Leonia, JOHN DOE MAINTENANCE
COMPANIES 1-5,

Defendants

ANSWER & AFFIRMATIVE DEFENSES
TO AMENDED COMPLAINT IN LIEU
OF PREROGATIVE WRITS

Defendants, Borough of Leonia, Borough of Leonia Council, Tom Rowe and
Judah Zeigler, by way of Answer to the Amended Complaint in Lieu of Prerogative

Writs, says:

NATURE OF ACTION

Defendants leaves Plaintiff to her proofs with regard to the nature of the action.

PARTIES

1. Defendants deny the allegation of Paragraph 1 of the Amended Complaint.
2. Defendants admit that the Borough of Leonia enacted Ordinances Nos. §194-25.1 and §194-25.2 and denies the remaining allegations of Paragraph 2 of the Amended Complaint.
3. Defendants admit that the Borough Council is the legislative body of the municipality in accordance with N.J.S.A. 40A:60-6.
4. Defendants deny the allegations of Paragraph 4 of the Amended Complaint, Thomas Rowe is the Police Chief of the Borough of Leonia and at all relevant time periods was the acting Borough Administrator. The Borough Clerk is the custodian of records.
5. Defendants admit that Judah Zeigler is the Mayor of the Borough of Leonia.

FIRST COUNT

6. Defendants repeat and reiterates each and every answer to Paragraphs 1 through 5 of the Amended Complaint as if set forth at length herein.
7. Ordinance §194-25.1 speaks for itself and Defendants deny the remaining allegations of Paragraph 7 of the Amended Complaint.
8. Ordinance §195-25.1 speaks for itself and Defendants deny the remaining allegations of Paragraph 8 of the Amended Complaint.

9. Ordinance §194-25.1 speaks for itself.

10. Defendants deny the allegations of Paragraph 10 of the Amended Complaint.

11. Defendants deny the allegations of Paragraph 11 of the Amended Complaint.

12. Defendants deny the allegations of Paragraph 12 of the Amended Complaint.

13. Defendants deny the allegations of Paragraph 13 of the Amended

Complaint.

WHEREFORE, Defendants demand judgment against the Plaintiff as follows:

a. Dismissing Plaintiff's Amended Complaint;

b. Costs of suit and attorney's fees;

c. For such other relief as the Court deems just and equitable.

SECOND COUNT

14. Defendants repeat and reiterate each and every answer to the allegations set forth in Paragraphs 1 through 13 of the Amended Complaint as if more fully set forth at length herein.

15. N.J.S.A. 39:4-8 speaks for itself.

16. Defendants deny the allegations set forth in Paragraph 16 of the Amended Complaint.

17. Defendants deny the allegations of Paragraph 17 of the Amended Complaint.

18. Defendants deny the allegations of Paragraph 18 of the Amended Complaint as approval from the Commissioner of the Department of Transportation is not required in accordance with statutes made and provided.

19. Defendants deny the allegations of Paragraph 19 of the Amended Complaint.

20. Defendants deny the allegations of Paragraph 20 of the Amended Complaint.

WHEREFORE, Defendants demand judgment against the Plaintiff as follows:

- a. Dismissing Plaintiff's Amended Complaint;
- b. Costs of suit and attorney's fees;
- c. For such other relief as the Court deems just and equitable.

THIRD COUNT

21. Defendants repeat and reiterate each and every answer to the allegations of Paragraphs 1 through 20 of the Amended Complaint as if more fully set forth at length herein.

22. N.J.S.A. 39:4-197 speaks for itself and Defendants deny the remaining allegations of Paragraph 22 of the Amended Complaint.

23. N.J.S.A. 39:4-8 and N.J.S.A. 39:4-195 speak for themselves and Defendants deny the remaining allegations of Paragraph 23 of the Amended Complaint.

WHEREFORE, Defendants demand judgment against the Plaintiff as follows:

- a. Dismissing Plaintiff's Amended Complaint;
- b. Costs of suit and attorney's fees;
- c. For such other relief as the Court deems just and equitable.

FOURTH COUNT

24. Defendants repeat and reiterate each and every answer to the allegations set forth in Paragraphs 1 through 23 of the Amended Complaint as if more fully set forth at length herein.

25. N.J.S.A. 39:4-197.2 speaks for itself.

26. Defendants deny the allegations of Paragraph 26 of the Amended Complaint.

27. Defendants deny the allegations of Paragraph 27 of the Amended Complaint.

28. Defendants deny the allegations of Paragraph 28 of the Amended Complaint.

29. N.J.S.A. 39:4-197.2 speaks for itself and in accordance with the statutes made and provided consent of the Board of Chosen Freeholders of the County of Bergen was not required.

WHEREFORE, Defendants demand judgment against the Plaintiff as follows:

- a. Dismissing Plaintiff's Amended Complaint;
- b. Costs of suit and attorney's fees;
- c. For such other relief as the Court deems just and equitable.

FIFTH COUNT

30. Defendants repeat and reiterate each and every answer to the allegations set forth in Paragraphs 1 through 29 of the Amended Complaint as if more fully set forth at length herein.

31. Defendants admit that §194-25.2 establishes penalties for violations of Ordinance §194-25.1 and deny the remaining allegations of Paragraph 31 of the Amended Complaint.

32. N.J.S.A. 39:4-94.2 speaks for itself and is not applicable to Ordinance §194-25.2 and Defendants deny the remaining allegations of Paragraph 32 of the Amended Complaint.

33. Defendants deny the allegations of Paragraph 33 of the Amended Complaint.

WHEREFORE, Defendants demand judgment against the Plaintiff as follows:

- a. Dismissing Plaintiff's Amended Complaint;
- b. Costs of suit and attorney's fees;
- c. For such other relief as the Court deems just and equitable.

SIXTH COUNT

34. Defendants repeat and reiterate each and every answer to the allegations set forth in Paragraphs 1 through 33 of the Amended Complaint as if more fully set forth at length herein.

35. U.S. Code Section 1983 speaks for itself.

36. Defendants deny the allegations of Paragraph 36 of the Amended Complaint.

37. Defendants deny the allegations of Paragraph 37 of the Amended Complaint.

WHEREFORE, Defendants demand judgment against the Plaintiff as follows:

- a. Dismissing Plaintiff's Amended Complaint;
- b. Costs of suit and attorney's fees;
- c. For such other relief as the Court deems just and equitable.

SEVENTH COUNT

38. Defendants repeat and reiterate each and every answer to the allegations set forth in Paragraphs 1 through 37 of the Amended Complaint as if more fully set forth at length herein.

39. The Interstate Commerce Clause speaks for itself.

40. The Interstate Commerce Clause speaks for itself.

41. Defendants deny the allegations of Paragraph 41 of the Amended Complaint.

WHEREFORE, Defendants demand judgment against the Plaintiff as follows:

- a. Dismissing Plaintiff's Amended Complaint;
- b. Costs of suit and attorney's fees;
- c. For such other relief as the Court deems just and equitable.

FIRST AFFIRMATIVE DEFENSE

Plaintiff fails to assert a claim against these Defendants upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrines of legal and equitable waiver.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrines of legal and equitable estoppel.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, because they are asserted in bad faith and purely for purposes of harassment and delay.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims against Defendants are frivolous and fees should be awarded these Defendants pursuant to N.J.S.A. 2A:15-59.1.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's Complaint is time barred by virtue of the provisions of R. 4:69-6(b)(3).

EIGHTH AFFIRMATIVE DEFENSE

Defendants deny any violation of public policy in the State of New Jersey.

NINTH AFFIRMATIVE DEFENSE

Defendants assert that the Plaintiff failed to provide a basis for assertion that she suffered a loss or damages as a result of any alleged incidents against various Defendants.

TENTH AFFIRMATIVE DEFENSE

Plaintiff fails to set forth a claim of Constitutional dimension.

ELEVENTH AFFIRMATIVE DEFENSE

The Plaintiff is barred for failure to state a claim for which relief can be granted.

TWELFTH AFFIRMATIVE DEFENSE

The Defendants did not violate any duty owed to the Plaintiff under common law, statute, regulations or standards.

THIRTEENTH AFFIRMATIVE DEFENSE

The Defendants, at no time, violated any of Plaintiff's protected rights, privileges and/or immunities under the Constitution of the United States.

FOURTEENTH AFFIRMATIVE DEFENSE

The Defendants acted on reasonable grounds.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claim is a frivolous action without any reasonable basis in law or equity, and cannot be supported by a good faith argument for extension, modification or reversal of existing law.

SIXTEENTH AFFIRMATIVE DEFENSE

Defendants are municipal officials and/or employees who are not liable to Plaintiff because they acted in good faith in the execution or enforcement of the laws of the State of New Jersey.

SEVENTEENTH AFFIRMATIVE DEFENSE

At all times relevant hereto, Defendants acted within the scope of their lawful authority or apparent authority.

EIGHTEENTH AFFIRMATIVE DEFENSE

Defendants have complied with all legal requirements, including, but not limited to, having acted in good faith and having exercised fair discretion in determining this matter.

NINETEENTH AFFIRMATIVE DEFENSE

Defendants did not violate Plaintiff's rights as protected by the United State Constitution.

TWENTIETH AFFIRMATIVE DEFENSE

Defendants did not violate Plaintiff's rights as protected by the New Jersey Constitution.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Plaintiff's federal law claims are a frivolous action without any reasonable basis in law or equity, and cannot be supported by a good faith argument for extension,

modification, or reversal of existing law, such that these Defendants are entitled to an award of attorneys' fees. Christianburg Garment v. E.E.O.C., 98 S. Ct. 694 (1978).

TWENTY-SECOND AFFIRMATIVE DEFENSE

These Defendants reserve the right to assert additional defenses upon completion of discovery and investigation.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Brian M. Chewcaskie is hereby designated as trial counsel.

CERTIFICATION PURSUANT TO RULE 4:5-1

I hereby certify that to the best of my knowledge, based on information available to me at this office, the matter in controversy is not the subject of any other action pending in any court or any pending arbitration proceeding and no additional parties are known at this time that should be joined in this action. I further certify that to the best of my knowledge, no other action or arbitration proceeding is contemplated.

CERTIFICATION

I hereby certify that the within Answer, Affirmative Defenses and Designation of Trial Council have been served within the time prescribed by the Rules of Court or as extended by Order of the Court.

GITTLEMAN, MUHLSTOCK & CHEWCASKIE, L.L.P.
Attorneys for Defendants, Borough of Leonia, Borough of
Leonia Council, Tom Rowe and Judah Zeigler

By: _____

Brian M. Chewcaskie, Esq.

Dated: March 26, 2018

EXHIBIT F

Seigel Law
PROTECTING THE INJURED

Jan K. Seigel
Jonas K. Seigel[†]
Barry M. Packin
Mark McBratney[◊]
James P. Kimball[◊]
Jacqueline M. Rosa[◊]

505 Goffle Road
Ridgewood, New Jersey 07450
Tel 201-444-4000 Fax 201-444-7717
www.SeigelLaw.com

With Offices in
Manhattan | Paterson | Red Bank | West New York

Michael T. Buonocore
Michelle E. Radin*
Of Counsel
Douglas S. Grossbart, M.D.
Bennett A. Robbins
Christopher J. Metcalfe

[†]LLM in Trial Advocacy
[◊]Certified by The Supreme Court of
New Jersey as a Civil Trial Attorney
*NJ and NY Bars

May 04, 2018

VIA E-Courts

Honorable Peter F. Bariso
Superior Court of New Jersey
Hudson County Superior Court
583 Newark Avenue
Jersey City, NJ 07306

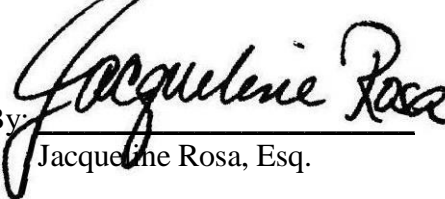
Re: Rosa vs. Leonia
Docket No: HUD-L-607-18

Dear Judge Bariso:

Enclosed please find a courtesy copy of plaintiff's Brief.

Thank you for your courtesies in this regard

Respectfully,
SEIGEL LAW LLC

By: 
Jacqueline Rosa, Esq.

JR/pr
Encl.

— Est. 1976 —

SEIGEL LAW FIRM LLC
Jacqueline Rosa – 009372010
505 Goffle Road
Ridgewood, NJ 07450
(201) 444-4000

JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

Plaintiff,

DOCKET NO. HUD-L-607-18

vs.

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE in his
official capacity as acting Borough Clerk of
the Borough of Leonia, JUDAH ZEIGLER,
in his official capacity as Mayor of the
Borough of Leonia, JOHN DOE
MAINTENANCE COMPANIES 1-5

Defendants.

Civil Action

**CERTIFICATION OF COUNSEL
FOR AN ORDER TO SHOW CAUSE
FOR A PRELIMINARY
INJUNCTION WITH TEMPORARY
RELIEF**

I, JACQUELINE ROSA, do hereby certify as follows:

1. I am an attorney at law duly licensed to practice before the Courts of this State. I bring this action as a pro se Plaintiff, and as such, I am fully familiar with all the facts and circumstances of this action. I make this certification in support of the Order to Show Cause.
2. In supporting said action, the Undersigned relies on the Statement of Material Facts and the Undersigned's Brief.

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

BY: _____


Jacqueline Rosa, Esq.

DATE: May 4, 2018

SEIGEL LAW FIRM LLC
Jacqueline Rosa – 009372010
505 Goffle Road
Ridgewood, NJ 07450
(201) 444-4000

JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

Plaintiff,

DOCKET NO. HUD-L-607-18

vs.

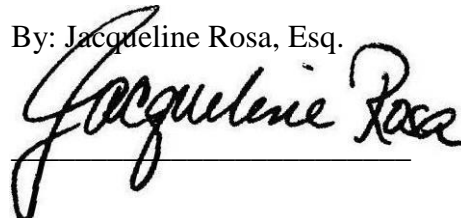
BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE in his
official capacity as acting Borough Clerk of
the Borough of Leonia, JUDAH ZEIGLER,
in his official capacity as Mayor of the
Borough of Leonia, JOHN DOE
MAINTENANCE COMPANIES 1-5

Civil Action

Defendants.

**BRIEF IN SUPPORT OF PLAINTIFFS' ORDER TO SHOW CAUSE FOR A
PRELIMINARY INJUNCTION WITH TEMPORARY RELIEF**

By: Jacqueline Rosa, Esq.



May 4, 2018

PRELIMINARY STATEMENT

This matter arises out of a lawsuit that was filed on January 30, 2018 against the Borough of Leonia and other defendants, for illegally closing some sixty (60) residential streets in their municipality to non-residents, and traffic with non-Leonia business.

Among other things, the complaint alleges that Ordinances §194-25.1 and §194-25.2 enacted by the Borough of Leonia, violate Plaintiff's right to freedom of travel and are facially and presumptively invalid, as well as arbitrary, capricious, and unreasonable.

Defendants have been in violation of Plaintiff's Civil rights since the enactment of the Ordinance in January 2018.

STATEMENT OF UNDISPUTED MATERIAL FACTS

- 1) On or about January 22, 2018 the Borough of Leonia enacted a ban on 60 residential streets in their municipality.
- 2) The Borough cited to their Ordinance §194-25.1 and §194-25.2, which would block streets from 6:00am to 10:00am and from 4:00pm to 9:00pm.
- 3) No person, unless a resident of the Borough, or a person who can demonstrate a need to access a residence or business would be allowed to use one of closed streets during the prescribed times.
- 4) At no time prior to enacting the Ordinance, did the Borough consult the State of New Jersey, Department of Transportation, or the Commissioner of Transportation to get approval for said street closures.
- 5) On or about May 2, 2018, the Attorney General of New Jersey, Gurbir Grewal, stated that the Borough's road closures were "legally invalid," and should be rescinded.

6) Defendants have refused to take down their signs and re-open their streets to the general public since enacting Ordinances §194-25.1 and §194-25.2.

7) Plaintiff now files this Order to Show Cause as irreparable harm is being caused by the continued closures.

POINT 1

A PRELIMINARY INJUNCTION WITH TEMPORARY RELIEF IS APPROPRIATE

In bringing an Order to Show Cause for a preliminary injunction with temporary relief, Plaintiff must prove a four prong test. Crowe v. Di Gioia, 90 N.J. 126 (1982). The first of the four prongs is to show irreparable harm to the Plaintiff. In the matter at hand the Defendants have had their streets closed for over four months to the Plaintiff and the public. Plaintiff is not allowed to freely travel on any of the closed streets during the nine hours of restricted time. Every day that goes by that the Plaintiff cannot use any of the Defendant's public streets, her Civil Rights are being violated.

Additionally, Plaintiff is a resident of a neighboring town and uses the Leonia streets to commute daily, go to parks in Leonia, visit shops and businesses. The Plaintiff cannot be stopped and questioned every time she chooses to use one of these streets. Plaintiff has the right to travel freely without being stopped and questioned by the Borough's Police. The Court has found that, "in certain circumstances, severe personal inconvenience can constitute irreparable injury justifying issuance of injunctive relief. Hodge v. Giese, 43 N.J. Eq. 342, 350. All of the Borough's streets must be re-opened until the final resolution of the case.

The second principle is that temporary relief should be granted when the legal right underlying plaintiff's claim is settled. See, Crowe. Besides the fact that the current Attorney General has condemned the defendants' Ordinance, there is additional support from the Attorney

General's office from a 1955 written opinion. The opinion from 1955 was written in response to the Town of Demarest, NJ, trying to close streets exactly the same way the Defendants have. Then Attorney General, Grover C. Richman, Jr., took the position that, "The power to designate no 'through streets', is not among the powers granted to a municipality...". **Attached as Exhibit A, Copy of the Opinion.**

Defendants have also violated several New Jersey State laws. N.J.S.A 39:4-8 states that any ordinance, resolution, or regulation which places any impact on a State roadway shall require the approval of the commissioner. The Ordinance clearly affects State roadways. The only remaining roads in Leonia that the Plaintiff can use during the restricted hours, are county roads and State Highways. Due to the traffic being restricted on over 60 side streets, plaintiff is forced to only use State operated roads to travel through Leonia. Plaintiff should not be forced to select only county roads or State highways to travel on. Additionally, all public travelers must face the same limited options during the restricted hours which leads to more traffic and dangerous conditions on the remaining routes. As admitted by Defense counsel, the defendants did not seek approval from the Commissioner and have unsuccessfully attempted to do so within the last month. Further, N.J.S.A 39:4-8 states that a municipality that is enacting the ordinance, must provide appropriate notice to the adjoining municipality or county before enacting such ordinance. None of the surrounding towns or counties were alerted to these road closures before they took place.

N.J.S.A 39:4-94.2 specifically states that anyone who drives a vehicle over or upon the closed section of the highway, road or street which he knows or should have reason to know has been closed to traffic shall be subject to a fine of no more than \$100.00. The Borough has unilaterally decided on a fee they can charge to motorists which is in direct violation of state law.

Perhaps most alarmingly, Defendants are in violation of U.S. Code §1983, which guarantees Plaintiff her civil rights under the law. The law states, “every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.” Defendants are violating Plaintiff’s Fifth Amendment right by arbitrarily denying Plaintiff her liberty to travel freely and not be stopped and questioned for using public roads.

Lastly, the defendants are violating the Interstate Commerce Clause, found in Article 1, Section 8 of the US Constitution which states that a state may not pass legislation that discriminates against or excessively burdens interstate commerce. State regulations affecting interstate commerce, whose purpose or effect is to gain for those within the state an advantage at the expense of those without, or to burden those out of the state without any corresponding advantage to those within, impinge on the Plaintiff’s Constitutional rights. S.C. State Highway Dept. v. Barnwell Bros., Inc., 303 U.S. 177 (1938). Defendants’ are clearly giving Leonia residents an advantage by keeping their roads closed to the public. Plaintiff cannot use Leonia roads to travel to New York when the restricted hours are in place. Plaintiff has the right to travel to and from New Jersey using whatever roads she wants.

