

**DONATO J. BATTISTA
HUDSON COUNTY COUNSEL
ADMINISTRATION BUILDING ANNEX
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JERSEY CITY, NEW JERSEY 07306
(201) 795-6250**

**BY: MICHAEL L. DERMODY
FIRST ASSISTANT COUNTY COUNSEL
ATTORNEY FOR DEFENDANTS, HUDSON COUNTY CORRECTIONAL
CENTER, HUDSON COUNTY, and DIRECTOR OSCAR AVILES**

LIEUTENANT TISH A. NALLS	:	UNITED STATES DISTRICT COURT
	:	DISTRICT OF NEW JERSEY
Plaintiff,	:	
	:	CIVIL ACTION NO.:
v.	:	
	:	
HUDSON COUNTY CORRECTIONAL CENTER, HUDSON COUNTY, DIRECTOR OSCAR AVILES, JOHN DOES 1- 10, and ABC ENTITIES 1-10 (as yet unidentified persons or agencies, departments, subdivisions or a public entity),	:	
Defendants.	:	<i>Removed from Superior Court of New Jersey Hudson County - Law Division Docket No.: HUD-L-4499-09</i>

***NOTICE OF REMOVAL ON BEHALF OF
HUDSON COUNTY CORRECTIONAL CENTER, HUDSON COUNTY and
DIRECTOR OSCAR AVILES***

PLEASE TAKE NOTICE, on this date that the Defendant, County of Hudson, by and through their counsel, Michael L. Dermody, First Assistant County Counsel, of the Hudson County Counsel's Office, has filed this Notice of Removal pursuant to 28 U.S.C. §1446(b) in the Office of the Clerk of the United States District Court for the District of New Jersey in Newark, New Jersey by electronic filing. The Defendant, by their undersigned counsel, says:

1. Plaintiff, Tish Nalls, an employee of the County of Hudson, Hudson County Correctional Center, brought an action against the Defendants in the Superior Court of New Jersey, Law Division, Hudson County, on or about September 4, 2009, under Docket No. HUD-L-4499-09, alleging various violations of the laws of the State of New Jersey. A copy of the complaint with jury demand is attached hereto as Exhibit "A."

2. The complaint alleges in the Fourth Count, claims for violations of the Federal Civil Rights Act, 42 U.S.C.A. §1981, §1983, and §1985. Therefore, this case is appropriate for the Federal District Court to have jurisdiction over the subject matter of this action involving alleged violations of Plaintiff's civil right's under federal law.

3. Plaintiff served the complaint by hand delivery to the County Clerk's Office on or about September 30, 2009. Therefore, this notice is timely filed with this court.

4. The Complaint in the Fourth Count makes claims for violations of the Federal Civil Rights Act, 42 U.S.C. §1981 and §1983. Therefore, this case is appropriate for the Federal District Court to have jurisdiction over the subject matter of this action involving alleged violations of Plaintiff's civil rights under Federal Law.

5. Plaintiff served the Complaint upon the County Clerk's Office on September 20, 2009. Therefore, this Notice is timely filed with this Court.

6. The County of Hudson has good and sufficient defenses in this action.

7. This application is made upon all currently named Defendants in this matter.

8. As the undersigned represents all Defendants in this matter, there is not issue as to co-Defendants consenting to this application.

9. Upon information and belief, there are no other proceedings in this action.

PLEASE TAKE FURTHER NOTICE, that the Defendant, County of Hudson, through its attorney, upon filing the Notice of Removal in the Office of the Clerk of the United States District Court for the District of New Jersey by electronic filing, has also filed a copy of the claim with the Clerk of the Superior Court of Hudson County, New Jersey, to effect removal of this action to the United States District Court pursuant to 28 U.S.C. §1446(d). A copy of the notice letter directed to the Clerk of the Superior Court in Hudson County is attached hereto as Exhibit "B."

PLEASE TAKE FURTHER NOTICE, provided a copy of this Notice of Removal to all parties. The appropriate Proof of Mailing is attached hereto as Exhibit "C."

Donato J. Battista
Hudson County Counsel

s/ Michael L. Dermody
Michael L. Dermody
First Assistant County Counsel

Dated: October 14, 2009

EXHIBIT “A”

SHELLEY L. STANGLER, P.C.
155 MORRIS AVENUE, 2ND FLOOR
SPRINGFIELD, NJ 07081
PHONE (973) 379-2500 FAX (973) 379-0031
Attorney for Plaintiff

LIEUTENANT TISH A. NALLS,

Plaintiff,

vs.

