

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NICHOLAS HERNANDEZ

Plaintiff,

COMPLAINT

JURY DEMAND

-against-

THE CITY OF NEW YORK; JESSICA S. TISCH, as Police  
Commissioner, Police Department City of New York, EDWARD A.  
CABAN, as Former Police Commissioner, Police Department City of  
New York and AMY J. LITWIN, as Former Deputy Commissioner  
Department Advocates Office, Police Department City of New York  
each sued in their official and individual capacities as an employee of  
Defendant THE CITY OF NEW YORK

Defendants  
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The Plaintiff NICHOLAS HERNANDEZ, through his attorney, THE SANDERS FIRM,  
P.C., files this federal complaint against Defendants' THE CITY OF NEW YORK, JESSICA S.  
TISCH, EDWARD A. CABAN and AMY J. LITWIN.

**SUMMARY OF THE ALLEGATIONS**

Plaintiff NICHOLAS HERNANDEZ had been employed by the Police Department City  
of New York (NYPD) for over 4 years, maintaining a commendable service record with no prior  
disciplinary history.

The disciplinary case against Plaintiff NICHOLAS HERNANDEZ arises from an  
incident involving a domestic dispute based on allegations made by the complainant, a young  
female acquaintance with whom HERNANDEZ had a close personal relationship.

The NYPD's investigation and subsequent disciplinary proceedings reflect a clear pattern  
of gender-based discrimination, biased decision-making, violations of due process, and a failure

by senior NYPD officials to uphold their legal obligations under NYC Administrative Code § 14-115.

### **Discriminatory Treatment Based on Gender**

- The NYPD's disciplinary process exhibited explicit gender bias, treating Plaintiff NICHOLAS HERNANDEZ more harshly than similarly situated female officers and other politically affiliated officers involved in comparable domestic disputes. Male officers and officers without political affiliations, including Plaintiff NICHOLAS HERNANDEZ, were subjected to heightened scrutiny, faced more significant penalties, and were presumptively treated as primary aggressors. In contrast, female officers and politically affiliated officers received lenient treatment or had charges dismissed.
- During the disciplinary hearing, the tribunal, led by Assistant Deputy Commissioner of Trials Jeff S. Adler, dismissed Plaintiff NICHOLAS HERNANDEZ'S defense under New York Penal Law § 35.20 (justification for use of force in defense of premises) and related legal defenses without proper legal consideration and analysis. The tribunal favored the complainant's 'hearsay' testimony and disregarded credible evidence supporting Plaintiff NICHOLAS HERNANDEZ'S assertions of self-defense, demonstrating a preconceived gender-based bias that male officers cannot be victims of domestic violence.

### **Failure to Investigate and Due Process Violations**

- The investigation relied solely on the complainant's account, disregarding HERNANDEZ'S version of events and his self-defense claims, supported by evidence. This selective investigation process violates the NYPD's duty to conduct a thorough and impartial inquiry.
- The NYPD Department Advocate, formerly led by Defendant AMY J. LITWIN, investigated and pursued disciplinary charges against Plaintiff NICHOLAS HERNANDEZ based on incomplete and biased evidence, ignoring exculpatory information and statutory defenses. LITWIN'S decision-making process failed to meet the standards required by New York City Administrative Code § 14-115, which mandates a fair and impartial investigation, including applying all relevant legal defenses available to citizens, such as the justification defense under Penal Law § 35.20.

### **Systemic Failures by Senior Officials: Caban and Litwin**

- Defendant EDWARD A. CABAN had a legal obligation under New York City Administrative Code § 14-115 to ensure that Plaintiff NICHOLAS HERNANDEZ received a full, fair, and impartial investigation and disciplinary process. This obligation includes ensuring that all applicable legal defenses are considered, as required for any citizen under New York law. CABAN failed to oversee the disciplinary proceedings

adequately, allowing gender biases to influence the investigation and decision-making process.

- Defendant AMY J. LITWIN, the former NYPD Department Advocate, neglected her duty to conduct a fair and unbiased review when initiating charges against Plaintiff NICHOLAS HERNANDEZ. LITWIN'S failure to apply statutory defenses, such as self-defense, demonstrates a lack of adherence to the requirements outlined in New York City Administrative Code § 14-115. Defendant EDWARD A. CABAN failed to ensure that LITWIN adhered to these legal standards, permitting a biased and one-sided approach in the investigation and charging decisions.