The third prong to prevail on an application for temporary relief, a plaintiff must make a preliminary showing of a reasonable probability of ultimate success on the merits. Ideal Laundry Co. v. Gugliemone, 107 N.J. Eq. 108, 115-16 (E. & A. 1930). Based on the law, and the fact that defendants have not shown any legal support for their Ordinances, Plaintiff has a high likelihood

of being successful at the ultimate outcome of the case. Additionally, New Jersey Statutes and case law have shown that defendants are outside the scope of powers granted to municipalities.

The last test is to show the relative hardship to the parties in granting or denying relief. Here, the town has not shown any conclusive evidence that they suffer more of a hardship than Plaintiff or any other commuting member of the public. Leonia existed for decades without road closures and for years since the invention of digital GPS. There is no hardship to the Borough if the signs are taken down. On the other hand, Plaintiff has not been allowed to use those roads for the past four months. In addition to having to find other ways to travel around Leonia and the surrounding area, Plaintiff has been deprived of her Constitutional Rights. Every day that the roads are closed, and the Ordinance is upheld, the Plaintiff's Civil Liberties are being violated.

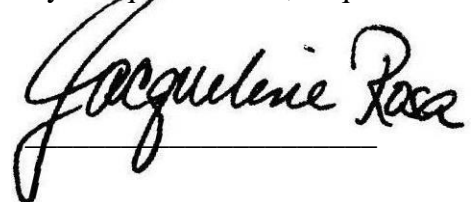
Plaintiff clearly passes the four prong test in a showing of good cause for the temporary re-opening of the 60 streets. In order to protect the Plaintiff's civil rights, the Order to Show Cause must be granted and the streets must be re-opened immediately.

CONCLUSION

For all of the foregoing reasons, the Plaintiff's application must be granted. Plaintiff is requesting that all signage be taken down, all police checks cease, all police stops cease, and public notice is given that the streets are re-opened to the public.

May 4, 2018

By: Jacqueline Rosa, Esq.

A handwritten signature in black ink, reading "Jacqueline Rosa", written over a horizontal line.

SEIGEL LAW FIRM LLC
Jacqueline Rosa – 009372010
505 Goffle Road
Ridgewood, NJ 07450
(201) 444-4000

JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

Plaintiff,

vs.

DOCKET NO. HUD-L-607-18

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE in his
official capacity as acting Borough Clerk of
the Borough of Leonia, JUDAH ZEIGLER,
in his official capacity as Mayor of the
Borough of Leonia, JOHN DOE
MAINTENANCE COMPANIES 1-5

**ORDER GRANTING A
PRELIMINARY INJUNCTION
WITH TEMPORARY RELIEF**

Defendants.

THIS MATTER coming before the Court on an Order to Show Cause by Jacqueline Rosa,
Esq., pro se attorney, and good and sufficient cause having been shown;

It is on this _____ day of May, 2018,

ORDERED that all restrictions on the 60 streets in Leonia must be rescinded,

ORDERED that all signage pertaining to the road restrictions be taken down,

ORDERED that all Police checks and stops must cease,

ORDERED that notice be given to the public that Leonia streets are again available for all
public use,

ORDERED that a copy of this Order be served upon all counsel within seven (7) days of
receipt by plaintiff's counsel.

Honorable Peter F. Bariso, J.S.C.

SEIGEL LAW FIRM LLC
Jacqueline Rosa – 009372010
505 Goffle Road
Ridgewood, NJ 07450
(201) 444-4000

JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

Plaintiff,

DOCKET NO. HUD-L-607-18

vs.

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE, JUDAH
ZEIGLER, in his official capacity as Mayor
of the Borough of Leonia, JOHN DOE
MAINTENANCE COMPANIES 1-5

Defendants.

Civil Action

**ORDER TO SHOW CAUSE FOR A
PRELIMINARY INJUNCTION
WITH TEMPORARY RELIEF
PURSUANT TO R. 4:52**

THIS MATTER being brought before the court by Jacqueline Rosa, a pro se plaintiff, seeking relief by way of temporary restraints pursuant to R. 4:52, based upon the facts set forth in the verified complaint filed herewith; and it appearing that the defendants have notice of this application and have been served with a copy of this Order To Show Cause, and for good cause shown. It is on this ____ day of _____ ORDERED that defendants, BOROUGH OF LEONIA, BOROUGH OF LEONIA COUNCIL, TOM ROWE, JUDAH ZEIGLER, in his official capacity as Mayor of the Borough of Leonia appear and show cause before the Superior Court at the _____ County Courthouse in _____, New Jersey at _____ o'clock in the _____ noon or as soon thereafter as counsel can be heard, on the _____ day of _____, 2018 why an Order should not be issued preliminarily enjoining and restraining defendants, BOROUGH OF LEONIA, BOROUGH OF LEONIA COUNCIL, TOM

ROWE, JUDAH ZEIGLER, in his official capacity as Mayor of the Borough of Leonia from;

- A. Continuing to enforce municipal ordinances §194-25.1 and §194-25.2,
- B. Continuing police checks, stops and warnings,
- C. Defendants must remove all signage,
- D. Granting such other relief as the court deems equitable and just.

And it is further ORDERED that pending the return date herein, the defendant is temporarily enjoined and restrained from:

- A. Enforcing ordinances §194-25.1 and §194-25.2
- B. The Borough of Leonia must re-open their roads to the Plaintiff, and the public without any restrictions.

And it is further ORDERED that:

1. The defendant may move to dissolve or modify the temporary restraints herein contained on two (2) days notice to the Jacqueline Rosa, Esq.

2. A copy of this order to show cause, verified complaint, legal memorandum and any supporting affidavits or certifications submitted in support of this application be served upon the defendants personally within ____ days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.

3. The plaintiff must file with the court his/her/its proof of service of the pleadings on the defendant no later than three (3) days before the return date.

4. Defendant shall file and serve a written response to this order to show cause and the request for entry of injunctive relief and proof of service by _____, 2018. The original documents must be filed with the Clerk of the Superior Court in the county listed above. You must send a copy of your opposition papers directly to Judge _____,

whose address is _____, New Jersey. You must also send a copy of your opposition papers to the plaintiff's attorney whose name and address appears above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file your opposition and pay the required fee of \$ _____ and serve your opposition on your adversary, if you want the court to hear your opposition to the injunctive relief the plaintiff is seeking.

5. The plaintiff must file and serve any written reply to the defendant's order to show cause opposition by _____, 2018. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Judge _____.

6. If the defendant does not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.

7. If the plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the court no later than three (3) days before the return date.

8. Defendant take notice that the plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer to the complaint and proof of service within 35 days from the date of service of this order to show cause; not counting the day you received it. These documents must be filed with the Clerk of the Superior Court in the county listed above. Include a \$_____ filing fee payable to the

“Treasurer State of New Jersey.” You must also send a copy of your Answer to the plaintiff’s attorney whose name and address appear above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the order to show cause is not an Answer and you must file both. Please note further: if you do not file and serve an Answer within 35 days of this Order, the Court may enter a default against you for the relief plaintiff demands.

9. The court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than ____ days before the return date.

J.S.C

Dated: _____

EXHIBIT G

Seigel Law
PROTECTING THE INJURED

Jan K. Seigel
Jonas K. Seigel[†]
Barry M. Packin
Mark McBratney[◊]
James P. Kimball[◊]
Jacqueline M. Rosa[◊]

505 Goffle Road
Ridgewood, New Jersey 07450
Tel 201-444-4000 Fax 201-444-7717
www.SeigelLaw.com

With Offices in
Manhattan | Paterson | Red Bank | West New York

Michael T. Buonocore
Michelle E. Radin*
Of Counsel
Douglas S. Grossbart, M.D.
Bennett A. Robbins
Christopher J. Metcalfe

[†]LLM in Trial Advocacy
[◊]Certified by The Supreme Court of
New Jersey as a Civil Trial Attorney
*NJ and NY Bars

May 07, 2018

VIA E-Courts

Honorable Peter F. Bariso
Superior Court of New Jersey
Hudson County Superior Court
583 Newark Avenue
Jersey City, NJ 07306

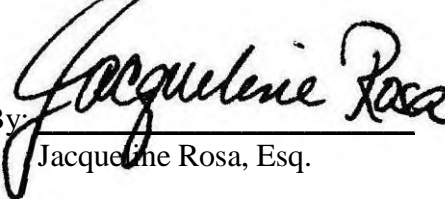
Re: Rosa vs. Leonia
Docket No: HUD-L-607-18

Dear Judge Bariso:

Enclosed please find plaintiff's updated Brief.

Thank you for your courtesies in this regard

Respectfully,
SEIGEL LAW LLC

By: 
Jacqueline Rosa, Esq.

JR/pr
Encl.

— Est. 1976 —

SEIGEL LAW FIRM LLC
Jacqueline Rosa – 009372010
505 Goffle Road
Ridgewood, NJ 07450
(201) 444-4000

JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

Plaintiff,

DOCKET NO. HUD-L-607-18

vs.

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE in his
official capacity as acting Borough Clerk of
the Borough of Leonia, JUDAH ZEIGLER,
in his official capacity as Mayor of the
Borough of Leonia, JOHN DOE
MAINTENANCE COMPANIES 1-5

Defendants.

Civil Action

**CERTIFICATION OF COUNSEL
FOR AN ORDER TO SHOW CAUSE
FOR A PRELIMINARY
INJUNCTION WITH TEMPORARY
RELIEF**

I, JACQUELINE ROSA, do hereby certify as follows:

1. I am an attorney at law duly licensed to practice before the Courts of this State. I bring this action as a pro se Plaintiff, and as such, I am fully familiar with all the facts and circumstances of this action. I make this certification in support of the Order to Show Cause.
2. In supporting said action, the Undersigned relies on the Statement of Material Facts and the Undersigned's Brief.

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

BY: _____


Jacqueline Rosa, Esq.

DATE: May 7, 2018

SEIGEL LAW FIRM LLC
Jacqueline Rosa – 009372010
505 Goffle Road
Ridgewood, NJ 07450
(201) 444-4000

JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

Plaintiff,

DOCKET NO. HUD-L-607-18

vs.

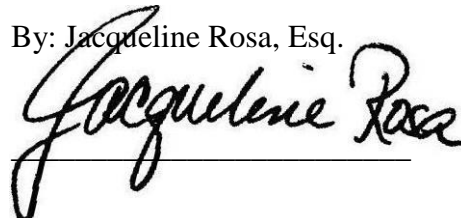
BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE in his
official capacity as acting Borough Clerk of
the Borough of Leonia, JUDAH ZEIGLER,
in his official capacity as Mayor of the
Borough of Leonia, JOHN DOE
MAINTENANCE COMPANIES 1-5

Civil Action

Defendants.

**BRIEF IN SUPPORT OF PLAINTIFFS' ORDER TO SHOW CAUSE FOR A
PRELIMINARY INJUNCTION WITH TEMPORARY RELIEF**

By: Jacqueline Rosa, Esq.



May 7, 2018

PRELIMINARY STATEMENT

This matter arises out of a lawsuit that was filed on January 30, 2018 against the Borough of Leonia and other defendants, for illegally closing some sixty (60) residential streets in their municipality to non-residents, and traffic with non-Leonia business.

Among other things, the complaint alleges that Ordinances §194-25.1 and §194-25.2 enacted by the Borough of Leonia, violate Plaintiff's right to freedom of travel and are facially and presumptively invalid, as well as arbitrary, capricious, and unreasonable.

Defendants have been in violation of Plaintiff's Civil rights since the enactment of the Ordinance in January 2018.

STATEMENT OF UNDISPUTED MATERIAL FACTS

- 1) On or about January 22, 2018 the Borough of Leonia enacted a ban on 60 residential streets in their municipality.
- 2) The Borough cited to their Ordinance §194-25.1 and §194-25.2, which would block streets from 6:00am to 10:00am and from 4:00pm to 9:00pm.
- 3) No person, unless a resident of the Borough, or a person who can demonstrate a need to access a residence or business would be allowed to use one of closed streets during the prescribed times.
- 4) At no time prior to enacting the Ordinance, did the Borough consult the State of New Jersey, Department of Transportation, or the Commissioner of Transportation to get approval for said street closures.
- 5) On or about May 2, 2018, the Attorney General of New Jersey, Gurbir Grewal, stated that the Borough's road closures were "legally invalid," and should be rescinded.

6) Defendants have refused to take down their signs and re-open their streets to the general public since enacting Ordinances §194-25.1 and §194-25.2.

7) Plaintiff now files this Order to Show Cause as irreparable harm is being caused by the continued closures.

POINT 1

A PRELIMINARY INJUNCTION WITH TEMPORARY RELIEF IS APPROPRIATE

In bringing an Order to Show Cause for a preliminary injunction with temporary relief, Plaintiff must prove a four prong test. Crowe v. Di Gioia, 90 N.J. 126 (1982). The first of the four prongs is to show irreparable harm to the Plaintiff. In the matter at hand the Defendants have had their streets closed for over four months to the Plaintiff and the public. Plaintiff is not allowed to freely travel on any of the closed streets during the nine hours of restricted time. Every day that goes by that the Plaintiff cannot use any of the Defendant's public streets, her Civil Rights are being violated.

Additionally, Plaintiff is a resident of a neighboring town and uses the Leonia streets to commute daily, go to parks in Leonia, visit shops and businesses. The Plaintiff cannot be stopped and questioned every time she chooses to use one of these streets. Plaintiff has the right to travel freely without being stopped and questioned by the Borough's Police. The Court has found that, "in certain circumstances, severe personal inconvenience can constitute irreparable injury justifying issuance of injunctive relief. Hodge v. Giese, 43 N.J. Eq. 342, 350. All of the Borough's streets must be re-opened until the final resolution of the case.

The second principle is that temporary relief should be granted when the legal right underlying plaintiff's claim is settled. See, Crowe. Besides the fact that the current Attorney General has condemned the defendants' Ordinance, there is additional support from the Attorney

General's office from a 1955 written opinion. The opinion from 1955 was written in response to the Town of Demarest, NJ, trying to close streets exactly the same way the Defendants have. Then Attorney General, Grover C. Richman, Jr., took the position that, "The power to designate no 'through streets', is not among the powers granted to a municipality...". **Attached as Exhibit A, Copy of the Opinion.**

Defendants have also violated several New Jersey State laws. N.J.S.A 39:4-8 states that any ordinance, resolution, or regulation which places any impact on a State roadway shall require the approval of the commissioner. The Ordinance clearly affects State roadways. The only remaining roads in Leonia that the Plaintiff can use during the restricted hours, are county roads and State Highways. Due to the traffic being restricted on over 60 side streets, plaintiff is forced to only use State operated roads to travel through Leonia. Plaintiff should not be forced to select only county roads or State highways to travel on. Additionally, all public travelers must face the same limited options during the restricted hours which leads to more traffic and dangerous conditions on the remaining routes. As admitted by Defense counsel, the defendants did not seek approval from the Commissioner and have unsuccessfully attempted to do so within the last month. Further, N.J.S.A 39:4-8 states that a municipality that is enacting the ordinance, must provide appropriate notice to the adjoining municipality or county before enacting such ordinance. None of the surrounding towns or counties were alerted to these road closures before they took place.

N.J.S.A 39:4-94.2 specifically states that anyone who drives a vehicle over or upon the closed section of the highway, road or street which he knows or should have reason to know has been closed to traffic shall be subject to a fine of no more than \$100.00. The Borough has unilaterally decided on a fee they can charge to motorists which is in direct violation of state law.

Perhaps most alarmingly, Defendants are in violation of U.S. Code §1983, which guarantees Plaintiff her civil rights under the law. The law states, “every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.” Defendants are violating Plaintiff’s Fifth Amendment right by arbitrarily denying Plaintiff her liberty to travel freely and not be stopped and questioned for using public roads.

Lastly, the defendants are violating the Interstate Commerce Clause, found in Article 1, Section 8 of the US Constitution which states that a state may not pass legislation that discriminates against or excessively burdens interstate commerce. State regulations affecting interstate commerce, whose purpose or effect is to gain for those within the state an advantage at the expense of those without, or to burden those out of the state without any corresponding advantage to those within, impinge on the Plaintiff’s Constitutional rights. S.C. State Highway Dept. v. Barnwell Bros., Inc., 303 U.S. 177 (1938). Defendants’ are clearly giving Leonia residents an advantage by keeping their roads closed to the public. Plaintiff cannot use Leonia roads to travel to New York when the restricted hours are in place. Plaintiff has the right to travel to and from New Jersey using whatever roads she wants.

The third prong to prevail on an application for temporary relief, a plaintiff must make a preliminary showing of a reasonable probability of ultimate success on the merits. Ideal Laundry Co. v. Gugliemone, 107 N.J. Eq. 108, 115-16 (E. & A. 1930). Based on the law, and the fact that defendants have not shown any legal support for their Ordinances, Plaintiff has a high likelihood

of being successful at the ultimate outcome of the case. Additionally, New Jersey Statutes and case law have shown that defendants are outside the scope of powers granted to municipalities.

The last test is to show the relative hardship to the parties in granting or denying relief. Here, the town has not shown any conclusive evidence that they suffer more of a hardship than Plaintiff or any other commuting member of the public. Leonia existed for decades without road closures and for years since the invention of digital GPS. There is no hardship to the Borough if the signs are taken down. On the other hand, Plaintiff has not been allowed to use those roads for the past four months. In addition to having to find other ways to travel around Leonia and the surrounding area, Plaintiff has been deprived of her Constitutional Rights. Every day that the roads are closed, and the Ordinance is upheld, the Plaintiff's Civil Liberties are being violated.

Plaintiff clearly passes the four prong test in a showing of good cause for the temporary re-opening of the 60 streets. In order to protect the Plaintiff's civil rights, the Order to Show Cause must be granted and the streets must be re-opened immediately.

CONCLUSION

For all of the foregoing reasons, the Plaintiff's application must be granted. Plaintiff is requesting that all signage be taken down, all police checks cease, all police stops cease, and public notice is given that the streets are re-opened to the public.

May 7, 2018

By: Jacqueline Rosa, Esq.

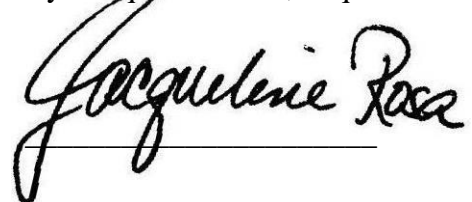
A handwritten signature in black ink, reading "Jacqueline Rosa", written over a horizontal line.

EXHIBIT A

MARCH 4, 1955.

HON. FREDERICK J. GASSERT, JR.,
Director, Division of Motor Vehicles,
State House,
Trenton, New Jersey.

FORMAL OPINION—1955. No. 5.

DEAR DIRECTOR GASSERT:

Our opinion has been requested (1) as to the power of a municipality, (the Borough of Demarest in this case) to pass an ordinance establishing "no through" streets on which all traffic will be prohibited other than that whose destination is to some point on that street, and (2) if such power exists, is such an ordinance subject to your approval.

ATTORNEY GENERAL

109

N. J. S. A. 39:4-197 provides that:

"No municipality shall pass an ordinance or resolution on a matter covered by or which alters or in any way nullifies the provisions of this chapter (the Motor Vehicle and Traffic Act) or any supplement to this chapter; except that ordinances and resolutions may be passed regulating special conditions existent in the municipality on the subjects and within the limitations following:

(1) Ordinance

- a. Altering speed limitations as provided in section 39:4-98 of this Title;
- b. Limiting use of streets to certain class of vehicles;
- c. Designating one-way streets;
- d. Designating stops, stations or stands for omnibuses;
- e. Regulating the stopping or starting of street cars at special places, such as railroad stations, public squares or in front of certain public buildings;
- f. Regulating the passage or stopping of traffic at certain congested street corners or other designated points;
- g. Regulating the parking of vehicles on streets and portions thereof including angle parking as provided in section 39:4-135 of this Title;
- h. Regulating the parking of vehicles upon grounds, other than a street or highway, owned or leased and maintained by the municipality, or any school district board of education therein, including any lands devoted to the public parking of vehicles, the entrances thereto and exits therefrom.