HUDSON COUNTY CORRECTIONAL
CENTER, HUDSON COUNTY, DIRECTOR
OSCAR AVILES, JOHN DOES 1-10, and
ABC ENTITIES 1-10 (as yet unidentified
persons or agencies, departments, subdivisions
of a public entity),

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY
DOCKET NO: L-604499-09

CIVIL ACTION

COMPLAINT & JURY DEMAND

FILED
TEAM #1

SEP 04 2009

SUPERIOR COURT OF NJ
COUNTY OF HUDSON
CIVIL DIVISION #5

Plaintiff **LIEUTENANT TISH A. NALLS**, residing in the County of Hudson and State of New Jersey, by way of complaint against the defendants **HUDSON COUNTY CORRECTIONAL CENTER, HUDSON COUNTY, DIRECTOR OSCAR AVILES, JOHN DOES 1-10 and ABC ENTITIES 1-10 (as yet unidentified persons or agencies, departments, subdivisions of a public entity)**, alleges as follows:

FIRST COUNT

1. At all relevant times herein plaintiff **LIEUTENANT TISH A. NALLS** ("**NALLS**"), was and is an employee holding the rank of Lieutenant at the **HUDSON COUNTY CORRECTIONAL CENTER ("HCCC")** and a resident of the County of Hudson and State of New Jersey.

2. At all relevant times herein the defendant **HUDSON COUNTY**

CORRECTIONAL CENTER was and is a correction facility and jail operated and maintained under the Department of Corrections as an agency, subdivision, unit or department under the control of defendant **HUDSON COUNTY** operating and existing pursuant to the laws of the State of New Jersey with a place of business at 35 Hackensack Avenue, South Kearny, New Jersey 07032.

3. At all relevant times herein defendant **HUDSON COUNTY** was and is a governmental entity organized and existing pursuant to the laws of the State of New Jersey, with a place of business at Hudson County Plaza, 257 Cornelison Avenue, 4th floor, Jersey City, New Jersey 07302.

4. At all relevant times herein defendant **OSCAR AVILES** was and is either the Acting Director or the Director of the **HUDSON COUNTY CORRECTIONAL CENTER** and Executive of the Department of Corrections for **HUDSON COUNTY**, and a supervisory official charged with the operations, management and control over the affairs of the **HUDSON COUNTY CORRECTIONAL CENTER** including appointments, job assignments and promotions, policy, procedure and organizational structure.

5. At all relevant times herein defendants **JOHN DOES 1-10** and **ABC ENTITIES 1-10** were and are as yet unidentified persons or governmental departments, subdivisions or agencies with responsibility over and control over the affairs of the **HUDSON COUNTY CORRECTIONAL CENTER**, including appointments, job assignments and promotions, policy, procedure and organizational structure.

6. Plaintiff **NALLS** commenced employment with defendants **HCCC** and

HUDSON COUNTY in 1990 as a uniformed officer subject to the civil service and merit board system operated by the State Department of Personnel (“DOP”) as well as the internal policies and procedures of **HCCC** and **HUDSON COUNTY**.

7. Over the course of 19 years **NALLS** worked her way through the ranks of the uniformed officers by taking, passing and meeting all tests and requirements necessary to hold the ranks of Sergeant, and then Lieutenant, the rank attained in September 2004.

8. The only higher rank within the uniformed personnel within the **HCCC** was and is Captain.

9. Plaintiff took the examination promulgated by the DOP for the position of Captain at **HCCC**, passed and was put on the eligible list for promotion in September 6, 2007 as certified by the DOP.

10. Plaintiff was one of only three (3) Lieutenants put on the eligible list for Captain, and was ranked number one (1) on the list.

11. Plaintiff had the necessary education, experience and qualifications for promotion to Captain, and had no disciplinary record.

12. By contrast, the other two (2) persons on the list had disciplinary records and were less qualified than plaintiff.

13. Plaintiff, an African-American female, was the first uniformed officer ever to seek promotion to Captain in the uniformed chain of command, and the first African-American female to reach the #1 placement on the list for promotion to Captain.

14. Prior to administering a test for promotion and certifying an eligible list,

and in accordance with applicable statutes and codes of the State of New Jersey, the State Department of Personnel is issued a request from the entity seeking to fill vacancies for a specific position, in this case Captain within the HCCC.

15. Requests are made based upon vacancies and the need to fill the position.

16. At the time plaintiff sat for the test there were vacancies available for the position of Captain.

17. As of September 6, 2007, the HCCC employed about eight (8) Captains.

18.. The positions held by Captain included, but were not limited to, unit managers or commanders, head of Internal Affairs, and Deputy Director.

19. After plaintiff became eligible, between September 2007 and May 2009 several positions became vacant and were available for Captain, including positions filled by Captain Matthews, Captain Montenez, Captain Krusznis, Captain McCleary and Captain Campbell.

20. In addition, a new building and unit was created called the Ecco Pod, where the position of commander called for a person of the rank of Captain.

21. The **PUBLIC ENTITY DEFENDANTS** were aware of the vacancies and intended to promote qualified individuals to Captain, having requested that the DOP administer the Captain examination for the purposes of promotion.

22. Subsequent to the taking of the examination and being found qualified for promotion, defendants HCCC through their agents, servants and employees, **OSCAR AVILES, JOHN DOES 1-10** and **ABC ENTITIES 1-10** (collectively the "**PUBLIC ENTITY DEFENDANTS**") embarked on a course of action **deliberately and with intent to deny plaintiff a promotion and prevent her advancement.**

23. The **PUBLIC ENTITY DEFENDANTS** demoted one Captain but allowed him to continue serving in a Captain's position and assignment.

24. The **PUBLIC ENTITY DEFENDANTS** purposefully and with intent to deny plaintiff her promotion and advancement changed the organizational structure and hierarchy of command to permit Lieutenants to assume Unit Commander positions which had always and traditionally been assumed by an officer with the rank of Captain.

25. The **PUBLIC ENTITY DEFENDANTS** purposefully and with intent to deny plaintiff her promotion and advancement have left unfilled positions to be filled by the rank of Captain.

26. The **PUBLIC ENTITY DEFENDANTS** purposefully and with intent to deny plaintiff her promotion and advancement have failed and refused to promote any individual to the position of Captain, despite vacancies over the past two (2) years.

27. The **PUBLIC ENTITY DEFENDANTS** purposefully and with the intent to deny plaintiff her promotion and advancement are waiting for the eligible list to expire in September 2010 to force plaintiff to compete again for the available positions and retake the examination.

28. On March 30, 2008 plaintiff was brought up on disciplinary charges along with four (4) of her subordinates for allegedly failing to handle reporting requirements properly and/or supervising officers in connection with an incident involving an officer calling out sick and then needing assistance in Hoboken for an alleged assault. Plaintiff followed all proper procedures and orders in attending to the subject incident and was falsely charged.

29. The charges were and are false, trumped up and have been brought solely

for the purpose of harassing plaintiff and finding an excuse to deny her promotion to Captain and advancement at the HCCC.

30. The charges remain pending without resolution after 1 ½ years.

31. At all relevant times plaintiff NALLS performed her jobs and assignments in a competent, diligent and satisfactory manner and met the reasonable expectations of her employer.

32. Plaintiff is an African-American female and is a protected class under the New Jersey Law Against Discrimination.

33. The aforementioned actions and the failure to promote occurred solely by reason of the race of plaintiff and would not have occurred but for her race.

34. The aforementioned actions and the failure to promote occurred solely by reason of the gender of plaintiff and would not have occurred but for her gender.

35. All actions taken by the defendants, collectively and individually were in the scope of their employment and acting under color of law as employees of a public entity.

36. The PUBLIC ENTITY DEFENDANTS, their agents, servants and employees, and the individual supervisor OSCAR AVILES, JOHN DOES 1-10, and ABC ENTITIES 1-10 knew or should have known that that was a pattern of conduct designed to prevent plaintiff from being promoted and failed to take prompt and appropriate corrective action.

37. Over the past many years positions of Captain within the uniformed chain of command have been filled after the DOP certified the list with eligible candidates, all of whom have been either male or Caucasian.

38. At no time has an African-American female risen to the level of being able to compete for the position of Captain within the uniformed chain of command.

39. The failure to promote was motivated by racial and gender animus and bias and is unlawful.

40. This action is brought pursuant to the New Jersey Law Against Discrimination (NJ LAD) N.J.S.A. 10:5-1 *et. seq.* which prohibits discrimination on the basis of race and gender and prohibits any person from aiding and abetting that discrimination.

41. By reason of the discrimination and failure to promote, plaintiff has been damaged.

42. By reason of the discrimination and failure to promote, plaintiff has been caused to suffer humiliation, harassment, discrimination and severe emotional distress.

43. By reason of the discrimination and failure to promote, plaintiff has been caused to suffer economic and pecuniary losses, including but not limited to front pay, loss of future income, back pay and other financial losses, all to her damage.

44. **WHEREFORE**, plaintiff **LT. TISH A. NALLS** demands judgment against defendants **HUDSON COUNTY CORRECTIONAL CENTER, HUDSON COUNTY, OSCAR AVILES, JOHN DOES 1-10 and ABC ENTITIES 1-10** individually and jointly and severally for compensatory and punitive damages, along with interest, costs of suit and attorneys fees.