(2) Ordinance or resolution

- a. Designating through streets as provided in article 17 of this chapter (39:4-140 et seq.);
- b. Designating and providing for the maintenance as 'no passing' zones of portions of highway where overtaking and passing or driving to the left of the roadway is deemed especially hazardous."

The power to designate "no through" streets is not among the powers granted to a municipality by this section, nor is such power granted by any other provision of our statutes. The power to designate main traveled or major highways within the municipality as a "through street," to be marked at the entrance thereto from intersecting streets by "stop" signs is given by N. J. S. A. 39:4-197 and 39:4-140, but an ordinance designating such through street cannot be effective until it is approved by you, this because N. J. S. A. 39:4-202 provides:

"No resolution, ordinance or regulation passed, enacted or established under authority of this article, shall be effective until submitted to and approved by the director as provided in section 39:4-8 of this Title."

There is no inherent power vested in a municipality by which it may legally restrict the right of the public to the free use of streets and roads. Any right of the municipality to pass ordinances and resolutions regarding the flow of traffic over its streets and highways can arise only by legislative grant; and there has been none.

Even where the subject matter of the ordinance is within the power granted by the statute, the regulation must bear a reasonable relationship to public safety; there cannot be arbitrary action. (See *Garneau v. Eggers*, 113 N. J. L. 245, 248, 249 (Sup. Ct. 1934); *Giant Tiger Corporation v. Trenton*, 11 N. J. Misc. 836, (Sup. Ct. 1933); *Pivnick v. Newark*, 14 N. J. Super., 134 (Sup. Ct. 1951); and *Terminal Storage, Inc. v. Raritan Township*, 15 N. J. Super., 547 (Sup. Ct. 1951).

A recent New York case (*People v. Grant*, 306 N. Y. 258, 117 N. E. (2d) 542 (Ct. of App. N. Y. 1954)) is in accord with our conclusion.

OPINIONS

In the cited case, an ordinance of the Town of North Hempstead prohibited "through or transient vehicular traffic" on streets in or near the area of New Hyde Park, the ordinance being passed as a result of complaints from residents who objected to the volume of traffic at particular hours of the day, mainly because of the large number of automobiles driven by persons going to and from work at the Sperry Gyroscope Company plant situated just north of the area. In holding the ordinance invalid the Court said,

"Political subdivisions and municipal corporations hold * * * streets for the benefit of the public, consisting of the whole of the people, and regulation of the streets is the exercise of a governmental function in that they are subject exclusively to regulation and control by the state, as a sovereign except to the extent that the Legislature delegates power over them to political subdivisions and municipal corporations."

It is our opinion that the "no through street" ordinance proposed by the Borough of Demarest, and similar ordinances proposed by other municipalities, have no legislative sanction.

Very truly yours,

GROVER C. RICHMAN, JR.,
Attorney General.

By: JAMES T. KIRK,
Deputy Attorney General.

JTK/LL

EXHIBIT B



PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
25 MARKET STREET
PO Box 114
TRENTON, NJ 08625-0114

GURBIR S. GREWAL
Attorney General

March 16, 2018

Via Email and Regular Mail

Brian Chewkaskie, Esq.
Gittleman, Mulstock & Chewkaskie, LLP
Counsel for the Borough of Leonia
2200 Fletcher Avenue, Fifth Floor
Fort Lee, NJ 07024

Re: Borough of Leonia Ordinance ORD-2018-5:
Amending Ordinance 2017-19 - Section 194-25.1
Closing of Streets; Borough of Leonia Ordinance
2017-19

Dear Mr. Chewkaskie:

I write to follow up on our recent conversation and reiterate that the above referenced ordinances recently passed by your client, the Borough of Leonia ("Leonia"), restricting certain traffic from streets within the Borough are legally invalid and the Borough should immediately refrain from enforcing them.

Pursuant to N.J.S.A. 39:4-8(a), with limited exceptions that are not applicable here, the New Jersey Commissioner of Transportation (the "Commissioner") must approve any municipal ordinance, resolution or regulation concerning, regulating or governing traffic or traffic conditions. Moreover, the Commissioner is not required to approve any such ordinance, resolution, or regulation, unless, "after investigation by the



March 16, 2018

Page 2

Commissioner, the same shall appear to be in the interest of safety and the expedition of traffic on the public highways." Additionally, "Where the Commissioner's approval is required, a certified copy of the adopted ordinance, resolution, or regulation shall be transmitted by the clerk of the municipality or county, as applicable, to the Commissioner within 30 days of adoption, together with: a copy of the municipal or county engineer's certification, a statement of the reasons for the municipal or county engineer's decision, detailed information as to the location of streets, intersections, and signs affected by the ordinance, resolution, or regulation, and traffic count, crash, and speed sampling data, when appropriate."

Furthermore, in Formal Opinion No. 5, issued in 1955, the Attorney General addressed a question concerning the power of municipalities to designate "no through" streets that prohibited traffic other than those motorists whose destination was on the closed street. After analyzing the standards established in Title 39, the Attorney General concluded that "There is no inherent power vested in a municipality by which it may legally restrict the right of the public to the free use of streets and roads. Any right of the municipality to pass ordinances and resolutions regarding the flow of traffic over its streets and highways can arise only by legislative grant; and there has been none."

Leonia's ordinances have not been presented to Transportation Commissioner as required for her to make any determination under applicable law. Thus, for the reasons discussed above, Leonia lacked the authority to enforce the ordinances that restrict traffic on its roadways without authority from the Legislature or approval from the Commissioner pursuant to N.J.S.A. 39:4-8(a). We therefore direct that you advise the Borough to immediately refrain from enforcing the above referenced ordinances or the Attorney General will be required to take appropriate action to enforce the law.

We encourage Leonia officials to meet with the New Jersey Department of Transportation (DOT) to discuss a lawful resolution of whatever traffic problems may exist in Leonia as the result of commuters traveling through Leonia to use the George Washington Bridge.

March 16, 2018

Page 3

The Attorney General's office is willing to facilitate and participate the meeting. Please contact me to advise whether Leonia is willing to participate in such a meeting.

Respectfully yours,

GURBIR, S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: 

Kevin R. Jespersen
Chief Counsel to the Attorney General

SEIGEL LAW FIRM LLC
Jacqueline Rosa – 009372010
505 Goffle Road
Ridgewood, NJ 07450
(201) 444-4000

JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

Plaintiff,

vs.

DOCKET NO. HUD-L-607-18

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE in his
official capacity as acting Borough Clerk of
the Borough of Leonia, JUDAH ZEIGLER,
in his official capacity as Mayor of the
Borough of Leonia, JOHN DOE
MAINTENANCE COMPANIES 1-5

**ORDER GRANTING A
PRELIMINARY INJUNCTION
WITH TEMPORARY RELIEF**

Defendants.

THIS MATTER coming before the Court on an Order to Show Cause by Jacqueline Rosa,
Esq., pro se attorney, and good and sufficient cause having been shown;

It is on this _____ day of May, 2018,

ORDERED that all restrictions on the 60 streets in Leonia must be rescinded,

ORDERED that all signage pertaining to the road restrictions be taken down,

ORDERED that all Police checks and stops must cease,

ORDERED that notice be given to the public that Leonia streets are again available for all
public use,

ORDERED that a copy of this Order be served upon all counsel within seven (7) days of
receipt by plaintiff's counsel.

Honorable Peter F. Bariso, J.S.C.

SEIGEL LAW FIRM LLC
Jacqueline Rosa – 009372010
505 Goffle Road
Ridgewood, NJ 07450
(201) 444-4000

JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

Plaintiff,

DOCKET NO. HUD-L-607-18

vs.

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE, JUDAH
ZEIGLER, in his official capacity as Mayor
of the Borough of Leonia, JOHN DOE
MAINTENANCE COMPANIES 1-5

Defendants.

Civil Action

**ORDER TO SHOW CAUSE FOR A
PRELIMINARY INJUNCTION
WITH TEMPORARY RELIEF
PURSUANT TO R. 4:52**

THIS MATTER being brought before the court by Jacqueline Rosa, a pro se plaintiff, seeking relief by way of temporary restraints pursuant to R. 4:52, based upon the facts set forth in the verified complaint filed herewith; and it appearing that the defendants have notice of this application and have been served with a copy of this Order To Show Cause, and for good cause shown. It is on this ____ day of _____ ORDERED that defendants, BOROUGH OF LEONIA, BOROUGH OF LEONIA COUNCIL, TOM ROWE, JUDAH ZEIGLER, in his official capacity as Mayor of the Borough of Leonia appear and show cause before the Superior Court at the _____ County Courthouse in _____, New Jersey at _____ o'clock in the _____ noon or as soon thereafter as counsel can be heard, on the _____ day of _____, 2018 why an Order should not be issued preliminarily enjoining and restraining defendants, BOROUGH OF LEONIA, BOROUGH OF LEONIA COUNCIL, TOM

ROWE, JUDAH ZEIGLER, in his official capacity as Mayor of the Borough of Leonia from;

- A. Continuing to enforce municipal ordinances §194-25.1 and §194-25.2,
- B. Continuing police checks, stops and warnings,
- C. Defendants must remove all signage,
- D. Granting such other relief as the court deems equitable and just.

And it is further ORDERED that pending the return date herein, the defendant is temporarily enjoined and restrained from:

- A. Enforcing ordinances §194-25.1 and §194-25.2
- B. The Borough of Leonia must re-open their roads to the Plaintiff, and the public without any restrictions.

And it is further ORDERED that:

1. The defendant may move to dissolve or modify the temporary restraints herein contained on two (2) days notice to the Jacqueline Rosa, Esq.

2. A copy of this order to show cause, verified complaint, legal memorandum and any supporting affidavits or certifications submitted in support of this application be served upon the defendants personally within ____ days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.

3. The plaintiff must file with the court his/her/its proof of service of the pleadings on the defendant no later than three (3) days before the return date.

4. Defendant shall file and serve a written response to this order to show cause and the request for entry of injunctive relief and proof of service by _____, 2018. The original documents must be filed with the Clerk of the Superior Court in the county listed above. You must send a copy of your opposition papers directly to Judge _____,

whose address is _____, New Jersey. You must also send a copy of your opposition papers to the plaintiff's attorney whose name and address appears above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file your opposition and pay the required fee of \$ _____ and serve your opposition on your adversary, if you want the court to hear your opposition to the injunctive relief the plaintiff is seeking.

5. The plaintiff must file and serve any written reply to the defendant's order to show cause opposition by _____, 2018. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Judge _____.

6. If the defendant does not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.

7. If the plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the court no later than three (3) days before the return date.

8. Defendant take notice that the plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer to the complaint and proof of service within 35 days from the date of service of this order to show cause; not counting the day you received it. These documents must be filed with the Clerk of the Superior Court in the county listed above. Include a \$_____ filing fee payable to the

“Treasurer State of New Jersey.” You must also send a copy of your Answer to the plaintiff’s attorney whose name and address appear above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the order to show cause is not an Answer and you must file both. Please note further: if you do not file and serve an Answer within 35 days of this Order, the Court may enter a default against you for the relief plaintiff demands.

9. The court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than ____ days before the return date.

J.S.C

Dated: _____

EXHIBIT H

SEIGEL LAW FIRM LLC
Jacqueline Rosa – 009372010
505 Goffle Road
Ridgewood, NJ 07450
(201) 444-4000

JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

Plaintiff,

DOCKET NO. HUD-L-607-18

vs.

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE, JUDAH
ZEIGLER, in his official capacity as Mayor
of the Borough of Leonia, JOHN DOE
MAINTENANCE COMPANIES 1-5

Defendants.

Civil Action

**ORDER TO SHOW CAUSE FOR A
PRELIMINARY INJUNCTION
WITH TEMPORARY RELIEF
PURSUANT TO R. 4:52**

THIS MATTER being brought before the court by Jacqueline Rosa, a pro se plaintiff, seeking relief by way of temporary restraints pursuant to R. 4:52, based upon the facts set forth in the verified complaint filed herewith; and it appearing that the defendants have notice of this application and have been served with a copy of this Order To Show Cause, and for good cause shown. It is on this 7th day of May ORDERED that defendants, BOROUGH OF LEONIA, BOROUGH OF LEONIA COUNCIL, TOM ROWE, JUDAH ZEIGLER, in his official capacity as Mayor of the Borough of Leonia appear and show cause before the Superior Court at the Hudson County Courthouse in Jersey City, New Jersey at 11 o'clock in the fore noon or as soon thereafter as counsel can be heard, on the 16th day of May, 2018 why an Order should not be issued preliminarily enjoining and restraining defendants, BOROUGH OF LEONIA, BOROUGH OF LEONIA COUNCIL, TOM

ROWE, JUDAH ZEIGLER, in his official capacity as Mayor of the Borough of Leonia from;

- A. Continuing to enforce municipal ordinances §194-25.1 and §194-25.2,
- B. Continuing police checks, stops and warnings,
- C. Defendants must remove all signage,
- D. Granting such other relief as the court deems equitable and just.

~~And it is further ORDERED that pending the return date herein, the defendant is temporarily enjoined and restrained from:~~

~~A. Enforcing ordinances §194-25.1 and §194-25.2~~

~~B. The Borough of Leonia must re open their roads to the Plaintiff, and the public without any restrictions.~~

And it is further ORDERED that:

~~1. The defendant may move to dissolve or modify the temporary restraints herein contained on two (2) days notice to the Jacqueline Rosa, Esq.~~

2. A copy of this order to show cause, verified complaint, legal memorandum and any supporting affidavits or certifications submitted in support of this application ~~be served upon the~~ ^{has been served.} ~~defendants personally within ____ days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.~~

~~3. The plaintiff must file with the court his/her/its proof of service of the pleadings on the defendant no later than three (3) days before the return date.~~

4. Defendant shall file and serve a written response to this order to show cause and the request for entry of injunctive relief and proof of service by May 11, 2018. The original documents must be filed with the Clerk of the Superior Court in the county listed above. You must send a copy of your opposition papers directly to Judge Peter F. Bariso Jr.,

whose address is 595 Newark Ave. Jersey City, New Jersey. You must also send a copy of your opposition papers to the plaintiff's attorney whose name and address appears above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file your opposition and pay the required fee of \$ _____ and serve your opposition on your adversary, if you want the court to hear your opposition to the injunctive relief the plaintiff is seeking.

5. The plaintiff must file and serve any written reply to the defendant's order to show cause opposition by May 14, 2018. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Judge Peter F. Bariso Jr..

6. If the defendant does not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.

7. If the plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the court no later than three (3) days before the return date.

~~8. Defendant take notice that the plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer to the complaint and proof of service within 35 days from the date of service of this order to show cause, not counting the day you received it. These documents must be filed with the Clerk of the Superior Court in the county listed above. Include a \$_____ filing fee payable to the~~

~~“Treasurer State of New Jersey.” You must also send a copy of your Answer to the plaintiff’s attorney whose name and address appear above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the order to show cause is not an Answer and you must file both. Please note further: if you do not file and serve an Answer within 35 days of this Order, the Court may enter a default against you for the relief plaintiff demands.~~

9. The court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than 2 days before the return date.



Hon. Peter F. Bariso Jr.

A.J.S.C

Dated: May 7, 2018

EXHIBIT I

SEIGEL LAW FIRM LLC
Jacqueline Rosa – 009372010
505 Goffle Road
Ridgewood, NJ 07450
(201) 444-4000

JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

Plaintiff,

DOCKET NO. HUD-L-607-18

vs.

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE, JUDAH
ZEIGLER, in his official capacity as Mayor
of the Borough of Leonia, JOHN DOE
MAINTENANCE COMPANIES 1-5

Defendants.

Civil Action

**ORDER TO SHOW CAUSE FOR A
PRELIMINARY INJUNCTION
WITH TEMPORARY RELIEF
PURSUANT TO R. 4:52**

THIS MATTER being brought before the court by Jacqueline Rosa, a pro se plaintiff, seeking relief by way of temporary restraints pursuant to R. 4:52, based upon the facts set forth in the verified complaint filed herewith; and it appearing that the defendants have notice of this application and have been served with a copy of this Order To Show Cause, and for good cause shown. It is on this 7th day of May ORDERED that defendants, BOROUGH OF LEONIA, BOROUGH OF LEONIA COUNCIL, TOM ROWE, JUDAH ZEIGLER, in his official capacity as Mayor of the Borough of Leonia appear and show cause before the Superior Court at the Hudson County Courthouse in Jersey City, New Jersey at 11 o'clock in the fore noon or as soon thereafter as counsel can be heard, on the 16th day of May, 2018 why an Order should not be issued preliminarily enjoining and restraining defendants, BOROUGH OF LEONIA, BOROUGH OF LEONIA COUNCIL, TOM

ROWE, JUDAH ZEIGLER, in his official capacity as Mayor of the Borough of Leonia from;

- A. Continuing to enforce municipal ordinances §194-25.1 and §194-25.2,
- B. Continuing police checks, stops and warnings,
- C. Defendants must remove all signage,
- D. Granting such other relief as the court deems equitable and just.

~~And it is further ORDERED that pending the return date herein, the defendant is temporarily enjoined and restrained from:~~

~~A. Enforcing ordinances §194-25.1 and §194-25.2~~

~~B. The Borough of Leonia must re open their roads to the Plaintiff, and the public without any restrictions.~~

And it is further ORDERED that:

~~1. The defendant may move to dissolve or modify the temporary restraints herein contained on two (2) days notice to the Jacqueline Rosa, Esq.~~

2. A copy of this order to show cause, verified complaint, legal memorandum and any supporting affidavits or certifications submitted in support of this application ~~be served upon the~~ ^{has been served.} ~~defendants personally within ____ days of the date hereof, in accordance with R. 4:4-3 and R. 4:4-4, this being original process.~~

~~3. The plaintiff must file with the court his/her/its proof of service of the pleadings on the defendant no later than three (3) days before the return date.~~

4. Defendant shall file and serve a written response to this order to show cause and the request for entry of injunctive relief and proof of service by May 11, 2018. The original documents must be filed with the Clerk of the Superior Court in the county listed above. You must send a copy of your opposition papers directly to Judge Peter F. Bariso Jr.,

whose address is 595 Newark Ave. Jersey City, New Jersey. You must also send a copy of your opposition papers to the plaintiff's attorney whose name and address appears above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file your opposition and pay the required fee of \$ _____ and serve your opposition on your adversary, if you want the court to hear your opposition to the injunctive relief the plaintiff is seeking.

5. The plaintiff must file and serve any written reply to the defendant's order to show cause opposition by May 14, 2018. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Judge Peter F. Bariso Jr..

6. If the defendant does not file and serve opposition to this order to show cause, the application will be decided on the papers on the return date and relief may be granted by default, provided that the plaintiff files a proof of service and a proposed form of order at least three days prior to the return date.

7. If the plaintiff has not already done so, a proposed form of order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the court no later than three (3) days before the return date.

8. ~~Defendant take notice that the plaintiff has filed a lawsuit against you in the Superior Court of New Jersey. The verified complaint attached to this order to show cause states the basis of the lawsuit. If you dispute this complaint, you, or your attorney, must file a written answer to the complaint and proof of service within 35 days from the date of service of this order to show cause, not counting the day you received it. These documents must be filed with the Clerk of the Superior Court in the county listed above. Include a \$_____ filing fee payable to the~~

~~“Treasurer State of New Jersey.” You must also send a copy of your Answer to the plaintiff’s attorney whose name and address appear above, or to the plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the order to show cause is not an Answer and you must file both. Please note further: if you do not file and serve an Answer within 35 days of this Order, the Court may enter a default against you for the relief plaintiff demands.~~

9. The court will entertain argument, but not testimony, on the return date of the order to show cause, unless the court and parties are advised to the contrary no later than 2 days before the return date.



Hon. Peter F. Bariso Jr.

A.J.S.C

Dated: May 7, 2018

EXHIBIT J

JACQUELINE ROSA,

Plaintiff

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:HUDSON COUNTY

Docket No. HUD-L-000607-18

vs.