SECOND COUNT

45. Plaintiff repeats each and every allegation contained in paragraphs one (1) through forty-four (44) of the Complaint as if set forth fully herein at length.

46. Plaintiff has been subjected to various investigations, allegations and charges which lacked merit and for which she has been ultimately exonerated or for which no formal charges were ever filed.

47. In the December 2004 time frame plaintiff was made the target of an investigation after an officer had been terminated for failing to report to work and conducting a construction business during work hours. No formal charges were ever brought.

48. In the October 2006 time frame plaintiff was made the target of an investigation based on an allegation that she did not properly search the premises while on her shift for a gun which had been allegedly been smuggled into the HCCC. Formal charges were never brought.

49. In the most recent charge of March 30, 2008 plaintiff was accused of not following procedure in dealing with an officer who called for assistance from Hoboken. The charges are pending.

50. All of the above charges were frivolous and made solely for the purpose of harassing plaintiff.

51. All of the above charges were frivolous and made solely on racial and gender animus.

52. All of the above charges were made to deny plaintiff the opportunity to advance or obtain a promotion, and based on racial and gender animus and motive.

53. In addition, plaintiff has been denied opportunities for advancement within her own rank, as well as having been subjected to discriminatory treatment.

54. In the 2003 time frame plaintiff, then a Sergeant, was responsible for the

record room and was forced to eliminate all her staff after being advised that supervisors and/or the Board of Chosen Freeholders did not want uniformed officers doing clerical or administrative jobs. Yet the other supervisors on other shifts were permitted to keep and maintain their personnel.

55. Plaintiff was not given the same opportunity as her peers to run and manage certain units, in particular the Ecco Pod.

56. At all relevant times plaintiff was qualified by education, training, experience and rank to perform the abovementioned duties and assignments.

57. Plaintiff has been denied, prevented from and blocked from attaining the highest rank of Captain, despite being Number 1 on the eligible list and maintaining all qualifications and abilities to perform the job of Captain.

58. Plaintiff is an African-American female and is a protected class under the New Jersey Law Against Discrimination.

59. The aforementioned actions and the failure to promote occurred solely by reason of the race of plaintiff and would not have occurred but for her race.

60. The aforementioned actions and the failure to promote occurred solely by reason of the gender of plaintiff and would not have occurred but for her gender.

61. All actions taken by the defendants, collectively and individually were in the scope of their employment and acting under color of law as employees of a public entity.

62. The **PUBLIC ENTITY DEFENDANTS**, their agents, servants and employees, and the individual supervisors **OSCAR AVILES, JOHN DOES 1-10**, and **ABC ENTITIES 1-10** knew or should have known that that was a pattern of conduct

designed to prevent plaintiff from being promoted and being harassed and failed to take prompt and appropriate corrective action.

63. The investigations, charges, failure to give certain job assignments and the failure to promote was motivated by racial and gender animus and bias and is unlawful.

64. This action is brought pursuant to the New Jersey Law Against Discrimination (NJ LAD) N.J.S.A. 10:5-1 *et. seq.* which prohibits discrimination on the basis of race and gender and prohibits any person from aiding and abetting that discrimination.

65. By reason of the discrimination, harassment and failure to promote, plaintiff has been subjected to a hostile work environment on the basis of race and gender.

66. The actions of defendants in bringing up charges, conducting investigations, failing to give certain job assignments and failing to promote constitute severe or pervasive conduct sufficient to alter the conditions of employment so as to create a hostile, intimidating and offensive working environment.

67. By reason of the foregoing, plaintiff has been damaged.

68. By reason of the discrimination, harassment and failure to promote, plaintiff has been caused to suffer humiliation, harassment, discrimination and severe emotional distress.

69. By reason of the discrimination, harassment and failure to promote, plaintiff has been caused to suffer economic and pecuniary losses, including but not limited to front pay, loss of future income, back pay and other financial losses, all to her damage.

70. **WHEREFORE**, plaintiff **LT. TISH A. NALLS** demands judgment against defendants **HUDSON COUNTY CORRECTIONAL CENTER, HUDSON COUNTY, OSCAR AVILES, JOHN DOES 1-10** and **ABC ENTITIES 1-10** individually and jointly and severally for compensatory and punitive damages, along with interest, costs of suit and attorneys fees.

THIRD COUNT

71. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs one (1) through seventy (70) of the complaint as if set forth fully herein at length.

72. Defendants, each and every one, individually and collectively, knew or should have known that plaintiff was being subjected to and was the subject of a hostile work environment, race and gender discrimination and disparate treatment in the workplace.