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE in his
capacity as acting Borough Clerk of the
Borough of Leonia, JUDAH ZEIGLER, in
his official capacity as Mayor of the Borough
of Leonia, JOHN DOE MAINTENANCE
COMPANIES 1-5,

Civil Action

Defendants

BRIEF ON BEHALF OF DEFENDANTS IN OPPOSITION
TO PLAINTIFF'S ORDER TO SHOW CAUSE FOR INJUNCTIVE RELIEF

Gittleman Muhlstock & Chewcaskie
2200 Fletcher Avenue
Fort Lee, NJ 07024
201-944-2300
Attorney for Defendants, Borough of Leonia, Borough of
Leonia Council, Tom Rowe and Judah Zeigler

BRIAN M. CHEWCASKIE, ESQ.
Attorney ID #021201984
Of Counsel and on the Brief

PROCEDURAL HISTORY

As part of a comprehensive traffic initiative program, the Borough of Leonia (“Leonia”) enacted a series of ordinances in 2017 to address growing significant traffic issues in Leonia.

The relevant ordinances for the purpose of the instant matter are as follows:

| | |
|-----------------------|---|
| Ordinance No. 2017-19 | An Ordinance Amending and Supplementing Chapter 194 “Vehicles and Traffic” of the Code of the Borough of Leonia by Adding to Article XI “Temporary Closing of Streets” §194-25.1 “Closing of Certain Streets” and Article XIV by the Addition Thereof of Scheduled XVII “Streets Closed to Traffic”, adopted December 4, 2017 (Exhibit “A”) |
|-----------------------|---|

Ordinance No. 2017-19 was subsequently amended by Ordinance No. 2018-5 as follows:

| | |
|----------------------|---|
| Ordinance No. 2018-5 | An Ordinance Amending and Supplementing Chapter 194 “Vehicles and Traffic” of the Code of the Borough of Leonia by Amending Ordinance 2017-19, Article XI “Temporary Closing of Streets” §194-25.1 “Closing of Certain Streets” and §194-49 Schedule XVIII, adopted March 5, 2018 (Exhibit “B”) |
|----------------------|---|

On January 30, 2018, Plaintiff, Jacqueline Rosa (“Plaintiff” or “Rosa”), filed a Complaint in Lieu of Prerogative Writ naming the Borough of Leonia, Borough of Leonia Council, Tom Rowe, Judah Ziegler and various unnamed defendants. Leonia, on behalf of all named defendants, filed an Answer and Affirmative Defenses on February 28, 2018. Thereafter, an Amended Complaint was filed by the Plaintiff on February 12, 2018. This Amended Complaint was not served on Leonia. An Answer with Affirmative Defenses to the Amended Complaint was filed on behalf of the Leonia Defendants on March 27, 2018.

The Court conducted a Case Management Conference on March 20, 2018 and a subsequent telephone conference on March 27, 2018. Plaintiff has now filed on May 4, 2018 an Order to Show Cause seeking a preliminary injunction.

STATEMENT OF FACTS

Leonia is a small community in Bergen County with limited resources, including a Police Department consisting of a total of eighteen (18) officers.

As a result of the inability, inactivity or lack of concern of the Port of Authority of New York and New Jersey and the New Jersey Department of Transportation, Leonia established a traffic initiative program in 2017 to address significant commuter traffic issues that cripple Leonia during certain hours of the day as a result of significant traffic utilizing Leonia streets to access the George Washington Bridge. Leonia was forced to take these actions as a result of the aforementioned inaction and inattention after many crippling traffic jams on local streets and serious public safety incidents. The Borough determined to enact the traffic initiative to address this significant and serious public safety concern.

The Borough enacted several ordinances in 2017. The ordinance most germane to this litigation is Ordinance 2018-05, adopted on March 5, 2018 (Exhibit "B"). This Ordinance provides in pertinent part:

"No person shall operate a vehicle on those streets or parts of streets as described in Schedule XVIII (§194-49) attached to and made part of Chapter 194 during the times of the days indicated in said Schedule unless that person

- (a) Is a resident of said street needing access to his home or can demonstrate a documents need to access a resident on the street or parts of streets as described; or
- (b) Is traveling to and/or from a Leonia destination.

This Ordinance amended Ordinance No. 2017-19, adopted September 4, 2017 (Exhibit "A").

The streets that are limitedly restricted by this Ordinance are delineated in Schedule XVIII (§194-49) which is included in Exhibit "B".

The Plaintiff and various media reports would like the Court to believe that the Ordinance restricts non-residents from all streets in the Borough of Leonia. First, this is not the case. The Ordinance specifically provides that those who require access to a particular street or traveling to and/or from a Leonia destination can access those streets. Further, the streets that are affected are the local streets under the jurisdiction of the Borough of Leonia. No County or State highways are affected and there is unlimited access to Fort Lee Road (an east/west thoroughfare) and Broad Avenue and Grand Avenue (north/south thoroughfares). Simply stated, these roadways which connect with other communities are not restricted in any fashion. The Plaintiff and reports in various media outlets would have one believe that the restriction is in effect at all times. In fact, pursuant to the terms of the Ordinance, the restriction is in effect between the hours of 6:00 and 10:00 a.m. and 4:00 to 9:00 p.m.

Plaintiff in this action filed a Complaint that challenged Ordinance No. 2017-19. The Complaint was never amended to incorporate Ordinance No. 2018-5. However, as a result of external political statements without a legal basis, Plaintiff has now filed an Order to Show Cause seeking a preliminary injunction which Order to Show Cause was filed on May 4, 2018.

Leonia requests the Court to review the legal analysis in this matter, both statutory and case law, which supports the basis for Leonia's actions and not the media statements that are made for political grandstanding or other purposes.

POINT 1

THE PLAINTIFF IS NOT ENTITLED TO A PRELIMINARY INJUNCTION.

Before a party can obtain preliminary or permanent injunctive relief, it must demonstrate that all of the standards enunciated in Crowe v. DeGioia, 90 N.J. 126 (1982) have been met. A showing that all of those criteria has been met entitles the application for injunctive relief to be granted.

There are four essential criteria which must be established for a temporary restraint or preliminary or permanent injunction to issue.

First, relief will be granted to prevent immediate and irreparable harm. Crowe, supra. at 133. As stated in Crowe, “[h]arm is generally considered irreparable in equity if it cannot be redressed adequately by monetary damages.” Plaintiff or the movant must, therefore, have no adequate remedy at law.

Second, a preliminary or permanent injunction will issue if the legal right underlying plaintiff’s claim is well settled. Crowe, supra. at 133.

Third, a preliminary or permanent injunction will issue where the essential material facts underlying plaintiff’s claims are uncontroverted so as to enable plaintiff to make a preliminary showing “of a reasonable probability of ultimate success on the merits.” Crowe, supra. at 133. See also Zoning Board of Adjustment of Sparta v. Service Electric Cable Television of New Jersey, Inc., 198 N.J. Super. 370 (App. Div. 1985); New Chancellor Cinema, Inc. v. Town of Irvington, 169 N.J. Super. 564, 572 (Law Div. 1979). Uncontroverted facts sufficient for a summary adjudication of the issues presented by plaintiff is essential to the maintenance of an Order to Show Cause. Finally, in determining whether to grant or deny preliminary or permanent

injunctive relief, the Court will consider the relative hardship to the parties. Crowe, supra. at 134. In essence, the Court engages in a balancing of the relative hardship of the parties in granting or denying the requested relief.

As set forth herein, Plaintiff has not made the necessary showing of the above criteria for the granting of the relief sought in her moving papers.

A. Plaintiff Has Submitted No Proof That She Will Suffer Immediate and Irreparable Harm.

Initially it must be noted that no Certification or documentation has been submitted by Plaintiff that she has suffered any harm at all, let alone irreparable harm, as a result of the implementation of Ordinance No. 2018-5. As evidenced in the Statement of Facts, there are no restrictions in place that would limit travel through the Borough of Leonia. Plaintiff has access to Fort Lee Road, Broad Avenue, Grand Avenue and other roadways that are not restricted in any fashion. These roadways provide for access through the Borough of Leonia to neighboring communities and any state or federal highway. Further, as indicated, access is not precluded on local streets; however, it is restricted for a period of seven hours a day during certain morning and evening hours.

As Plaintiff has submitted no evidence of irreparable or immediate harm (and as submitted by Leonia, no harm at all) the first prong of the preliminary injunction test cannot be met, and therefore the request for preliminary injunction must be denied.

Although statements are made in the brief, no evidence of any action by Leonia that has affected Plaintiff has been submitted by Plaintiff. In fact, the only reference to harm is some tenuous statement of personal inconvenience with a reference to Hodge vs. Giese, 43 N.J. Eq.

342 (1887). Plaintiff states that the Court has found that in certain circumstances severe personal inconvenience can constitute irreparable injury justifying the issuance of injunctive relief and cites. Id. at 350. The reference to Hodge is misguided as this case dealt with access to a heating unit in a different part of leased premises. The Court determined that access was, in fact, required as a result of an easement that existed. The basic premise is that where an easement, either public or private, has been unlawfully obstructed to a parties' irreparable injury, a court of equity will order the removal of the obstruction. Suffice it to say that the Plaintiff's mere personal inconvenience is not enough for the grant of an injunction under these circumstances.

It bears repeating that no evidence in any form has been submitted as to any harm at all suffered by this Plaintiff in support of a preliminary injunction.

B. Leonia's Claims are Well Settled.

The Plaintiff, in her brief, makes reference to N.J.S.A. 39:4-8, which is inapplicable to Leonia's ordinance herein.

The operative statute is N.J.S.A.39:4-197, which provides, in pertinent part:

“Except as otherwise provided in R.S.39:4-8, no municipality shall pass an ordinance or resolution on a matter covered by or which alters or in any way nullifies the provisions of this chapter or any supplement to this chapter; except that a municipality may pass, without the approval of the commissioner, and consistent with the current standards prescribed by the Manual on Uniform Traffic Control Devices for Streets and Highways, ordinances or resolutions, or by ordinances or resolutions may authorize the adoption of regulations by the board, body or official having control of traffic in the public streets, regulating special conditions existent in the municipality on the subjects and within the limitations following:

(1) Ordinance:

...
(e) Regulating the passage or stopping of traffic at certain congested street corners or other designated points, including the establishment of multi-way stop controls;"

The ordinance is consistent with the requirements of (1)(e) in that the ordinance regulates the passage or stopping of traffic at certain street corners or other designated points, including the establishment of multi-way stop controls.

Second, the reference to Attorney General Formal Opinion No. 5 issued in 1955 is also misguided. The Opinion addressed the question concerning the power of municipalities to designate "no through" streets that prohibited traffic other than those motorists whose destination was on a closed street. The Opinion further provided "any right of the municipality to pass ordinances and resolutions regarding the flow of traffic over its streets and highways can arise only by legislative grant; and there has been none." The language utilized in the Opinion demonstrates that same is inapplicable to the ordinance. Specifically, there is no limitation in the ordinance to a destination on any particular street and the streets are through streets. Also, the appropriate legislative grant exists pursuant to N.J.S.A.39:4-197, which was effective December 4, 2008, fifty-three years after the issuance of the Attorney General's Opinion.

Finally, federal law permits municipalities to regulate traffic, parking, etc. within its borders. The County Board of Arlington County, Virginia v. Richards 434 US 976 (1977) held: "A community may also decide that restrictions on the flow of outside traffic into particular residential areas would enhance the quality of life thereby reducing noise, traffic hazards and litter", and "The Constitution does not outlaw the social and environmental objectives, nor does it presume distinctions between residents and non-residents of a local neighborhood to be

invidious”. See also Martell’s Tiki Bar, Inc. v. The Governing Body of Point Pleasant Beach, D.N.J.(2015) Civil Action #13-5676 (Exhibit “C”).

The ordinance is less restrictive than that which has been addressed in the Arlington case in that there is no restriction based upon residency or any restriction based upon a specific location on a particular street. The ordinance, by virtue of the fact that it was enacted in order to address a concern related to public safety, clearly meets the standard set forth in the Arlington County Board vs. Richards decision.

The Plaintiff also alleges that Leonia is violating the Interstate Commerce Clause and refers to S.C. Highway Department v. Barnwell Brothers, Inc., 303 U.S. 177 (1938). What is most interesting is the statements made in Plaintiff’s brief regarding the purported violation of the Interstate Commerce Clause. Plaintiff’s brief states “Defendants are clearly giving Leonia residents an advantage by keeping their roads closed to the public. Plaintiff cannot use Leonia roads to travel to New York when the restricted hours are in place. Plaintiff has the right to travel to and from New Jersey using whatever roads she wants.” (P. Brief at 7) There is no Interstate Commerce Clause violation by the enactment of a local ordinance. However, there is no restriction on Plaintiff’s right to travel to New York. As set forth previously, roadways that traverse Leonia in a north/south or east/west direction, (in this instance Fort Lee Road) and intersect with other communities, are unrestricted in any way. Further, the local roads referred to by Plaintiff are not closed to the public. These roads are restricted at certain times and are available to all during the unrestricted hours.

The citation to S.C. Highway is misguided as the South Carolina case held that “the Commerce Clause, by its own force, prohibits discrimination against interstate commerce,

whatever its form or method, and the decisions of this Court have recognized that there is scope for its like operation when State legislation, nominally of local concern, is in point of fact, aimed at interstate commerce, or by its necessary operation is a means of gaining a local benefit by throwing the attendant burden on those without the state.” *Id.* at 186. Further, South Carolina continued with “few subjects of state regulation are so peculiarly of local concern as is the use of state highways. There are few, local regulation of which is so inseparable from a substantial effect on interstate commerce. Unlike the railroads, local highways are built, owned and maintained by the state or its municipal subdivisions. The state has a primary and immediate concern in their safe and economical administration.” *Id.* at 187.

The Commerce Clause recognizes that there will be regulation of local roadways and that there may be some burden on interstate commerce. However, nothing indicated by Plaintiff reveals any burden on interstate commerce. Plaintiff’s argument has nothing to do with interstate commerce, nor has any documentation been submitted that interstate commerce is being effected by regulation of local roadways by the Borough of Leonia. The Court can certainly take judicial notice that travel on roadways is more likely than not to be utilized in state and federal highways which are in no means affected herein. Plaintiff seems to equate a right to travel, which has not been articulated in any point in her brief, with some burden on interstate commerce, which is not evident herein.

C. Plaintiff Has Not Demonstrated a Probability of Ultimate Success on The Merits and is Not Entitled to The Preliminary Injunctive Relief.

The Plaintiff, in this instance, would have the Court believe that there is no legal basis for the enactment of the Ordinance. Although Leonia may be the unfortunate recipient of being a

pawn in a political dispute, no basis has been established by the Plaintiff that she has a probability of success on the merits. In fact, based upon the statutory and case law cited herein, Leonia's rights are well settled and are based in statutory and case law. As is evident in the language of N.J.S.A. 39:4-197 "a municipality may pass **without the approval of the commissioner** and consistent with the current standards prescribed by the Manual on Uniform Traffic Control Devices for Streets and Highways, ordinances or resolutions, or by ordinances or resolutions may authorize the adoption of regulations by the board, body or official having control of traffic in the public streets, regulating special conditions existent in the municipality on the subjects and within the limitations following...

As set forth in the Statement of Facts, the action taken by Leonia affect local streets. No evidence has been submitted that the actions are not consistent with the current standards prescribed by the Manual on Uniform Traffic Control Devices for Streets and Highways. In addition, it is as a result of the special conditions existent in Leonia that require the implementation of the traffic control initiatives including Ordinance 2018-5. It is the failure of the Port Authority of New York and New Jersey and the New Jersey State Department of Transportation to recognize serious traffic concerns that exist in this small community as a result of its proximity to the George Washington Bridge. Leonia was compelled to implement these initiatives as a failure of State agencies to address the problems associated with commuter traffic.

D. The Harm Accruing to the Borough of Leonia as a Result of the Traffic Impact in the Community Outweighs Potential Harm to the Plaintiff Requiring that Preliminary Injunctive Relief be Granted.

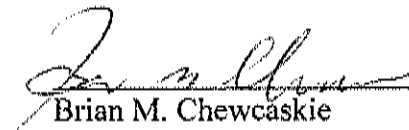
As indicated herein, there is no doubt that the Borough, as a result of its limited resources, was required to undertake this traffic initiative program. If this program is set aside,

Leonia will be subject to immediate and irreparable harm, not the Plaintiff. The traffic initiatives have been in effect for approximately four months and Plaintiff has not and cannot demonstrate any harm nor can she point to any harm incurred by others. Further, Plaintiff has ignored the relevant statute and case law which specifically authorizes Leonia to implement this traffic initiative program.

CONCLUSION

For the foregoing reasons, it is respectfully requested that the Court deny the request for preliminary injunction and dismiss Plaintiff's Complaint.

Respectfully submitted,


Brian M. Chewcaskie

Dated: 5/11/18

EXHIBIT A

**ORDINANCE NO. 2017-19
BOROUGH OF LEONIA
COUNTY OF BERGEN**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 194
"VEHICLES AND TRAFFIC" OF THE CODE OF THE BOROUGH OF LEONIA
BY ADDING TO ARTICLE XI "TEMPORARY CLOSING OF STREETS"
§194-25.1 "CLOSING OF CERTAIN STREETS" AND
ARTICLE XIV BY THE ADDITION THEREOF
OF SCHEDULE XVIII "STREETS CLOSED TO TRAFFIC"**

WHEREAS, the Mayor and Council of the Borough of Leonia have determined that it is in the best interests of the Borough of Leonia to revise Chapter 194 of the Borough of Leonia Ordinance concerning Vehicles and Traffic; and

Section I.

WHEREAS, the Mayor and Council of the Borough of Leonia desire to amend and supplement §194 "Vehicles and Traffic" of the Code of the Borough of Leonia by adding to Article XI "Temporary Closing of Streets" §194-25.1 "Closing of Certain Streets":

§194-25.1 Closing of Certain Streets.

No person shall operate a vehicle on those streets or parts of streets as described in Schedule XVIII (§194-49) attached to and made a part of this Chapter during the times of the days indicated in said Schedule unless that person is a resident of the said street needing access to his home or can demonstrate or document a need to access a residence on the street or parts of streets as described.

Article XVIII. Streets Closed to Traffic.

§194-49. Schedule XVIII Streets Closed to Traffic.