73. Defendants, each and every one, individually and collectively, failed to take action in the face of known complaints and exhibited a willfull indifference to the hostile work environment, race and gender discrimination and disparate treatment of plaintiff and other women and African- Americans working at **HCCC** and **HUDSON COUNTY**.

74. By reason of the foregoing, plaintiff has been damaged.

75. By reason of the discrimination, harassment, failure to promote, and disparate treatment, plaintiff has been caused to suffer humiliation, harassment, discrimination and severe emotional distress.

76. By reason of the discrimination, harassment, failure to promote and

disparate treatment, plaintiff has been caused to suffer economic and pecuniary losses, including but not limited to front pay, loss of future income, back pay and other financial losses, all to her damage.

77. **WHEREFORE**, plaintiff **LT. TISH A. NALLS** demands judgment against defendants **HUDSON COUNTY CORRECTIONAL CENTER, HUDSON COUNTY, OSCAR AVILES, JOHN DOES 1-10 and ABC ENTITIES 1-10** individually and jointly and severally for compensatory and punitive damages, along with interest, costs of suit and attorneys fees.

FOURTH COUNT

78. Plaintiff repeats and realleges each and every allegation contained in paragraphs one (1) through seventy-seven (77) of the complaint as if set forth fully herein at length.

79. At all relevant times herein defendants the **PUBLIC ENTITY DEFENDANTS**, individually and collectively, were acting under color of state law and under the cloak of authority vested in them as employees, agents and servants of the **HCCC and HUDSON COUNTY**.

80. At all relevant times herein defendant the **PUBLIC ENTITY DEFENDANTS**, individually and collectively, were acting within the scope of their authority by reason of their employment with **HCCC and HUDSON COUNTY**.

81. By reason of the unlawful discriminatory motives and actions of the **PUBLIC ENTITY DEFENDANTS** in denying plaintiff her promotion, the ability to advance, and in failing to provide equal access and opportunity for plaintiff in the workplace on the basis of race and gender, the **PUBLIC ENTITY DEFENDANTS**

individually and collectively violated the civil rights of plaintiff protected by and secured under the provisions of the First, Fifth, and Fourteenth Amendments to the United States Constitution and under the laws of the United States, under the Civil Rights Act, Title 42 of the United States Code, Sections 1981, 1983 and Title 43 of the United States Code, Section 1985 (2) *et. seq.*

82. At all relevant times herein the **PUBLIC ENTITY DEFENDANTS**, individually and collectively, their agents, servants and employees acted under color of law, under the color of the United States Constitution, statutes, laws, charter, ordinances, rules, regulations, customs, usages and practices of the subject corrections department, agency and entities.

83. At all relevant times herein the aforementioned defendants acted jointly and in concert with each other, and conspired and agreed between and amongst themselves to commit unlawful discrimination based on race and gender and to violate the civil rights of plaintiff **NALLS**.

84. At all relevant times herein the defendants acted with deliberate and conscious indifference to plaintiff's constitutional rights which violations arose out of a pattern and custom, policy and practice by and of the **PUBLIC ENTITY DEFENDANTS** in allowing the discrimination to occur, permitting and condoning the discrimination and violation of procedure and policy as well as the failure to properly hire, train and supervise those charged with the responsibility for handling job assignments, complaints, investigations, disciplinary proceedings, charges and promotion and overall in the proper conduct of their duties.

85. By reason of the failure to promote, creation of a hostile work environment,

filing of false and frivolous charges and conducting unwarranted investigations, disparate treatment in employment all by reason of racial and gender animus, the **PUBLIC ENTITY DEFENDANTS** willfully, wantonly, and recklessly violated the civil rights of plaintiff **NALLS**.

86. The **PUBLIC ENTITY DEFENDANTS**, by their agents, servants and/or employees, by reason of their acts, omissions, deliberate and conscious indifference to the rights of **NALLS**, their failure and refusal to properly supervise or otherwise correct improper conduct, in allowing and permitting and condoning a pattern of discrimination in employment to occur and to persist, in permitting and condoning a pattern of abuse and discrimination to exist and continue, deprived plaintiff **NALLS** of her rights, privileges and immunities secured by the Constitution and laws of the United States, and are liable to plaintiff pursuant to Title 42 Sections 1981 and 1983 of the United States Code and under state law.

87. In particular, the **PUBLIC ENTITY DEFENDANTS**, through their agents, servants and/or employees, deprived plaintiff **NALLS** of her rights, privileges and immunities secured by the Constitution and laws of the United States by denying plaintiff due process, equal protection and the right to be free of racial or gender discrimination and equality of opportunity and to be free of gender or racially motivated employment actions guaranteed under the First, Fifth and Fourteenth Amendments.