In accordance with the provisions of §194-25.1, the following streets or parts of streets shall be closed to traffic between the hours listed on the days indicated:

Between 6:00 to 10:00 a.m. and 4:00 to 9:00 p.m., the following streets will have the restrictions listed below:

Road Name/Direction of Road

Prohibited Entry

Edgewood Road- Southbound from Ridgeland Ter. to Ridgeland Terrace

Do Not Enter

Broad Avenue – Eastbound from Broad Avenue

Vreeland Avenue

Do Not Enter

Woodland Place

Do Not Enter

| | |
|-----------------|--------------|
| Beechwood Place | Do Not Enter |
| Magnolia Place | Do Not Enter |
| Elm Place | Do Not Enter |
| Allaire Avenue | Do Not Enter |
| Westview Avenue | Do Not Enter |
| Summit Avenue | Do Not Enter |
| Park Avenue | Do Not Enter |
| Highway Avenue | Do Not Enter |
| Sylvan Avenue | Do Not Enter |
| Moore Avenue | Do Not Enter |
| Oakdene Avenue | Do Not Enter |

Broad Avenue – Westbound of Broad Avenue

| | |
|-------------------------|--------------|
| Oakdene Avenue | Do Not Enter |
| Moore Avenue | Do Not Enter |
| Ames Avenue | Do Not Enter |
| Sylvan Avenue | Do Not Enter |
| Highwood Avenue | Do Not Enter |
| Park Avenue | Do Not Enter |
| Christie Street | Do Not Enter |
| High Street | Do Not Enter |
| Crescent Avenue | Do Not Enter |
| Harrison Street | Do Not Enter |
| Overlook Avenue | Do Not Enter |
| Van Orden Avenue | Do Not Enter |
| Vreeland Avenue | Do Not Enter |
| Christie Heights Street | Do Not Enter |
| Harrison Street | Do Not Enter |

Fort Lee Road – Southbound of Fort Lee Road

| | |
|------------------|--------------|
| Leonia Avenue | Do Not Enter |
| Gladwin Avenue | Do Not Enter |
| Oaktree Place | Do Not Enter |
| Paulin Boulevard | Do Not Enter |
| Irving Street | Do Not Enter |

Fort Lee Road – Northbound of Fort Lee Road

| | |
|-------------------|--------------|
| Linden Terrace | Do Not Enter |
| Hawthorne Terrace | Do Not Enter |
| Leonia Avenue | Do Not Enter |

Grand Avenue – Eastbound of Grand Avenue

| | |
|------------------|--------------|
| Lakeview Avenue | Do Not Enter |
| Longview Avenue | Do Not Enter |
| Overlook Avenue | Do Not Enter |
| Van Orden Avenue | Do Not Enter |

| | |
|-----------------|--------------|
| Vreeland Avenue | Do Not Enter |
| Harrison Street | Do Not Enter |
| Cottage Place | Do Not Enter |
| Hillside Avenue | Do Not Enter |
| Palisade Avenue | Do Not Enter |
| Prospect Street | Do Not Enter |
| Maple Street | Do Not Enter |
| Christie Street | Do Not Enter |
| Park Avenue | Do Not Enter |
| Highwood Avenue | Do Not Enter |
| Sylvan Avenue | Do Not Enter |
| Ames Avenue | Do Not Enter |
| Oakdene Avenue | Do Not Enter |

Grand Avenue – Westbound of Grand Avenue

| | |
|--------------|--------------|
| Maple Street | Do Not Enter |
| Schor Avenue | Do Not Enter |

Bergen Boulevard – Westbound of Bergen Boulevard

| | |
|--------------------|--------------|
| Christie Lane | Do Not Enter |
| Hazlitt Avenue | Do Not Enter |
| Washington Terrace | Do Not Enter |
| Lester Street | Do Not Enter |

Glenwood Avenue – Northbound of Oakdene Avenue

| | |
|-----------------|--------------|
| Glenwood Avenue | Do Not Enter |
|-----------------|--------------|

Glenwood Avenue – Eastbound of Glenwood Avenue

| | |
|-----------------|--------------|
| Hillside Avenue | Do Not Enter |
| Woodland Place | Do Not Enter |
| | Do Not Enter |

Allaire Avenue
Summit Avenue
Park Avenue
Highwood Avenue
Oakdene Avenue

Do Not Enter
Do Not Enter
Do Not Enter
Do Not Enter
Do Not Enter

Intersections with Traffic Control Devices

| | |
|--|------------------------|
| Broad Ave/Hillside Ave: West and Eastbound from Broad Ave | No Right and Left Turn |
| FLR EB/Glenwood Avenue: North and Southbound from FLR | No Right and Left Turn |
| FLR EB/Station Parkway: Southbound from FLR | No Right Turn |
| Grand Avenue/Christie Heights: Eastbound from Grand Avenue | No Right and Left Turn |
| Grand Avenue/Moore Avenue: Eastbound from Grand Avenue | No Right and Left Turn |

Section 2.

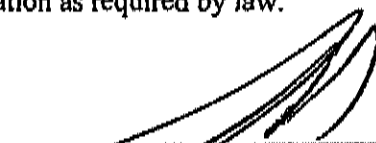
All other provisions of Chapter 194 "Vehicles and Traffic" of the Code of the Borough of Leonia are hereby ratified and confirmed.

Section 3. Severability.

If any article, section, sub-section, sentence, clause, or phrase of this Ordinance is for any reason deemed to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

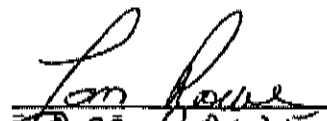
Section 4. Effect.

This Ordinance will take effect upon publication as required by law.



Judith Zeigler, Mayor

ATTEST:



TOM ROWE
Borough Clerk

REC'D

INTRODUCED: 11/20/17
ADOPTED: 12/4/17
APPROVED: 12/4/17

**PUBLIC NOTICE OF ADOPTION
BOROUGH OF LEONIA
ORDINANCE NO. 2017-19**

PLEASE TAKE NOTICE THAT ORDINANCE NO. 2017-19 ENTITLED "AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 194 "VEHICLES AND TRAFFIC" OF THE CODE OF THE BOROUGH OF LEONIA BY ADDING TO ARTICLE XI "TEMPORARY CLOSING OF STREETS" §194-25.1 "CLOSING OF CERTAIN STREETS" AND ARTICLE XIV BY THE ADDITIONS THEREOF OF SCHEDULE XVIII "STREETS CLOSED TO TRAFFIC" was given its final reading with a public hearing and was adopted at a meeting of the governing body on the 4th day of December, 2017.

Barbara Rae, RMC, CMC
Borough Clerk

Introduced: November 20, 2017
Adopted: December 4, 2017
Approved: December 4, 2017
December 15, 2017
Fee: \$24.75(30) 4224550

EXHIBIT B

**ORDINANCE NO. 2018-5
BOROUGH OF LEONIA
COUNTY OF BERGEN**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 194
"VEHICLES AND TRAFFIC" OF THE CODE OF THE BOROUGH OF LEONIA
BY AMENDING ORDINANCE 2017-19, ARTICLE XI "TEMPORARY
CLOSING OF STREETS" §194-25.1 "CLOSING OF CERTAIN STREETS"
AND §194-49 SCHEDULE XVIII**

WHEREAS, the Mayor and Council of the Borough of Leonia adopted Ordinance No. 2017-19 on December 4, 2017; and

WHEREAS, the Mayor and Council have reviewed the impact of the Ordinance and have determined to revise same to provide for access to certain streets for those individuals traveling to Leonia destinations.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Leonia, as follows:

Section 1.

§194-25.1 "Closing of Certain Streets" is amended in its entirety as follows:

§194-25.1 Closing of Certain Streets.

No person shall operate a vehicle on those streets or parts of streets as described in Schedule XVIII (§194-49) attached to and made part of Chapter 194 during the times of the days indicated in said Schedule unless that person

- (a) Is a resident of said street needing access to his home or can demonstrate a documented need to access a residence on the street or parts of streets as described; or
- (b) Is traveling to and/or from a Leonia destination.

Article XVIII. Streets Closed to Traffic.

§194-49. Schedule XVIII Streets Closed to Traffic.

In accordance with the provisions of §194-25.1, the following streets or parts of streets shall be closed to traffic between the hours listed on the days indicated:

Between 6:00 to 10:00 a.m. and 4:00 to 9:00 p.m., the following streets will be closed:

| | |
|-----------------|---|
| Lakeview Avenue | West to East – Eastview to Broad Avenue |
| Palmer Place | North to South – Highwood Avenue to Oakdene Avenue |
| Irving Street | North to South – Fort Lee Road to Christie Lane |
| Chestnut Street | East to West – Irving Street to Fort Lee Road |
| Edgewood Road | South to North – Ridgeland Terrace to Ridgeland Terrace |

Between 6:00 to 10:00 a.m. and 4:00 to 9:00 p.m., the following streets will have the restrictions listed below:

Road Name/Direction of Road

Prohibited Entry

Broad Avenue – Eastbound from Broad Avenue

| | |
|-----------------|--------------|
| Vreeland Avenue | Do Not Enter |
| Woodland Place | Do Not Enter |
| Beechwood Place | Do Not Enter |
| Magnolia Place | Do Not Enter |
| Elm Place | Do Not Enter |
| Allaire Avenue | Do Not Enter |
| Westview Avenue | Do Not Enter |
| Summit Avenue | Do Not Enter |
| Park Avenue | Do Not Enter |
| Highwood Avenue | Do Not Enter |
| Sylvan Avenue | Do Not Enter |
| Moore Avenue | Do Not Enter |
| Oakdene Avenue | Do Not Enter |

Broad Avenue – Westbound of Broad Avenue

| | |
|------------------|--------------|
| Oakdene Avenue | Do Not Enter |
| Moore Avenue | Do Not Enter |
| Ames Avenue | Do Not Enter |
| Sylvan Avenue | Do Not Enter |
| Highwood Avenue | Do Not Enter |
| Park Avenue | Do Not Enter |
| Christie Street | Do Not Enter |
| High Street | Do Not Enter |
| Crescent Avenue | Do Not Enter |
| Overlook Avenue | Do Not Enter |
| Van Orden Avenue | Do Not Enter |

| | |
|-------------------------|--------------|
| Vreeland Avenue | Do Not Enter |
| Christie Heights Street | Do Not Enter |
| Harrison Street | Do Not Enter |

Fort Lee Road – Southbound of Fort Lee Road

| | |
|------------------|--------------|
| Leonia Avenue | Do Not Enter |
| Gladwin Avenue | Do Not Enter |
| Oaktree Place | Do Not Enter |
| Paulin Boulevard | Do Not Enter |
| Irving Street | Do Not Enter |

Fort Lee Road – Northbound of Fort Lee Road

| | |
|-------------------|--------------|
| Linden Terrace | Do Not Enter |
| Hawthorne Terrace | Do Not Enter |
| Leonia Avenue | Do Not Enter |

Grand Avenue – Eastbound of Grand Avenue

| | |
|------------------|--------------|
| Lakeview Avenue | Do Not Enter |
| Longview Avenue | Do Not Enter |
| Overlook Avenue | Do Not Enter |
| Van Orden Avenue | Do Not Enter |
| Vreeland Avenue | Do Not Enter |
| Harrison Street | Do Not Enter |
| Cottage Place | Do Not Enter |
| Hillside Avenue | Do Not Enter |
| Palisade Avenue | Do Not Enter |
| Prospect Street | Do Not Enter |
| Maple Street | Do Not Enter |
| Christie Street | Do Not Enter |
| Park Avenue | Do Not Enter |
| Highwood Avenue | Do Not Enter |
| Sylvan Avenue | Do Not Enter |
| Ames Avenue | Do Not Enter |
| Oakdene Avenue | Do Not Enter |

Grand Avenue – Westbound of Grand Avenue

| | |
|--------------|--------------|
| Maple Street | Do Not Enter |
| Schor Avenue | Do Not Enter |

Bergen Boulevard – Westbound of Bergen Boulevard

| | |
|---------------|--------------|
| Christie Lane | Do Not Enter |
|---------------|--------------|

Hazlitt Avenue
Washington Terrace
Lester Street

Do Not Enter
Do Not Enter
Do Not Enter

Glenwood Avenue – Northbound of Oakdene Avenue

Glenwood Avenue

Do Not Enter

Glenwood Avenue – Eastbound of Glenwood Avenue

Hillside Avenue
Woodland Place
Allaire Avenue
Summit Avenue
Park Avenue
Highwood Avenue
Oakdene Avenue

Do Not Enter
Do Not Enter
Do Not Enter
Do Not Enter
Do Not Enter
Do Not Enter
Do Not Enter

Intersections with Traffic Control Devices

Broad Ave/Hillside Ave: West and Eastbound from Broad Ave
FLR EB/Glenwood Avenue: North and Southbound from FLR
FLR EB/Station Parkway: Southbound from FLR
Grand Avenue/Christie Heights: Eastbound from Grand Avenue
Grand Avenue/Moore Avenue: Eastbound from Grand Avenue

No Right and Left Turn
No Right and Left Turn
No Right Turn
No Right and Left Turn
No Right and Left Turn

Section 2.

All other provisions of Chapter 194 “Vehicles and Traffic” of the Code of the Borough of Leonia are hereby ratified and confirmed.

Section 3. Severability.

If any article, section, sub-section, sentence, clause, or phrase of this Ordinance is for any reason deemed to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.


Section 4. Effect.

This Ordinance will take effect upon publication as required by law.



Judah Zeigler, Mayor

ATTEST:



Barbara Rae, RMC, CMC
Borough Clerk

Borough of Leonia
Office of the Municipal Clerk

PROOF OF PUBLICATION AFFIDAVIT

Date:

3/8/18

As the duly appointed Municipal Clerk for the Borough of Leonia, County of Bergen, State of New Jersey, I hereby certify that a Public Notice, of which a copy is attached hereto, was published in the Blueside Newspaper, in the 3/8/18 issue of said newspaper.

Barbara Rae
Borough Clerk

PUBLIC NOTICE OF ADOPTION
BOROUGH OF LEONIA
ORDINANCE NO. 2018-4
PLEASE TAKE NOTICE THAT ORDINANCE NO. 2018-4 ENTITLED "AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 20 OF THE CODES AND CHAPTERS OF THE BOROUGH OF LEONIA BY AMENDING ORDINANCE 2017-18 ARTICLE XI "TEMPORARY CLOSING OF STREETS" FIRST CLOSING OF CERTAIN STREETS AND \$194-48 SCHEDULE XVIII" WAS GIVEN ITS FINAL READING at a meeting of the governing body on the 5th day of March, 2018.
Barbara Rae, P.M., Clerk
Borough Clerk

Introduced: February 21, 2018
Adopted: March 5, 2018
Approved: March 5, 2018
March 5, 2018
File: E20-63 (25) 4245235

EXHIBIT C

Martell's Tiki Bar, Inc. v. Governing Body of Point Pleasant Beach

United States District Court for the District of New Jersey

January 9, 2015, Decided; January 9, 2015, Filed

Civil Action No. 13-5676

Reporter

2015 U.S. Dist. LEXIS 2845 *; 2015 WL 132559

MARTELL'S TIKI BAR, INC., Plaintiff, v. GOVERNING BODY OF BOROUGH OF POINT PLEASANT BEACH, et al., Defendants.

Notice: NOT FOR PUBLICATION

Counsel: For MARTELL'S TIKI BAR, INC., Plaintiff: ALEXIS LEIGH GASIOROWSKI [*1], ROBERT S. GASIOROWKI, LEAD ATTORNEYS, GASIOROWSKI & HOLOBINKO, RED BANK, NJ.

For GOVERNING BODY OF THE BOROUGH OF POINT PLEASANT BEACH, BOROUGH OF POINT PLEASANT BEACH, Defendants: ANGELICA GUZMAN, ARTHUR M. PESLAK, LEAD ATTORNEYS, GERTNER, MANDEL & PESLAK, L.L.C., LAKEWOOD, NJ.

Judges: JOEL A. PISANO, UNITED STATES DISTRICT JUDGE.

Opinion by: JOEL A. PISANO

Opinion

PISANO, District Judge

Plaintiff, Martell's Tiki Bar, Inc. ("Plaintiff" or "Martell's"), has brought this action, in which it challenges ordinances adopted by the Borough of Point Pleasant Beach (the "Borough"). These ordinances impose public parking restrictions within designated areas in the Borough during certain months of the year.

At issue is the Borough's current Ordinances 2013-26 and 2013-29, both of which regulate and restrict non-metered parking in areas of those districts in close proximity to the Borough's beach, boardwalk, and boardwalk commercial attractions. Specifically, the ordinances provide that, from May 15th to September 15th of each year, only those people who qualify as residents and residential taxpayers within District Four and a portion of District Three of the Borough [*2] are permitted to park in non-metered spaces between the hours of 12:30 a.m. and 4:00 a.m.

The parties agree that resolution of this dispute depends on a determination of two issues: whether the ordinances violate the *Equal Protection Clause of the United States Constitution*,

2015 U.S. Dist. LEXIS 2845, *2

and whether the ordinances violate the Public Trust Doctrine.¹ Before the Court are two corresponding motions for summary judgment, brought by Plaintiff and Defendants, the Governing Body of the Borough of Point Pleasant Beach and the Borough of Point Pleasant Beach (together, the "Defendants"). The Court decides these motions without oral argument pursuant to Fed. R. Civ. P. 78. For the reasons set forth below, Defendants' motion is granted in part and denied in part and Plaintiff's motion is denied.

I. Background²

A. Background of Parking Ordinances in the Borough

The Borough of Point Pleasant Beach is a town on the New Jersey Shore, and occupies land providing access to and adjoining the Manasquan River and Inlet, its tributaries and branches, as well as the Atlantic Ocean. Starting in or about 2001, the Borough began considering a nonresident parking ban. See, e.g., Point Pleasant Beach Parking Committee Meeting, October 25, 2001, located at Certification of Sean D. Gertner ("Gertner Cert") Ex. C ("Defs.' Ex. C"). The increasing popularity of the Borough as a premier New Jersey shore destination led to increasing problems for the quality of life in the Borough; as traffic and lack of parking in the Borough worsened, these conditions began "to affect resident's quality of life." See Report of Stan Slachetka, P.P., dated May 3, 2013, at 8 (citing to a 2007 Reexamination Report), located at Gertner Cert. Ex. VVV ("Defs.' Expert Rep."). The overall influx of tourists, as well as the existing residents, "create[d] a severe shortage of parking" in the Borough. *Id.* at 9 (quoting the 2007 Reexamination Report at 29). Accordingly, the Borough felt that a nonresident parking ban would work to relieve [*5] problems with access to the beach, beach-related facilities, and businesses. They also believed it would help generally with certain "quality of life" problems in the Borough, such as loud parties at "animal houses," disorderly conduct, public intoxication, and public urination. See generally Defs.' Ex. C (discussing various parking proposals); see also *id.* at 22:24-23:5; 29:13-32:13, 42-48. Apparently, the Borough failed to garner public support for such a parking ordinance.

In November 2011, the Borough sent a proposal to the voters of the Borough with the following question: "Shall the Governing Body of the Borough of Point Pleasant Beach institute by the

¹ Because there is another lawsuit pending between the parties based upon the 2012 Ordinances, Defendants had initially filed their summary judgment motion in that docket and had raised issues that are not relevant to the current matter. Accordingly, and pursuant to the agreement with the parties, the Court will only address the two issues in this matter regarding the 2013-26 and 2013-29 Ordinances. To the extent that Defendants assert that the issue of a potential conflict of interest with Councilman [*3] Corbally, a claim Plaintiff asserts in its other lawsuit in this Court, Plaintiff has made clear that any alleged conflict is irrelevant to the validity to Ordinances 2013-26 and 2013-29. Accordingly, because Plaintiff makes clear in its briefs that any potential conflict of interest with Councilman Corbally is not an issue here, the Court will not address it.

² The Court is compelled to comment on Defendants' counsel's lack of specificity in citations to the record in this motion. The record in this case is extensive, and a citation to, for example "Exhibits c, d, e, f, g, h, i, j, k, l, m, n, o, p, q, r, s, t, u, v, w, x, y, z, aa, bb, cc, and ppp" to the Certification of Sean D. Gertner, Esq., see Defs.' Statement of Material Facts ¶ 4, requires the Court to treasure hunt through hundreds of transcript pages for the appropriate materials—a difficult and time-consuming ordeal. The Court reminds counsel that "[j]udges are not like pigs, hunting for truffles buried in the record." Doebler's Pennsylvania Hybrids, Inc. v. Doebler, 442 F.3d 812, 820 n.8 (3d Cir.2006). Counsel are advised that, for future briefings, all citations to exhibits and other supporting materials should include specific page numbers rather than simply general references to exhibits that consist [*4] of hundreds of pages.

2015 U.S. Dist. LEXIS 2845, *4

appropriate action regulations limiting parking on public streets to residents and taxpayers of the Borough of Point Pleasant Beach?" See Sample Election Ballot, dated November 8, 2011, located at Gertner Cert. Ex. EEE. The explanatory statement provided: "This overnight parking program would restrict parking town-wide for only taxpayers and residents. This program would run from Memorial Day to Labor Day. Hours of enforcement from midnight until 8:00 a.m. with five free transferrable passes to be distributed to each eligible reference." [*6] *Id.* This referendum was defeated by the voters of the Borough. See Pl.'s Statement of Material Facts not in Dispute ("Pl.'s SMF") at ¶ 9; Transcript of March 20, 2012 Borough of Point Pleasant Beach Council Meeting at 36:12-19, located at Gertner Cert. Ex. N ("Defs.' Ex. N").