88. The **PUBLIC ENTITY DEFENDANTS**, through their agents, servants and/or employees, acted pursuant to official policy and/or governmental custom or practice and deprived plaintiff **NALLS** of her Constitutional rights as aforescribed.

89. By reason of the foregoing, plaintiff has been damaged.

90. By reason of the discrimination, harassment, failure to promote, and disparate treatment, plaintiff has been caused to suffer humiliation, harassment, discrimination and severe emotional distress.

91. By reason of the discrimination, harassment, failure to promote and disparate treatment, plaintiff has been caused to suffer economic and pecuniary losses, including but not limited to front pay, loss of future income, back pay and other financial losses, all to her damage.

92. **WHEREFORE**, plaintiff **LT. TISH A. NALLS** demands judgment against defendants **HUDSON COUNTY CORRECTIONAL CENTER, HUDSON COUNTY, OSCAR AVILES, JOHN DOES 1-10** and **ABC ENTITIES 1-10** individually and jointly and severally for compensatory and punitive damages, along with interest, costs of suit and attorneys fees.

FIFTH COUNT

93. Plaintiff repeats and realleges each and every allegation contained in paragraphs one (1) through ninety-two (92) of the complaint as if set forth fully herein at length.

94. By reason of the unlawful discrimination, failure to promote and creation of a hostile work environment, plaintiff **NALLS** has been deprived of the rights, privileges and immunities secured to her under the **New Jersey State Constitution pursuant to the Civil Rights Statute**, and are liable to plaintiff under Article One paragraph 1 of the New Jersey Statutes.

95. In particular, the **PUBLIC ENTITY DEFENDANTS**, through their agents,

servants and/or employees, deprived plaintiff **NALLS** of her rights, privileges and immunities secured by the New Jersey Constitution and state laws by denying plaintiff due process, equal protection and the right to be free of racial or gender discrimination and equality of opportunity and to be free of gender or racially motivated employment actions guaranteed under the New Jersey State Constitution Article One, paragraph 1.

96. The **PUBLIC ENTITY DEFENDANTS**, through their agents, servants and/or employees, acted pursuant to official policy and/or governmental custom or practice and deprived plaintiff **NALLS** of her state Constitutional rights as aforescribed.

97. At all relevant times herein the **PUBLIC ENTITY DEFENDANTS**, individually and collectively, through their agents, servants and/or employees, were acting under color of law and in the scope of their employment under their authority as employees of **HCCC** and **HUDSON COUNTY**.

98. By reason of the foregoing, plaintiff has been damaged.

99. By reason of the discrimination, harassment, failure to promote, and disparate treatment, plaintiff has been caused to suffer humiliation, harassment, discrimination and severe emotional distress.

100. By reason of the discrimination, harassment, failure to promote and disparate treatment, plaintiff has been caused to suffer economic and pecuniary losses, including but not limited to front pay, loss of future income, back pay and other financial losses, all to her damage.

101. **WHEREFORE**, plaintiff **LT. TISH A. NALLS** demands judgment
against

defendants **HUDSON COUNTY CORRECTIONAL CENTER, HUDSON COUNTY, OSCAR AVILES, JOHN DOES 1-10 and ABC ENTITIES 1-10** individually and jointly and severally for compensatory and punitive damages, along with interest, costs of suit and attorneys fees.

SIXTH COUNT

102. Plaintiff repeats and realleges each and every allegation contained in paragraphs one (1) through one-hundred one (101) of the complaint as if set forth fully herein at length.

103. At all relevant times herein the **PUBLIC ENTITY DEFENDANTS**, individually and collectively, through their agents, servants and/or employees, were under a duty to hire, train and supervise staff in the conduct of their duties, including the handling of job assignments, promotions, discipline, charges, investigations, complaints, and fair treatment in the workplace.

104. The **PUBLIC ENTITY DEFENDANTS** failed to carry out their duties in a non-negligent and reasonable manner.

105. As a direct and proximate result of the defendants' negligence, plaintiff has been caused to be subjected to a hostile work environment, has not been promoted and has been discriminated against.

106. By reason of the foregoing plaintiff has been damaged.

107. By reason of the discrimination, harassment, failure to promote, and disparate treatment, plaintiff has been caused to suffer humiliation, harassment, discrimination and severe emotional distress.

108. By reason of the discrimination, harassment, failure to promote and

disparate treatment, plaintiff has been caused to suffer economic and pecuniary losses, including but not limited to front pay, loss of future income, back pay and other financial losses, all to her damage.