B. Enactment of Ordinances 2012-12 and 2012-20: the Pilot Program

The governing body of the Borough continued to study and review street parking limitations. The Borough believed that helping facilitate parking for residents and employees of local businesses would also help address the incessant quality of life issues in the Borough during the summer months when tourism was at its peak, while making overnight parking available to the residents of a certain designated area of the Borough, known as District Four. See, e.g., Defs.' Expert Rep. at 1; Defs.' Ex. C at 5:13-6:13, 22:24-23:5; 29:13-32:13, Defs' Ex. N at 109-55. During these months, District Four experienced numerous problems with intoxicated patrons after midnight, loud profanity, littering, noise violations, and disorderly conduct, including but not limited to simple assault, theft, resisting arrest, public urination, defiant trespassing and drunk driving. See, e.g., Transcript of June 12, 2012 Borough of Point Pleasant Council Meeting at 67:11-89:19, located at [*7] Gertner Cert. Ex. I ("Defs.' Ex. I"); Defs.' Expert Rep. 3; Copy of S.N.A.P. Slides at 2 (describing how 58% of all police responses in the Borough occurred in District Four), located at Gertner Cert. Ex. GGG.

Accordingly, the governing body of the Borough decided to move forward with a trial parking plan for District Four. See Minutes of January 24, 2012 Borough of Point Pleasant Beach Council Meeting at 9, located at Gertner Cert. Ex. Q (Defs.' Ex. Q); Minutes of March 6, 2012 Borough of Point Pleasant Beach Council Meeting at 7, located at Gertner Cert. Ex. O ("Defs.' Ex. O"). Apparently, motivation for developing such a parking plan came from the residents of District Four, which voted in favor of the 2011 parking referendum that had been defeated. The Council also expressed that a similar ordinance had already been passed in a different area of town. See Defs.' Ex. O at 7; Defs.' Ex. N at 131.

This first ordinance was Ordinance 2012-12, entitled "Pilot Parking Program for District Four." See City of Borough of Point Pleasant Beach Ordinance 2012-12, located at Gertner Cert. Ex. DD ("Defs.' Ex. DD"). The ordinance restricted overnight parking in District Four to vehicles displaying residential parking placards between the hours of 12:00 a.m. and 6:00 a.m. during the summer season, defined as the Monday before Memorial Day [*8] until the Monday after Labor Day. The ordinance also provided that no more than five placards would be issued for each property in District Four. Only people who qualified as a resident or a residential taxpayer, as defined by the ordinance, would be permitted to apply for a placard. Other residents or taxpayers of the Borough that lived outside District Four would be permitted to apply for and obtain one placard. Within the ordinance, District Four is defined as "that area of the Borough bordered on the east by the Atlantic Ocean, on the west by the New Jersey Transit Railroad tracks, on the north by the Manasquan River and Inlet, and on the south by the north side of

2015 U.S. Dist. LEXIS 2845, *8

Arnold Avenue," *Id.* at 1. The preamble to Ordinance 2012-12 explained that it was necessary to establish regulation and parking on these residential streets during these hours and months of the year "for the good and welfare of its citizens" *Id.* By its terms, Ordinance 2012-12 contained a sunset provision that repealed the ordinance in its entirety on December 31, 2012, unless the date of the repeal was extended by ordinance of the Council. *Id.* at 3.

Thereafter, the Borough conducted several public hearings on the ordinances. [*9] The first of these meetings occurred on March 20, 2012, when the initial ordinance was introduced. In describing the Ordinance, Councilman Michael Corbally explained that:

The parking plan will hopefully give some quality of life after midnight back to the taxpayers and residents of District 4. . . . And listen, this isn't just a District 4 problem. Because the folks that live in Districts 1, 2, and 3, when we do a reval or a reassessment, and we will in the next two or three years—guaranteed it'll be done by then—the property expense, the taxes are going to go up substantially in the other districts if District 4 continues to slide. It's a fact of life. If property values go down in District 4, because right now it's, it's the heaviest tax, it's just going to move.

Ex. N. at 38:15-18, 40:15-24. Mayor Vincent Barrella indicated that the nature of the ordinance was directed at the deteriorating quality of life in District Four:

[T]he problem is not so much about the parking. This is not about parking. This is not about somebody looking to find a parking space in or about their house. This is about people who don't know how to behave themselves and come into point pleasant beach acting out in [*10] a Jersey, with a Jersey Shore mentality, screaming, yelling, throwing things around at two, three in the morning, cursing at the top of their lungs when they can't find their car keys, okay, and basically urinating and defecating on people's lawns. That's what this is about.

Id. at 130:1-11. When opened to the public, residents were split on their positions on the ordinance. Those who supported the parking restriction emphasized that the deterioration of the quality of life in District Four made it "imperative" that something be done to ameliorate the situation. See *id.* at 109:22-110:25. Other residents supported the ban because they believed that the ordinance would (1) alleviate parking issues in the area for the homeowners; (2) help with criminal/mischievous activity, including fights, noise disturbances, urination and defecation on residents' lawns, and littering; and (3) reduce the number of policeman that are currently required to be present in residential areas to monitor the area. See *id.* at 147-55. Opponents of the ordinance, however, objected to and took issue with: (1) the limited number of parking placards that would be granted for each tax bill; (2) the possibility of charging for placards [*11] if the pilot program passed; (3) potential overflow and negative impact on the other districts, particularly when the other districts voted down such plans in the past; (4) the ordinance would not adequately resolve the problems in the District; (5) the potential negative effect on tourism, revenue, taxes, and businesses in the Borough; (6) costs associated with the placards and replacing placards; (7) availability of enough parking for guests of residents or residential taxpayers; and (8) possibility of increased drinking and driving. See *id.* at 112:17-25, 116, 132:13-135, 151:15-23, 147:11-148:8. At the close of the hearing, the Board voted to introduce the ordinance for adoption at the next public hearing.

2015 U.S. Dist. LEXIS 2845, *11

On April 17, 2012, Ordinance 2012-12 was opened for a second reading. At the close of the hearing, the Council voted on and approved Ordinance 2012-12. Those members voting in favor of it emphasized that it was a pilot program attempting to alleviate the issues with the quality of life in District Four, and that it could be improved later if the program did not work. See *id.* at 175:10-197:6, 182:19-183, 184-85:11.

Thereafter, on May 15, 2012, the Council introduced Ordinance 2012-20 [*12] to amend Ordinance 2012-12. The ordinance, as amended, extended the placard privilege to employees of commercial entities within District Four, in order to "promote the vitality of businesses in, and the economy of, District Four." See Ordinance 2012-20, Amending 2012-12, at 1 *located at* Gerner Cert. EE. This allowed business owners to obtain placards that would permit their employees to park in non-metered spaces in District Four during the restricted period. The proposed amendment also eliminated fees at the parking meters and pay machines at Silver Lake Parking Lot, a municipal parking lot, between the hours of 11:00 p.m. and 6:00 a.m. The Borough decided to do this in order to "foster better use of its parking resources." *Id.* at 1, 7. Silver Lake is located directly across the street from the Point Pleasant boardwalk and its various attractions and bar and restaurant facilities. The amendment also prohibited the sale of placards, and authorized the Borough Administrator to adjudicate any dispute by a resident relating to the issuance or failure to issue a placard, and granted the Administrator with the discretion to issue more placards to residential taxpayers where there are multiple dwelling [*13] units on one property. See *id.* at 3; see also Transcript of May 15, 2012 Borough of Point Pleasant Beach Meeting at 32:4-33:16, *located at* Gerner Cert. Ex. J ("Defs.' Ex. J"). Finally, pursuant to the amendment, all placards would now include the homeowner's address and make them transferable. Pursuant to its sunset provision, the amended ordinance was to be automatically repealed on December 31, 2012. At the meeting, the Council also confirmed that Ocean County had not approved the parking restrictions on County roads that went through District Four, apparently because of concern that parking would adversely affect county taxpayers and tourism to the area. See *id.* at 38-39. Therefore, County roads in District Four would be unregulated, meaning anyone could park on these roads at any time.

When the amendment was opened to public comment, one resident thanked the Council for passing the ordinance, commenting that it "means a great deal to the residents of the Fourth District" and that he thought it would "be a terrific asset in restoring civility and peaceful evenings in Fourth District." *Id.* at 91:2-10. Another resident noted that he went door to door about the parking ordinance, and "everyone [he] spoke to was absolutely in favor of the ordinance for [*14] parking" *Id.* at 112-13. Those in opposition to the amendment, and the ordinance generally, felt that the Council was being disingenuous with its motive for enacting the ordinance. One resident commented that she did not "think that [the Borough] was doing this for the quality of life," but was doing it to generate more revenue from tourists and other non-residents. Such opposition indicated that they believed there was a "vendetta" between some Council members and the businesses on the boardwalk. *Id.* at 114:9-22. Another commented that it was her belief that the ordinance would cause tourists to stop going into the Borough, resulting in less revenue. *Id.* at 122. The Council voted to adopt the amendment at the close of the meeting.

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On June 12, 2012, the Council held another hearing, in part to discuss the amendments to the ordinance and their practical effects. Specifically, business owners had questions regarding how to obtain placards for their employees, and the procedure for receiving said placards was explained. See Defs.' Ex. I at 64-65. When the amended ordinance was opened to the public for comment, several residents and business owners expressed the same concerns that had been raised at earlier [*15] hearings. One resident raised the issue of the appropriateness of creating a parking ordinance for District Four when the residents had voted down the referendum for a town-wide ordinance. See *id.* at 88:17-69:16. Residents also raised the issue of having certain personal information, such as their address, displayed on the placard. During the hearing, a resident also took issue with the possibility of lost revenue in the Borough by allowing free parking in Silver Lake. Other opponents of the ordinance emphasized that there was not going to be enough parking spots in District Four to allow all the residents with placards to park. See *id.* at 104. Another resident brought up a similar point, commenting that "[o]riginally, when [the Borough] came up with this parking plan, [it] said that it was going to help the quality of life by freeing up parking spaces and that it would also force the tourists to go into Silver Lake." Councilman Corbally responded to this comment by explaining that he "never said it would free up parking spaces The plan was just to have the nightclub crowd not walk back into the residential areas." See *id.* at 117:17-118:2. Likewise, Mayor Barrella indicated that the parking regulation [*16] was "a quality of life issue. It's a quality of life parking plan that was actually part of a, part of a, a larger attempt to address quality of life and public safety issue that might have avoided some of the actions that have already been -- some of the things that this Council has been put in a position of having to do." *Id.* at 130:3-9. The Council also explained the theory behind making parking free in Silver Lake at certain hours:

By making it free, hopefully, it will concentrate, concentrate people in the municipal lot . . . so that it's easier for the police department. And the other thing is by making this lot free, it should alleviate the pressure on, on areas adjacent to District Four because people now, instead of having to look in Three for free parking, can go right to the municipal lot for free.

Id. at 197:9-22. The Council then moved and adopted the amended ordinance, Ordinance 2012-20.

C. Enactment of Ordinances 2013-02 and 2013-14: the Permanent Program

Because the terms of Ordinances 2012-12 and 2012-20 contained sunset provisions that automatically repealed the ordinances on December 31, 2012, the Borough began to take efforts to reestablish the parking restrictions [*17] as the 2013 summer season approached. At a February 5, 2013 hearing, the Council addressed concerns about vacant houses in and around District Four as a result of Hurricane Sandy. Several Council members felt that the parking plan should go into effect to alleviate concerns with all the potential summer vacancies and increased vandalism. See Transcript of February 5, 2013 Borough of Point Pleasant Beach Council Meeting at 151, located at Gertner Cert. Ex. H ("Defs.' Ex. H"). The Council also resolved that the parking plan would be amended to provide free parking in the Silver Lake municipal lot from 11 p.m. to 6 a.m. They also discussed and then confirmed including certain parts of District Three into the regulated area. According to one councilman, he spoke to nineteen residents in District Three that would now be affected. He said that, of those nineteen, nine were against the regulation applying to them, five were for the regulation, and four were undecided. Overall, however, the Council believed that the parking program worked in District

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Four last year, and that the residents of District Four were pleased with the results. See generally *id.* at 144-79. As one councilman said:

I'm just amazed that the Councilpeople are even debating the fact of whether [*18] this worked or not last year. I mean it's just-it's mindboggling to me that people that live there will tell you they can sleep at night with their windows open at two o'clock, there wasn't the garbage on the street, there wasn't the law-breaking going on. And now, with the houses being empty, not having that is really ludicrous. But even with the houses full, the quality of life improved. And you guys are sitting up here like making a decision that it didn't. It as positive from a cash flow.

Id. at 173-74. Thereafter, a councilman moved to introduce the new ordinance, Ordinance 2013-02, with an additional amendment that changed the hours of restriction to 12:30 a.m. to 4:00 a.m. The Council then voted and approved Ordinance 2013-02.

On March 19, 2013, the Borough held a hearing on Ordinance 2013-02, which, due to a necessary ministerial change, was now titled Ordinance 2013-14. See Transcript of March 19, 2013 Borough of Point Pleasant Beach at 84-85, 110-12, located at Gertner Cert. Ex. F ("Defs.' Ex. F"). In the preamble to the ordinance, the Borough Council states its intent "to improve the quality of life of residents of the Borough," and concluded that it needed to adopt permanent regulations in recognition of the need to limit parking in certain [*19] designated areas of the Borough between the hours of 12:30 a.m. and 4:00 a.m. from May 15th of the calendar year to September 15th of the calendar year. See City of Borough of Point Pleasant Beach Ordinance 2013-02, located at Gerner Cert Ex. FF ("Defs' Ex. FF"). The Borough Council also states that, as a result of the prior parking regulation, they "received far fewer complaints of unruly and disorderly behavior from residents in the affected districts during the periods governed by those regulations," and they therefore found that "for the good and welfare of its citizens it is necessary and advisable to establish regulations that improve the quality of life for residents." See *id.* The ordinance continued free parking at Silver Lake Lot between the hours of 11:00 p.m. and 6:00 a.m. during the time of the regulated parking. It also made it illegal to reproduce, sell, or transfer any placard for profit, and allowed multi-family properties to obtain multiple placards. A violation of the parking ordinance could result in a \$250.00 fine and "community service as permitted by statute." See *id.* Ordinance 2013-14 also extended the area covered by the parking regulation to a portion of District [*20] Three, specifically "that area of the Borough bordered on the North by the south side of Arnold Avenue, on the West by the west side of St. Louis Avenue, on the South by the south side of Forman Avenue and on the East by the Atlantic Ocean, with the exception that no portion of either Arnold Avenue or Ocean Avenue shall be subject to this Ordinance." See City of Borough of Point Pleasant Beach Ordinance 2013-14, located at Gerner Cert Ex. GG ("Defs' Ex. FF"). Under the parking regulation, the several county roads that transverse the covered area would not be subject to the ordinances, because the County had formally advised the Borough that it did not wish to impose any parking regulations on its roads and therefore would not approve of the ordinance. See Defs.' Ex. F at 87:20-88:7.

When Ordinance 2013-14 was opened for public comment, several residents spoke on the positive experience the pilot program ordinance had been for them. As one resident stated:

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I am vigorously and passionately in favor of this ordinance. . . . It's been years of begging and pleading for something like this to happen. It amazes me there is still so much resistance and so much doubt. I've heard every member [*21] of this Council on at least one occasion acknowledge that the plan did make the neighborhood quieter. . . . It was a pilot program. It worked. There were those who said it's going to lose tourist revenue. It proved it did not. There were those who said that it was going to stop people from coming to Point Pleasant Beach. It did not. One of the biggest corporations on the boardwalk publically acknowledged that it did not affect their bar business. I don't know why this resistance continues. . . . It's not a revenue loss. It actually produced more revenue than it cost for the plan, so I ask you for the sake of residents of at least District 4, please pass this ordinance. I walk through a neighborhood of gutted-out homes on a daily basis, and I'm terrified of what the thought is going to be if somebody is staggering down the street at 1:00 or 2:00 in the morning and what they might do at those home. If nothing else, those people could be contained at the Silver Lake parking lot, which protects the residential area and also makes it a lot easier for our police to do their jobs.

Defs.' Ex. F at 97:24-99. Another resident commented, "It was wonderful last year. The pilot program worked very [*22] well where people were able to wake up and not see their lawns littered with liquor bottles or other unmentionable items in the streets and got a little more sleep. So I would urge the Council to please vote for this ordinance." *Id.* at 101:11-20. Those that spoke out against Ordinance 2013-14 did not object to or question District Four's pilot program and its permanent adoption, but rather opposed the extension of the parking regulation into District Three. *Id.* at 102:16-103:19.

Next, when questioned by the Council about whether the pilot program had alleviated any of the quality of life issues, Chief Kevin O'Hara stated:

The information I received from my supervisors that work the night shifts and supervise the boardwalk and bicycle patrols is that they did see a reduction in incidents back in those neighborhoods that were effected. I don't have the statistical numbers to quote percentages, but all in all, the feel from the officers was that there was a reduction in some of the quality of life issues that we've dealt with in prior years.

Id. at 105:16-24. He also found that the use of free parking at Silver Lake helped, explaining that the free parking helped "keep the majority of the [*23] people going to one area" making it easier for the Borough police "to control it and have officers in just one general area instead of being spread out thinner elsewhere. So if everybody is parking in the Lake lot, as opposed to all the residential streets, it is easier for us to control." *Id.* at 106:3-9.

At the close of the hearing, a vote was taken on Ordinance 2013-14 by the Council, which resulted in a tie. Two of the three councilman who voted against the ordinance commented that they were voting no based only on the extension into District Three. See *id.* at 107. Before providing the tie-breaker vote to approve the ordinance, Mayor Barrella explained that the ordinances were affecting only a "very small area" of District Three. He then proceeded to explain his vote:

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So, and in looking at it and weighing it, it did work. Jenkinsons³ has gotten onboard with it. They have indicated that it was not a problem for them. We have made Little Silver lot free between 11:00 and 6:00, even though the hours of restriction are only 12:30 to 4:00, that making Little Silver lot free, some on this Council, last year, expressed concern that it would affect our revenue, and it did effect our revenue. Our parking [*24] revenue was never higher. It was the highest it's been in history. The situation was controlled. People were funneled into Little Silver lot. It worked. Okay. I still, for the life of me, don't understand, other than the politics of it, why anybody would oppose this. So, and for that reason, my vote is yes.

Id. at 109-110:6. Accordingly, Ordinance 2013-14 was adopted, making the parking regulations in District Four, and part of District Three, permanent.

D. Legal Challenges and Introduction of Ordinances 2013-26 and 2013-29

Thereafter, several prerogative writ suits were filed in New Jersey Superior Court challenging the adoption of Ordinance 2013-14. These lawsuits challenged the restricted parking ordinances as violating the Public Trust Doctrine,⁴ violating New Jersey common law, and violating the New Jersey Constitution in various ways. These lawsuits also alleged that one councilman had a disqualifying conflict of interest [*25] that rendered the adoption of Ordinance 2013-14 void. On June 17, 2013, the Court found that the ordinance did not violate the *equal protection clause*, did not violate the Public Trust Doctrine, and did not violate any claims brought under New Jersey common or statutory law. However, the Court found that one of the councilmen had a disqualifying conflict of interest, and therefore Ordinance 2013-14 was invalid. See *Speroni v. Borough of Point Pleasant Beach*, Docket No. OCN L-3135-12 PW 2013 N.J. Super. Unpub. LEXIS 1872 (Law Div. June 17, 2013). Plaintiff Martell's Tiki Bar also filed a lawsuit challenging Ordinance 2013-14 on the same grounds; Defendants removed that lawsuit to federal court on June 6, 2012.

After Ordinance 2013-14 was found invalid due to the conflict of interest, the Council introduced and passed on reading Ordinance 2013-26, [*26] entitled "An Ordinance of the Borough of Point Pleasant Beach, County of Ocean and State of New Jersey, Regulating Parking in Designated Areas of the borough and Amending Chapter X to Provide Free Parking in Silver Lake Parking Lot During Limited Hours." See City of Borough of Point Pleasant Beach Ordinance 2013-26, located at Garner Cert Ex. WWW ("Defs' Ex. WWW"). While substantively similar to Ordinance 2013-14, Ordinance 2013-26 is exclusive to District Four in its application. See *id.* In the preamble to Ordinance 2013-26, the Borough Council states that, "as a result of

³ "Jenkinsons" refers to Jenkinson's Boardwalk, a business that operates on the boardwalk of Point Pleasant Borough. It operates a series of boardwalk facilities, including boardwalk rides, an aquarium, and a nightclub. See Jenkinson's Boardwalk, <http://jenkinsons.com> (last visited December 20, 2014).

⁴ The public trust doctrine is a right "deeply engrained in [New Jersey's] common law." *Van Ness v. Borough of Deal*, 78 N.J. 174, 178, 393 A.2d 571 (1978). The public trust doctrine is derived from the ancient principle of English law that land covered by tidal waters belonged to the sovereign, but for the common use of all the people. *Borough of Neptune City v. Borough of Avon-by-the-Sea*, 61 N.J. 296, 303-04, 294 A.2d 47 (1972). The public trust doctrine has been only recognized by common law, and has not been recognized as a right flowing from the Constitution. See, e.g., *Bubis v. Vill. of Loch Arbour*, Civil Action No. 06-2921 (FLW), 2008 U.S. Dist. LEXIS 32868, at *16-18 (D.N.J. Apr. 22, 2008).

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certain litigation in the Superior Court of New Jersey, Ocean County, Vincant Grasso, A.J.S.C., determined that such regulations are a valid exercise of the police power in that the distinctions drawn by this Ordinance are rationally related to a legitimate governmental interest" *Id.* The Borough Council reiterates that, as a result of the prior parking regulations, it "received far fewer complaints of unruly and disorderly behavior from residents in the affected districts during the periods governed by those regulations," and that the ordinance "addresses quality of life issues within the Borough associated [*27] with parking by facilitating parking restrictions for residents and employees in the district and prevents the disruption caused by intoxicated patrons after 12:30 a.m., loud profanity, littering and disorderly conduct" *Id.* The Council stated that it recognized "the concerns of commercial enterprises located within those areas designated in this Ordinance, but is not stopp'd from enacting a parking ordinance deemed necessary to safeguard public health, safety and morals" *Id.* The second reading and subsequent adoption of Ordinance 2013-26 took place on July 9, 2013. See Pl.'s SMF at ¶ 24.

Finally, on July 9, 2013, the Council also introduced for first reading and passed Ordinance 2013-29, entitled "An Ordinance of the Borough of Point Pleasant Beach, County of Ocean and State of New Jersey, Regulating Parking in Designated Areas of the Borough." See City of Borough of Point Pleasant Beach Ordinance 2013-29, *located at* Certification of Alexis L. Gasiorowski ("Gasiorowski Cert.") Ex. I. Ordinance 2013-29 extends the parking regulations set forth in Ordinance 2013-26 to another area within the Borough identified as "a portion of District 3," *id.*, defined in the same way [*28] as under Ordinance 2013-14. The Borough Council explains in the preamble that they found and determined "that for the good and welfare of its citizens it is necessary and advisable to establish regulations and provide for the enforcement of certain residential parking regulations affecting a limited portion of District 3 within the Borough" *Id.* Ordinance 2013-29 was considered for second reading and adopted on July 30, 2013. *Id.* The parking restrictions set forth in Ordinance 2013-26 for District Four were accordingly applied to that area of District Three.

Currently pending in the New Jersey Superior Court Appellate Division are the appeals of the June 17, 2013 Opinion and Order upholding the validity 2012 Ordinances. After passing Ordinance 2013-26, additional prerogative writs were filed in the Superior Court. In that case, Judge Grasso once again issued an Opinion upholding the validity of Ordinance 2013-26. In his opinion, he noted that the "ordinance in question is substantially similar to Ordinance 2013-14, whose validity was upheld by the court in its written opinion dated June 17, 2013." See Feb. 26, 2014 Order, *Purple Jet Fishing Charters, at al. v. Borough of Point [*29] Pleasant Beach*, Docket No. L-2417-13, at 1, *located at* Certification of Arthur M. Peslek ("Peslak Cert.") Ex. A. Accordingly, in that case, counsel for both parties agreed that the Court could rely on its June 17, 2013 Opinion regarding the plaintiffs' legal challenges to Ordinance 2013-14 as a basis to deny plaintiffs' substantive relief to Ordinance 2013-26. See *id.* at 1-2. The sole remaining issue left for that Court to decide was whether Ordinance 2013-26 was procedurally improper. The Court found that it was not, thereby finding Ordinance 2013-26 valid.

II. Standard of Review

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Federal Rule of Civil Procedure 56(a) provides that "a court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). The substantive law identifies which facts are material. "Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986). A material fact raises a "genuine" issue "if the evidence is such that a reasonable jury could return a verdict" for the non-moving party. Healy v. N.Y. Life Ins. Co., 860 F.2d 1209, 1219 n.3 (3d Cir. 1988).

The Court must consider all facts and their logical inferences in the light most favorable [*30] to the non-moving party. Pollock v. Am. Tel. & Tel. Long Lines, 794 F.2d 860, 864 (3d Cir. 1986). The Court shall not "weigh the evidence and determine the truth of the matter," but need determine only whether a genuine issue necessitates a trial. Anderson, 477 U.S. at 249. While the moving party bears the initial burden of showing the absence of a genuine issue of material fact, meeting this obligation shifts the burden to the non-moving party to "set forth specific facts showing that there is a genuine issue for trial." Id. at 250. If the nonmoving party has failed "to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial, . . . there can be no genuine issue of material fact, since a complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial." Katz v. Aetna Cas. & Sur. Co., 972 F.2d 53, 55 n.5 (3d Cir. 1992) (quotation omitted). If the non-moving party fails to demonstrate proof beyond a "mere scintilla" of evidence that a genuine issue of material fact exists, then the Court must grant summary judgment. Big Apple BMW v. BMW of N. Am., 974 F.2d 1358, 1363 (3d Cir. 1992).

III. Discussion

On August 21, 2013, Plaintiff filed this action in the New Jersey Superior Court, alleging eleven causes of action against the Borough based on Ordinance [*31] 2013-26 and 2013-29 (together, the "Ordinances"). The Borough then removed the action to this Court pursuant to 28 U.S.C. § 1441(b), "on the grounds that Plaintiff's complaint asserts a federal claim under claimed violations of the equal protection and due process clauses of the United States Constitution." See Notice of Removal, ECF No. 1-2 (filed Sept. 23, 2013). At the time of removal, the New Jersey Superior Court had already entered judgment in favor of the Borough regarding the general legal validity of Ordinance 2013-14, the substantively identical predecessor of the Ordinances at issue here.⁵ The sole federal claim in this action—and the only basis for this Court's jurisdiction—is whether the Ordinances violate the *Equal Protection Clause of the Fourteenth Amendment*.

A. Equal Protection Claim

⁵ While the New Jersey Superior Court made clear that it found Ordinance 2013-14 valid against the legal arguments raised against it, it found that the potential conflict of interest that disqualified Councilman Corbally's vote rendered the ordinance invalid.

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Generally, Plaintiff argues that the Ordinances should be invalidated because their enactment constitutes an invalid, arbitrary, and unreasonable exercise of police power, thereby violating the *Equal Protection Clause*. Defendants, not surprisingly, assert that the Ordinances represent [*32] a reasonable and legitimate exercise of police power, rationally related to legitimate government purposes and goals, and in no way offends Plaintiff's right to equal protection.

The Court notes that the New Jersey Legislature has enabled municipalities to enact and amend zoning ordinances through the exercise of the police power. See Manalapan Realty v. Twp. Committee, 140 N.J. 366, 380, 658 A.2d 1230 (1996). In accordance with this power, municipalities are authorized to "prohibit or restrict general parking." N.J. Stat. Ann. § 39:4-8(c)(1). Such zoning ordinances "come[] to the courts clothed with every presumption of validity." Bess River Assoc. v. Mayor of Bass River Twp., 573 F. Supp. 205, 213 (D.N.J. 1983) (quoting City of Ann Arbor, Michigan v. Northwest Park Constr. Corp., 280 F.2d 212, 223 (6th Cir. 1960)). Indeed, "[u]nless it is based upon a suspect classification or impinges on a fundamental right . . . zoning legislation may be held unconstitutional only if it is shown to bear no possible relationship to the State's interest in securing the health, safety, morals or general welfare of the public and is, therefore, manifestly unreasonable and arbitrary." Id. (quoting City of Highland Park v. Train, 519 F.2d 681, 696 (7th Cir. 1975)).

The Ordinances at issue here deal with a distinction between two classes of people, residents and non-residents. Such a classification is not suspect; accordingly, the Ordinances "may be held violative of equal protection only if they bear no rational relationship to the legitimate interests [*33] of the [Borough] and are therefore arbitrary and unreasonable." Id. at 215; see also County Bd. of Arlington Cnty. v. Richards, 434 U.S. 5, 7, 98 S. Ct. 24, 54 L. Ed. 2d 4 (1977) (holding that ordinances based on a distinction between resident and non-resident need only "rationally promote the regulation's objective"). In Richards, the municipality in issue enacted an ordinance directing the county manager to determine residential areas that were especially crowded with parked cars from outside the neighborhood. Free parking permits would then be issued to residents of the designated area, to persons doing business with residents there, and to some visitors for use between 8 a.m. and 5 p.m. on weekdays. Parking in a designated area without a permit during the designated hours was a misdemeanor. See Richards, 434 U.S. at 5-6. The purpose of the ordinance was

to reduce hazardous traffic conditions resulting from the use of streets within areas zoned for residential uses for the parking of vehicles by persons using districts zoned for commercial or industrial uses...; to protect those districts from polluted air, excessive noise, and trash and refuse caused by the entry of such vehicles; to protect the residents of those districts from unreasonable burdens in gaining access to their residences; to preserve the [*34] character of those districts as residential districts; to promote efficiency in the maintenance of those streets in a clean and safe condition; to preserve the value of the property in those districts; and to preserve the safety of children and other pedestrians and traffic safety, and the peace, good order, comfort, convenience and welfare of the inhabitants of the County.

Id. at 6. In reviewing the ordinance, the Virginia Supreme Court found that "the ordinance on its face offends the equal protection guarantee of the 14th Amendment" because the "ordinance's

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discrimination between residents and nonresident bears no reasonable relation to [the regulation's] stated objectives." *Id.* at 6-7. The Supreme Court disagreed, explaining that the Constitution does not "presume distinction between residents and nonresidents of a local neighborhood to be invidious." *Id.* at 7. Rather, "Equal Protection Clause requires only that the distinction drawn by an ordinance . . . rationally promote the regulation's objectives." *Id.* Significantly for this case, the Supreme Court explained that a "community may . . . decide that restrictions on the flow of outside traffic into particular residential areas would enhance the quality of life there by reducing noise, [*35] traffic hazards, and litter. By definition, discrimination against nonresidents would inhere in such restrictions." *Id.* Such social objectives are not outlawed by the Constitution, and the Supreme Court held that, "on its face," the discrimination against nonresidents rationally promoted the objectives of the ordinance and accordingly did not violate the *Equal Protection Clause*.

The reasoning in *Richards* compels a similar finding in this case. As shown both by the record of the public hearings and the language of the Ordinances themselves, the Borough Council was concerned with certain quality of life issues within the Borough associated with the summer season and the rise of tourism. Specifically, the Borough Council intended to improve the quality of life for residents in certain designated areas of the Borough by ensuring adequate overnight parking to the residents of the districts at issue, and to prevent the deteriorating conditions of the residential areas of these districts, where early mornings were relegated to intoxicated individuals and incidents of criminal activity and other types of disorderly conduct, including public urination and defecation, loud and raucous behavior, littering, fighting, [*36] trespassing, and drunk driving. The facts of these problems were clearly established on the public record. Further, the public record demonstrates how containment of non-residential overnight parking to the Silver Lake lot allowed the Borough police to concentrate their forces on one area, as opposed to spreading out all over the covered areas. As the exhibits provided by both parties shows, Silver Lake is not in close proximity to any residential neighborhood and is bordered by a lake on the south. The record also establishes that the quality of life issues that were plaguing the affected areas were reduced. It is axiomatic that the decrease in early morning pedestrian traffic through the residential areas, combined with the ability of the Borough police to concentrate on one area, allowed for the improvement in the quality of life in the affected areas. Further, the record of the public hearings and committee meetings throughout the years shows that the Borough was also interested in ensuring sufficient overnight or early morning parking for those who resided in or rented in the affected areas.

The Court finds that, in this case, drawing a distinction between residents and non-residents [*37] rationally promoted the Borough's objectives. The justifications for the distinction between residents and non-residents—a desire to help alleviate some of the major parking problems in the relevant districts and to improve the quality of life during early mornings hours in the relevant districts—are clearly legitimate, and certainly not "manifestly unreasonable and arbitrary." See *Bass River*, 573 F. Supp. at 213, 219. Further, the Borough Council tailored the Ordinances to address the specific problems it was seeking to ameliorate; the parking regulation is only in effect in the summer months—the peak of tourist season when the most out-of-towners come into the Borough—and during the limited hours of 12:30 a.m. to 4:00 a.m. Presumably to address any inadequate parking, the Borough Council also mandated that parking in the Silver Lake lot would be free of charge during the hours when the Ordinances are

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in effect; in fact, the lot is actually free of charge for an extended period of time, from 11:00 p.m. to 6:00 a.m.

In its attempt to show that the ordinance is not rationally related to its objectives, Plaintiff speculates—but cites to no actual evidence—that the Ordinances fail to accomplish the purpose articulated by [*38] the Borough Council, because the residents and residential taxpayers in the covered areas receive five placards that are transferrable. *Id.* This is pure speculation, and it ignores the evidence before the Court, in which both residents and the chief of police personally found that the parking regulation worked to improve the quality of life of the area. Mere speculation as to reasonableness is not enough to overcome the presumption of validity that is attached to zoning ordinances such as the ones at issue here. See *Bass River*, 573 F. Supp. at 213. Further, New Jersey courts have upheld "ordinances banning overnight parking as a valid exercise of local power." *Spring Lake Hotel & Guest House Ass'n v. Spring Lake*, 199 N.J. Super. 201, 209, 488 A.2d 1076 (App. Div. 1985). Notably, in these cases, courts stress that, when reviewing ordinances for constitutional validity, they are not passing judgment on the value or wisdom of the specific legislative enactments. Rather, "[t]he political process and the deliberations of elected representatives are better suited to contend with the complex questions of public policy and competing social interests." *Spring Lake Hotel*, 199 N.J. Super. at 209 (quotation omitted). This Court does not review the wisdom of the Borough Council; rather, the Court is constrained to determine whether the Ordinances represent a legitimate and constitutional [*39] exercise of the Borough's police power. The Borough Council is in a unique position of balancing apparently competing public policy concerns: the promotion of the Borough's economic base and the protection of its residential neighborhoods. The Court is not in a position to second-guess the decisions the Borough Council makes in addressing and balancing these concerns, and instead feels that issues concerning the effectiveness of the Ordinances are better suited for "the political, and not the judicial, forum." *Id.* at 210-11.

Overall, "[a] community may . . . decide that restrictions on the flow of outside traffic into particular residential areas would enhance the quality of life there by reducing noise, traffic hazards, and litter. By definition, discrimination against nonresidents would inhere in such restrictions." *Richards*, 434 U.S. at 7. As the Supreme Court has made clear, however, this inherent discrimination is not invidious unless it fails to rationally promote the regulation's objectives. *Id.* Just as the parking regulations in *Richards* were a permissible and reasonable exercise of the municipality's police power, the Court finds that the Ordinances here are rationally related to a legitimate government interest [*40] and do not violate the *Equal Protection Clause of the Fourteenth Amendment*.

B. Public Trust Doctrine

As discussed above, when Defendants removed this action to the Court, the Amended Complaint contained both federal and state claims. Accordingly, the Court had jurisdiction over Plaintiff's federal claim under 28 U.S.C. § 1331, and supplemental jurisdiction over Plaintiff's state law claims under 28 U.S.C. § 1367. Now that judgment has been entered for Defendants on the single federal claim that provided the basis for this Court's jurisdiction, the Court must

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determine whether it should retain jurisdiction over the remaining state law claims, in which Plaintiff advances violations of New Jersey's Public Trust Doctrine.

A district court has discretion to "decline to exercise supplemental jurisdiction over a claim . . . if . . . [it] has dismissed all claims over which it has original jurisdiction" 28 U.S.C. §1367(c)(3). In fact, under Third Circuit law, "where the claim over which the district court has original jurisdiction is dismissed before trial, the district court *must* decline to decide the pendent state claims unless considerations of judicial economy, convenience, and fairness to the parties provide an affirmative justification for doing so." Hedges v. Musco, 204 F.3d 109, 123 (3d Cir. 2000) (quoting Borough of W. Mifflin v. Lancaster, 45 F.3d 780, 788 (3d Cir. 1995)); see also Annulli v. Panikkar, 200 F.3d 189, 202-03 (3d Cir. 1999) (affirming [*41] decision of the district court to decline to exercise pendent jurisdiction after granting summary judgment to the defendants on the claims arising under federal law), *abrogated on other grounds by* Rotella v. Wood, 528 U.S. 549, 120 S. Ct. 1075, 145 L. Ed. 2d 1047 (2000).

There are pending state court actions addressing the same ordinances pending in the very court from which Defendants removed this action.⁶ The parties' briefs reveal that the crux of this case is New Jersey's Public Trust Doctrine and its application to the ordinances at issue. Considering that New Jersey courts have developed and shaped the Public Trust Doctrine, the Court believes that New Jersey's interest in applying its own law when making a decision determining the applicability of the Public Trust Doctrine is greater, particularly considering the particular facts of this case. See e.g., Kennedy v. Schoenberg, Fisher & Newman, Ltd., 140 F.3d 716, 727-28 (7th Cir. 1998) ("At that point [when all federal claims have been dropped from the case before trial], respect for the state's interest in applying its own law, along with the state court's greater expertise in applying state law, become paramount concerns.") (internal quotations omitted). Comity concerns strongly support declining to exercise supplemental jurisdiction over the remaining state-law issues. Accordingly, [*42] the Court declines to exercise supplemental jurisdiction over Plaintiff's remaining state law claims and remands the pending claims to the Superior Court of New Jersey, Law Division, Ocean County, where Plaintiff originally filed.

IV. Conclusion

For the foregoing reasons, Plaintiff's motion for summary judgment is denied and Defendant's motion for summary judgment is granted in part and denied in part. Judgment is entered in favor of Defendants on the equal protection claim. The remainder of the Amended Complaint, consisting of state law claims, is remanded to the Superior Court of New Jersey, Law Division, Ocean County. An appropriate Order accompanies this Opinion.

/s/ Joel A. Pisano Joel A. Pisano

JOEL A. PISANO JOEL A. PISANO, U.S.D.J.

Dated: January 9, 2015

⁶ The Court notes that the issue of *res judicata*, particularly of issue preclusion, was not raised by either party and accordingly not addressed by the Court.

2015 U.S. Dist. LEXIS 2845, *42

ORDER

PISANO, District Judge

Plaintiff, Martell's Tiki Bar, Inc. ("Plaintiff" or "Martell's"), has brought this action, in which it challenges ordinances adopted by the Borough of Point Pleasant Beach (the "Borough"). These ordinances impose public parking restrictions within designated [*43] areas in the Borough during certain months of the year. Both parties agree that resolution of this dispute depends on a determination of two issues: whether the ordinances violate the *Equal Protection Clause of the United States Constitution*, and whether the ordinances violate the Public Trust Doctrine. Before the Court are two corresponding motions for summary judgment, brought by Plaintiff and Defendants, the Governing Body of the Borough of Point Pleasant Beach and the Borough of Point Pleasant Beach (together, the "Defendants"). For the reasons set forth in the accompanying Opinion,

IT IS, on this 9th day of January, 2015,

ORDERED that Plaintiff's Motion for Summary Judgment [ECF No. 6] is **DENIED**; and it is further

ORDERED that Defendants' Motion for Summary Judgment [ECF No. 7] is **GRANTED** in part and **DENIED** in part; and it is further

ORDERED that the remainder of this matter is remanded to the Superior Court of New Jersey, Law Division, Ocean County; and it is further

ORDERED that the Clerk shall close this matter and terminate this action.