109. WHEREFORE, plaintiff **LT. TISH A. NALLS** demands judgment against defendants **HUDSON COUNTY CORRECTIONAL CENTER, HUDSON COUNTY, OSCAR AVILES, JOHN DOES 1-10** and **ABC ENTITIES 1-10** individually and jointly and severally for compensatory and punitive damages, along with interest, costs of suit and attorneys fees.

SEVENTH COUNT

110. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs one (1) through one-hundred-nine (109) of the complaint as if set forth fully herein at length.

111. By reason of the aforescribed creation of a hostile work environment, Discrimination, failure to promote, harassment and violation of civil rights, plaintiff was subjected to intentional infliction of emotional distress.

112. The harassment, hostile work environment, discrimination, failure to promote and violation of civil rights were extreme and outrageous.

113. The defendant's conduct was intentional, reckless or made with deliberate disregard of the consequences and were designed to produce emotional distress.

114. The defendants' conduct proximately caused plaintiff's distress that was so severe that no reasonable person could be expected to endure it.

115. By reason of the foregoing plaintiff has been damaged.

116. By reason of the discrimination, harassment, failure to promote, and

disparate treatment, plaintiff has been caused to suffer humiliation, harassment, discrimination and severe emotional distress.

117. By reason of the discrimination, harassment, failure to promote and disparate treatment, plaintiff has been caused to suffer economic and pecuniary losses, including but not limited to front pay, loss of future income, back pay and other financial losses, all to her damage.

118. **WHEREFORE**, plaintiff **LT. TISH A. NALLS** demands judgment against defendants **HUDSON COUNTY CORRECTIONAL CENTER, HUDSON COUNTY, OSCAR AVILES, JOHN DOES 1-10** and **ABC ENTITIES 1-10** individually and jointly and severally for compensatory and punitive damages, along with interest, costs of suit and attorneys fees.

SHELLEY L. STANGLER, P.C.

BY: 
SHELLEY L. STANGLER, ESQ.

Dated: September 4, 2009

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury of all issues so triable.


Dated: September 4, 2009

BY: 
SHELLEY L. STANGLER, ESQ.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:24-4, **SHELLEY L. STANGLER, ESQ.** is hereby designated as trial counsel on behalf of the plaintiff in the within matter.

Dated: September 4, 2009

BY: 
SHELLEY L. STANGLER, ESQ.

CERTIFICATION

SHELLEY L. STANGLER, ESQ., of full age, certifies:

1. **SHELLEY L. STANGLER, P.C.** has been retained to represent plaintiff **LIEUTENANT TISH A. NALLS** in connection with the within matter. I am the attorney in charge of the case.

2. The matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, and no other action or arbitration proceeding is contemplated by plaintiff.

3. There are no other parties who should be joined in this action.

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

SHELLEY L. STANGLER, P.C.

BY: 
SHELLEY L. STANGLER, ESQ.

Dated: September 4, 2009

Appendix XII-B1



CIVIL CASE INFORMATION STATEMENT

(CIS)

Use for initial Law Division

Civil Part pleadings (not motions) under Rule 4:5-1

Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or if attorney's signature is not affixed.

FOR USE BY CLERK'S OFFICE ONLY

PAYMENT TYPE: CK CG CA

CHG/CK NO.

AMOUNT:

OVERPAYMENT:

BATCH NUMBER:

ATTORNEY/PRO SE NAME Shelley L. Stangler, Esq.		TELEPHONE NUMBER (973) 379-2500	COUNTY OF VENUE Hudson
FIRM NAME (if applicable) Shelley L. Stangler, P.C.		DOCKET NUMBER (When available) Unknown L-004499-01	
OFFICE ADDRESS 155 Morris Avenue Springfield, New Jersey 07081		DOCUMENT TYPE Complaint	JURY DEMAND <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
NAME OF PARTY (e.g., John Doe, Plaintiff) Lieutenant Tish A. Nalls, Plaintiff		CAPTION Nalls v. Hudson County Correctional Center, et als.	
CASE TYPE NUMBER (See reverse side for listing) 618	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN		

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? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, IS THAT RELATIONSHIP <input checked="" type="checkbox"/> EMPLOYER-EMPLOYEE <input type="checkbox"/> FAMILIAL <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> BUSINESS <input type="checkbox"/> OTHER (explain)
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION: LAD, PUBLIC ENTITY	
DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION:
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> 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).

ATTORNEY SIGNATURE: *Shelley L. Stangler*

SIDE 2



**CIVIL CASE INFORMATION STATEMENT
(CIS)**

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I — 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (INCLUDING DECLARATORY JUDGMENT ACTIONS)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (SUMMARY ACTION)
- 999 OTHER (Briefly describe nature of action)

Track II — 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603 AUTO NEGLIGENCE – PERSONAL INJURY
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE – PROPERTY DAMAGE
- 699 TORT – OTHER

Track III — 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES
- 620 FALSE CLAIMS ACT

Track IV — Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Centrally Managed Litigation (Track IV)

- 280 Zelnorm
- 285 Stryker Trident Hip Implants

Mass Tort (Track IV)

- | | |
|---------------------------------------|--|
| 248 CIBA GEIGY | 279 GADOLINIUM |
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL |
| 271 ACCUTANE | 282 FOSAMAX |
| 272 BEXTRA/CELEBREX | 283 DIGITEK |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 284 NUVARING |
| 275 ORTHO EVRA | 286 LEVAQUIN |
| 277 MAHWAH TOXIC DUMP SITE | 601 ASBESTOS |
| 278 ZOMETA/AREDIA | 619 VIOXX |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category:

Verbal Threshold

Putative Class Action

Title 59

EXHIBIT “B”



COUNTY OF HUDSON, NEW JERSEY
OFFICE OF THE COUNTY COUNSEL
DEPARTMENT OF LAW
ADMINISTRATION BUILDING ANNEX
567 PAVONIA AVENUE
JERSEY CITY, NJ 07306
(201) 795-6250
Fax: (201) 795-6428

THOMAS A. DeGISE
COUNTY EXECUTIVE

DONATO J. BATTISTA
COUNTY COUNSEL

MARK E. MORCHEL
DEPUTY COUNTY COUNSEL

LOUIS C. ROSEN
DEPUTY COUNTY COUNSEL

Michael L. Dermody
1st Assistant County Counsel

Neil Carroll, Jr.
Charles D'Amico
Daniel DeSalvo
Kathleen Grant
Susan McCurrie
Elizabeth McNamara
Robin Moses
Daniel W. Sexton
Michael J. Sluka
John Smith, III
Radames Velazquez, Jr.
Investigator
Steve Krywinski

October 14, 2009

Electronically Filed
Federal Court Clerk
District of New Jersey
50 Walnut Street
Newark, NJ 07102

RE: Tish Nalls v. Hudson County Correctional Center, et als
Civil Action No.:
Docket No.: HUD-L-4499-09

Dear Sir/Madam:

Enclosed please find Notice of Removal on Behalf of the Hudson County Correctional Center which I am filing electronically with the court in connection with the above referenced matter.

Very truly yours,

Donato J. Battista
Hudson County Counsel

s/ Michael L. Dermody
Michael L. Dermody
First Assistant County Counsel

MLD:dmp
cc: Shelley L. Stangler, Esq.
Superior Court Clerk

EXHIBIT “C”

**DONATO J. BATTISTA
HUDSON COUNTY COUNSEL
ADMINISTRATION BUILDING ANNEX
567 PAVONIA AVENUE
JERSEY CITY, NEW JERSEY 07306
(201) 795-6250**

**BY: MICHAEL L. DERMODY
FIRST ASSISTANT COUNTY COUNSEL
ATTORNEY FOR DEFENDANTS, HUDSON COUNTY CORRECTIONAL
CENTER, HUDSON COUNTY, and DIRECTOR OSCAR AVILES**

LIEUTENANT TISH A. NALLS	: UNITED STATES DISTRICT COURT
	: DISTRICT OF NEW JERSEY
Plaintiff,	:
	: CIVIL ACTION NO.:
v.	:
	:
HUDSON COUNTY CORRECTIONAL	:
CENTER, HUDSON COUNTY,	:
DIRECTOR OSCAR AVILES, JOHN	:
DOES 1- 10, and ABC ENTITIES 1-10	: <i>PROOF OF MAILING</i>
(as yet unidentified persons or agencies,	:
departments, subdivisions or a public	:
entity),	:
Defendants.	:

The original Notice of Removal on Behalf of the Hudson County Correctional Center has been filed electronically with the Clerk of the United States District Court, Martin Luther King, Jr. Federal Building & U.S. Courthouse, 50 Walnut Street, Newark, New Jersey 07101.

PROOF OF MAILING: On October 14, 2009, I, the undersigned, mailed the following: Notice of Removal via regular mail to the following: Shelley L. Stangler, Esq. 155 Morris Avenue - 2nd Floor, Springfield, New Jersey 07081, and Superior Court Clerk, Brennan Courthouse, 583 Newark Avenue Jersey City, New Jersey 07306.

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

s/Donna M. Picinich

Donna M. Picinich

Legal Assistant to Michael L. Dermody

Dated: October 14, 2009