/s/ Joel A. PisanoJoel A. Pisano

JOEL A. PISANOJOEL A. PISANO, U.S.D.J.

End of Document

EXHIBIT K

BRIAN M. CHEWCASKIE, ESQ.

Attorney ID #021201984

Gittleman Muhlstock & Chewcaskie

2200 Fletcher Avenue

Fort Lee, NJ 07024

201-944-2300

Attorney for Defendants, Borough of Leonia, Borough of
Leonia Council, Tom Rowe and Judah Zeigler

JACQUELINE ROSA,

Plaintiff

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION:HUDSON COUNTY

Docket No. HUD-L-000607-18

vs.

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE in his
capacity as acting Borough Clerk of the
Borough of Leonia, JUDAH ZEIGLER, in
his official capacity as Mayor of the Borough
of Leonia, JOHN DOE MAINTENANCE
COMPANIES 1-5,

Defendants

RESPONSE TO STATEMENT OF
UNDISPUTED MATERIAL FACTS

Plaintiff's brief contains a section entitled "Statement of Undisputed Material
Facts":

Defendants respond to the Statement of Undisputed Material Facts as follows:

1) On or about January 22, 2018 the Borough of Leonia enacted a ban on 60
residential streets in their municipality.

Response: The Borough of Leonia has not enacted any ban on residential streets
located within the Borough of Leonia. Certain traffic regulations were implemented as

set forth in Ordinance No. 2017-19 (Exhibit "A") and Ordinance No. 2018-5 (Exhibit "B").

2) The Borough cited to their Ordinance §194-25.1 and §194-25.2, which would block streets from 6:00 a.m. to 10:00 a.m. and from 4:00 p.m. to 9:00 p.m.

Response: The ordinances that have been implemented by the Borough of Leonia do not block streets. There are certain traffic regulations which are in effect that have a limitation on access to streets at various times as set forth in the ordinance.

3) No person, unless a resident of the Borough, or a person who can demonstrate a need to access a residence or business would be allowed to use one of the closed streets during the prescribed times.

Response: The ordinance specifically provides that there is no limitation to access to the streets or to Leonia destinations.

4) At no time prior to enacting the Ordinance, did the Borough consult the State of New Jersey, Department of Transportation, or the Commissioner of Transportation to get approval for said street closures.

Response: The Borough of Leonia has been in communication with the Department of Transportation regarding the ordinances enacted.

5) On or about May 2, 2018, the Attorney General of New Jersey, Gurbir Grewal, stated that the Borough's road closures were "legally invalid," and should be rescinded.

Response: The reference to a statement from the Attorney General is irrelevant and is of no legal affect.

6) Defendants have refused to take down their signs and re-open their streets to the general public since enacting Ordinances §194-25.1 and §194-25.2.

Response: Various signage has been in place in accordance with the terms of the ordinance; however, as of May 10, 2018, the Borough of Leonia removed certain signage from Grand Avenue, which is also known as N.J. State Highway Route 93 as same is regulated by the State of New Jersey.

7) Plaintiff now files this Order to Show Cause as irreparable harm is being caused by the continued closures.

Response: As set forth in the accompanying brief, no evidence of any harm, let alone irreparable harm, has been demonstrated by the Plaintiff.

GITTLEMAN MUHLSTOCK & CHEWCASKIE
Attorneys for Defendants

By: 
Brian M. Chewcaskie, Esq.

Dated: May 11, 2018

EXHIBIT L

Seigel Law
PROTECTING THE INJURED

Jan K. Seigel
Jonas K. Seigel[†]
Barry M. Packin
Mark McBratney[°]
James P. Kimball[°]
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[†]LLM in Trial Advocacy
[°]Certified by The Supreme Court of
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*NJ and NY Bars

May 14, 2018

VIA E-Courts & Lawyer's Service

Honorable Peter F. Bariso
Superior Court of New Jersey
Hudson County Superior Court
583 Newark Avenue
Jersey City, NJ 07306

Re: Rosa v. Leonia, et al.
HUD-L-0607-18

Dear Judge Bariso:

As Your Honor already knows, I am the Plaintiff in the above captioned matter. A hearing for the Order to Show Cause is scheduled for Wednesday, May 16, 2018. Kindly accept this letter brief in lieu of more formal reply in response to Defendant's Opposition.

Defendant's opposition contains their statement of facts that uses language like "crippling" and "serious concerns." Yet to date, there has been no tests, studies, or actual evidence that Leonia suffers any more serious harm than other town in New Jersey. The Defendants' used the guidelines of act now and think later. They did not do anything to ensure their Ordinance was legal. Pushing the public and the Court into thinking they have a "crippling" traffic problem without any regard for the law, not only makes the Defendants' actions outrageous, but completely illegal.

— *Est. 1976* —

In their papers, Defendants' first point neatly lays out the law in regards to granting a preliminary injunction. Plaintiff maintains, as written in her original moving papers that all four prongs are met.

Secondly, Defendants' argue that no proof has been submitted that Plaintiff will suffer irreparable harm. In addition to submitted case law, Plaintiff's Civil Rights are being egregiously violated. Every day the streets have restrictions, the Plaintiff's Civil Rights continue to be infringed upon. Plaintiff has a basic human right to travel freely and not be stopped and questioned or restricted from public streets that she so chooses to drive on. There is no more irreparable harm that having ones Civil Rights continuously violated.

Defendant's further argue that N.J.S.A 39:4-197 supports their discriminating against certain traffic, and ignores N.J.S.A 39:4-8. Firstly, N.J.S.A 39:4-197, does say "regulating the passage or stopping of traffic." However the law did not intend to discriminate against in town versus out of town drivers. Any regulations that are in place must be for all drivers not just ones that live in the town, or who can provide revenue for the town. Defendant totally mischaracterizes the purpose of the statute and believes they can use regulating congested streets to include closing 60 streets for 9 hours a day to out of town commuters. The argument is unfounded and has no basis in fact or law.

Further, while ignoring and believing N.J.S.A 39: 4:-8 has nothing to do with this case, Defendants failed to read the statute in its entirety. Before you can even get to N.J.S.A 39:4-197, the purpose and the scope of Title 39 involving traffic regulation begins with N.J.S.A 39:4-8. The law clearly states that any and all regulations that place a burden on State run roadways, or any adjoining municipality or county, must have Commissioner approval. Defendants obviously will not allow the general public or Plaintiff to use their roads for 9 hours a day. That leaves only State

roads, and county roads in Leonia and other municipalities. You do not have to look very far to see that the surrounding towns have been adversely affected by Leonia's road closures. Plaintiff should not have to carefully map out which roads she can use during the restricted hours.

Defendants have maintained since the beginning of the road restrictions that the case of Arlington County v. Richards gives them the authority to restrict the roads. Firstly, this action is a New Jersey State action so defendants are grasping at straws if their only legal backing is a Federal case in Virginia. Secondly, and more alarming, is that the entire legal basis for defendants' Ordinance rests on a case that has to do with **parking**. The case deals with issuing parking permits to some commuters to encourage car pooling and mass transit. The case **did not** restrict which streets a person may travel on, and instead, only designated areas where they could park. It seems the Defendants' took their cue from this case by issuing almost the exact same restrictions. In Arlington, the town issued permits to residents, and people doing business in the town, and restricted the times other could park there. All others would be given tickets. The Defendants' reliance on this case is totally wrong and they are stretching what the Supreme Court intended in their ruling with parking cars. Defendants' liberally applied the law to include driving on streets and have still found no case on point.

Defendants' argument that the Ordinance does not violate the Commerce Clause because of the direction their streets run is laughable. Plaintiff and any other person can chose to travel between States using whatever direction and streets they want. For instance, if the Plaintiff chose to drive to New York by taking Route 4 East, and decided to get off on Jones Road and use Edgewood Road to cut up through Fort Lee to the George Washington Bridge, she would not be allowed because Edgewood Road is blocked to her. So although Edgewood road runs north to south, it is a overpass that goes over Route 80 and allows Plaintiff to get off the highway and use

other streets to get to the Bridge. Further, Defendants' prove Plaintiff's argument by saying Plaintiff can use the streets to get to New York, but only during the prescribed times. Defendants' blatant disregard for Plaintiff's Civil Rights is demonstrated in their loose attempts to back their Ordinance.

Defendants keep repeating that they are being harmed, however they have shown no proof, no studies, no law. The fact that Defense counsel set up a meeting with the Department of transportation after a complaint was filed, shows they needed some backing. The Defendants' have not received any support from the DOT or Commissioner. As much as the Defendants would like to toss aside the Attorney General's recent decision, it is telling that the State is not supporting the Defendants' bogus Ordinance.

Lastly, it is incumbent upon the Court to grant Plaintiff's Order to Show Cause. Besides all the reasons set forth in the original brief and this reply brief, the Court needs to set a precedent. As it is, since Leonia enacted their Ordinance, the town of Weehawken has followed and put their own restrictions in place. If the Court allows this behavior to continue, every town in New Jersey will soon have similar restrictions. If the Plaintiff is not allowed to travel freely from town to town without being stopped by police, or making sure it is during the correct hours, then Plaintiff's Constitutional rights cease to exist. Every day that the Ordinance stays in effect, the Plaintiff's Constitutional rights are not only being violated, but she is entitled to punitive damages as well.

For all of the above mentioned reasons, plaintiff requests the the Court grant the Order to Show cause in its entirety.

Respectfully submitted,

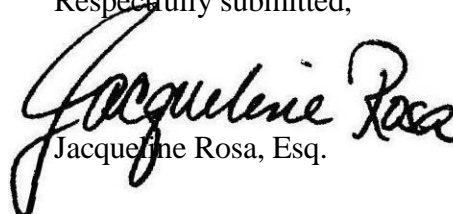

Jacqueline Rosa, Esq.

EXHIBIT M

Seigel Law

PROTECTING THE INJURED

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New Jersey as a Civil Trial Attorney
*NJ and NY Bars

May 17, 2018

Via E-Courts & Lawyer Service

Honorable Peter F. Bariso
Superior Court of New Jersey
Hudson County Superior Court
583 Newark Avenue
Jersey City, NJ 07306

Re: Rosa v. Leonia
HUD-L-607-18

Dear Judge Bariso:

As per your request, please find additional arguments supporting Plaintiff's Order to Show Cause, including a showing of irreparable harm.

Generally, the equitable relief of a preliminary injunction should not be entered except when necessary to prevent substantial, immediate and irreparable harm. Citizens Coach Co. v. Camden Horse R.R. Co., 29 N.J. Eq. 299, 303-04. Here the Plaintiff has demonstrated that her Civil Rights are being violated. She cannot travel freely on public roads in the Defendant's Borough. Additionally, the purpose of a preliminary injunction "is to maintain the parties in substantially the same condition when the final decree is entered as they were when the litigation began. Peters v. Public Service Corp., 132 N.J. Eq. 500, 29 A.2d 189. Prior to the enactment of the Ordinance, Plaintiff was able to drive throughout Leonia at whatever time and for whatever

— Est. 1976 —

reason she chose. Since the enactment, Plaintiff cannot use the roads unless she has a Leonia destination during the nine hour span. Plaintiff needs to be placed back into the position of being able to use any roads she wants, just as it was before the start of the Ordinance. Plaintiff cannot be forced to wait until litigation is over until she is able to drive freely through Leonia.

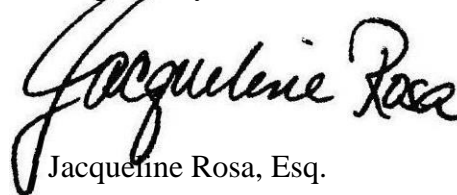
It is well settled that, where legal rights have been invaded, and a federal statute provides for a general right to sue for such invasion, federal courts may use any available remedy to make good the wrong done. Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). Similarly, the "...court should exercise its power to accord a traditional form of judicial relief at the behest of a litigant, who claims a constitutionally protected interest has been invaded, only where the remedy is "essential," or "indispensable for vindicating constitutional rights." Id. Here, Plaintiff is clearly being banned from the streets of Leonia during certain hours. She is claiming a violation of her Civil Rights under the Fifth Amendment. It is incumbent on the Court to protect the Plaintiff's Civil Rights and find that the closing of the streets presents an irreparable harm.

Lastly, the Courts have found that irreparable harm is presumed where Constitutional Rights are being violated. Although dealing with the first amendment instead of the fifth, the Court in Elrod found, "any loss of first amendment freedoms, even for minimal periods of time, can constitute irreparable injury. See Elrod v. Burns, 427 U.S. 347, 96 S. Ct. 2673, 49 L. Ed. 2d 547 (1976) and American Civil Liberties Union v. the Florida Bar, 744 F. Supp. 1094 (N.D. Fla. 1990). It is clear that the Court did not just intend for first amendment rights to be considered irreparable harm. "Showing a violation of Fifth Amendment Rights constitutes irreparable harm justifying a preliminary injunction." Able v. United States, 847 F. Supp. 1038 (E.D.N.Y. 1994).

Every day that the Leonia Ordinance stands, the Plaintiff's Civil rights continue to be violated. The Courts have demonstrated in a plethora of cases that a violation of Civil Rights constitutes irreparable harm. The defendants' cannot show any conclusive evidence why the Plaintiff's Motion should not be granted and cannot outweigh her irreparable harm with their own.

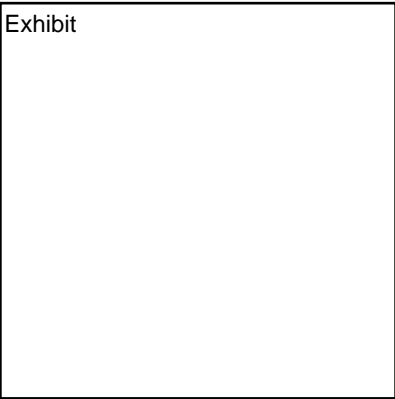
For all the reasons stated previously, the Court should grant the Plaintiff's Order to Show Cause to restore the Plaintiff's civil liberties so she may once again travel freely.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jacqueline Rosa". The signature is fluid and cursive, with the first name "Jacqueline" written in a larger, more prominent script than the last name "Rosa".

Jacqueline Rosa, Esq.

EXHIBIT N



GITTLEMAN, MUHLSTOCK & CHEWCASKIE, L.L.P.

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BRIAN M. CHEWCASKIE
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May 18, 2018

VIA FACSIMILE (201-795-0725) AND ELECTRONIC FILING

Honorable Peter F. Bariso, Jr., Assignment Judge
Superior Court of New Jersey
Administration Building - Chambers 906
595 Newark Avenue
Jersey City, New Jersey 07306

RE: Jacqueline Rosa v. Borough of Leonia, et al.
Docket No. HUD-L-000607-18

Dear Judge Bariso:

At approximately 5:00 p.m. on Thursday, May 17, 2018, a supplemental brief was filed by the Plaintiff with respect to the above matter. My partner, Steven Muhlstock, appeared on my behalf on Wednesday, May 16, 2018, in which this matter was adjourned to Monday, May 21, 2018 at 9:00 a.m. At no point did Your Honor indicate that supplemental briefs were to be submitted. In light of the fact that this brief was submitted, the Court should disregard same.

Respectfully Submitted,


BRIAN M. CHEWCASKIE

BMC/cj
cc: Jacqueline Rosa, Esq. (via electronic filing)

EXHIBIT O

SEIGEL LAW FIRM LLC
Jacqueline Rosa – 009372010
505 Goffle Road
Ridgewood, NJ 07450
(201) 444-4000

JACQUELINE ROSA,

Plaintiff,

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY

DOCKET NO. HUD-L-607-18

**ORDER DENYING
PRELIMINARY INJUNCTION
WITH TEMPORARY RELIEF**

vs.

BOROUGH OF LEONIA, BOROUGH OF
LEONIA COUNCIL, TOM ROWE in his
official capacity as acting Borough Clerk of
the Borough of Leonia, JUDAH ZEIGLER,
in his official capacity as Mayor of the
Borough of Leonia, JOHN DOE
MAINTENANCE COMPANIES 1-5

Defendants.

THIS MATTER coming before the Court on an Order to Show Cause by
Jacqueline Rosa Esq., pro se attorney, with Brian Chewcaskie Esq., appearing on behalf of
defendants, and Deputy Attorney General Philip Espinosa Esq., appearing on behalf of the
Attorney General's Office,

It is on this 21st day of May, 2018,

ORDERED that the application for a Preliminary Injunction is Denied for the reasons placed on
the record on May 21, 2018.

Uploaded in Ecourts.



Hon. Peter F. Bariso Jr.

EXHIBIT P



State of New Jersey

OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
25 MARKET STREET
PO Box 114
TRENTON, NJ 08625-0114

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

GURBIR S. GREWAL
Attorney General

MICHELLE L. MILLER
Director

June 8, 2018

Via eCourts

Honorable Peter F. Bariso, Jr., A.J.S.C.
Hudson County Administration Building
9th Floor - Chambers 906
595 Newark Avenue
Jersey City, New Jersey 07306

Re: Jacqueline Rosa v. Borough of Leonia, et al.
Docket No.: HUD-L-607-18
Proposed Consent Order for Leave to Intervene

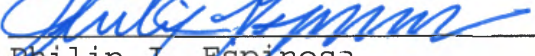
Dear Judge Bariso:

On behalf of the State of New Jersey Department of Transportation (DOT), we respectfully request that Your Honor enter the enclosed consent order granting the DOT leave to intervene in this case, which has been signed by all counsel in this case. In this regard, as your Honor recalls, following oral argument on May 21, 2018, counsel consented to the entry of a consent order granting the DOT leave to intervene, without the need for the DOT to file a motion.

Thank you.

Respectfully yours,

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: 
Philip J. Espinosa
Deputy Attorney General
Attorney ID No.: 030311988



June 8, 2018

Page 2

Encl.

Cc (via eCourts and email):

Jacqueline Rosa, Esq.

Brian M. Chewcaskie, Esq.

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 114
Trenton, New Jersey 08625
Attorney for the State of New Jersey
Department of Transportation
By: Philip J. Espinosa (Attorney ID No.: 030311988)
Deputy Attorney General
(609) 376-3300

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - HUDSON COUNTY
DOCKET NO.: HUD-L-607-18

| | | |
|----------------------------|---|-------------------------|
| JACQUELINE ROSA, | : | |
| | : | |
| Plaintiff, | : | <u>Civil Action</u> |
| | : | |
| v. | : | CONSENT ORDER FOR LEAVE |
| | : | TO INTERVENE |
| BOROUGH OF LEONIA, ET AL., | : | |
| | : | |
| Defendants. | : | |

This matter having been opened to the court by Gurbir S. Grewal, Attorney General of New Jersey, by Philip J. Espinosa, Deputy Attorney General, attorney for the State of New Jersey Department of Transportation (DOT), and the court having considered this matter, and the parties having consented to this proposed consent order for leave to intervene, and for good cause having been shown;

IT IS on this day of , 2018, ORDERED:

1. The DOT is hereby given leave to intervene in this action and to file its complaint on eCourts within 14 days of the entry of this order, with like effect as if the DOT had been named an original plaintiff.

2. The DOT's filing of its complaint on eCourts shall act as service of process upon the parties in this case.

3. The parties to this action shall have 20 days from the date of the entry of this order in which to serve an answer or otherwise plead with respect to the complaint of the DOT.

We hereby consent to the form and entry of this order:

SEIGEL LAW FIRM, LLC

By: _____

Jacqueline Rosa, Esq.

Pro Se Plaintiff

(Attorney ID No.: _____)

Dated: _____

6/5/18

10093720101 (108)

GITTLEMAN MUHLSTOCK & CHEWCASKIE

By: 

Brian M. Chewcaskie, Esq.
(Attorney ID No.: 021201984)
Attorney for Defendants
Borough of Leonia; Borough
of Leonia Council; Tom Rowe
and Judah Zeigler

Dated: 6/8/18

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: 

Philip J. Esposito
Deputy Attorney General
(Attorney ID No.: 030311988)
Attorney for the State of
New Jersey Department of
Transportation

Dated: 6/8/18