### **Systemic Gender Stereotyping Leading to Termination**

- The disciplinary tribunal, under the leadership of Deputy Commissioner Trials Rosemarie Maldonado, operated on the assumption that male officers are inherently the primary aggressors in domestic violence cases. This reliance on gender stereotypes was evident in the tribunal's refusal to seriously consider Plaintiff NICHOLAS HERNANDEZ'S claims of being a domestic violence victim, even when presented with credible supporting evidence. The tribunal's handling of the case demonstrated a preconceived bias against male victims, reinforcing harmful gender stereotypes that undermined HERNANDEZ'S defense and contributed to a predetermined outcome.
- The systemic bias against male officers was further exacerbated by the actions (and inactions) of senior NYPD officials, including Defendant EDWARD A. CABAN. Under New York City Administrative Code § 14-115, CABAN had a legal obligation to ensure that Plaintiff NICHOLAS HERNANDEZ received a full, fair, and impartial investigation and disciplinary process, free from gender bias. However, CABAN failed to intervene or correct the tribunal's reliance on gender-based stereotypes. CABAN implicitly endorsed the discriminatory approach by allowing the proceedings to proceed without addressing the inherent bias, neglecting their duty to uphold an unbiased process, and contributing to the unjust disciplinary measures against HERNANDEZ.
- Following Plaintiff NICHOLAS HERNANDEZ'S objections to the biased and one-sided proceedings, he was subjected to retaliatory actions, including escalated disciplinary measures and explicit threats of termination, despite his exemplary service record. The retaliatory conduct was influenced by Defendant EDWARD A. CABAN'S failure to ensure a fair and impartial process. Instead of addressing the apparent bias and correcting the flawed disciplinary approach, CABAN allowed discriminatory and retaliatory actions to proceed unchecked. This lack of oversight suggests a coordinated effort within the NYPD to discredit HERNANDEZ, motivated by gender-based stereotypes and retaliation for challenging the department's biased handling of domestic violence allegations.
- The conduct of the NYPD, influenced by the failures of Defendant EDWARD A. CABAN to meet their obligations under the New York City Administrative Code, demonstrates a systemic bias against male officers who assert claims of self-defense or domestic violence victimization. This pattern of discriminatory treatment and retaliatory

actions led directly to Plaintiff NICHOLAS HERNANDEZ'S forced retirement, highlighting the pervasive gender stereotyping and lack of procedural fairness that violated his legal rights.

**JURISDICTION AND VENUE**

1. The jurisdiction of this Court is invoked under 18 U.S.C. § 1965, 28 U.S.C. §§ 1331, 1343, and 2202 to secure protection of and to redress deprivation of rights secured by:

- a. the Civil Rights Act of 1871, 42 U.S.C. § 1983;
- b. New York State Executive Law § 296; and
- c. New York City Administrative Code § 8-107

2. The unlawful actions against Plaintiff NICHOLAS HERNANDEZ were committed within the Southern District of New York.

**PROCEDURAL REQUIREMENTS**

3. Plaintiff NICHOLAS HERNANDEZ has filed suit with this Court within the applicable statute of limitations period.

4. Plaintiff NICHOLAS HERNANDEZ is not required to exhaust any administrative procedures before suit under the Civil Rights Act of 1871.

**PLAINTIFF NICHOLAS HERNANDEZ**

5. Plaintiff NICHOLAS HERNANDEZ is a male citizen, over twenty-one (21), and a former Defendant THE CITY OF NEW YORK employee.

**DEFENDANTS'**

6. Defendant THE CITY OF NEW YORK is a municipal corporation and, at all relevant times, was Plaintiff NICHOLAS HERNANDEZ'S employer, with its central offices in the county of New York.

7. Defendant JESSICA S. TISCH, as Police Commissioner, Police Department City of

New York

8. Defendant EDWARD A. CABAN, as former Police Commissioner, Police Department City of New York.

9. Defendant AMY J. LITWIN, as former Deputy Commissioner Department Advocates Office, Police Department City of New York.

## **BACKGROUND**

### **THE DOMESTIC INCIDENT INVESTIGATION**

#### **CHARGES AND SPECIFICATIONS**

- Police Officer Nicholas Hernandez, while off-duty and assigned to the 94 Precinct, on or about October 27, 2022, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer engaged in a physical altercation with an individual known to the Department, causing injury.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

- Police Officer Nicholas Hernandez, while off-duty and assigned to the 94 Precinct, on or about October 27, 2022, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer damaged the glasses of an individual known to the Department while engaging in a physical altercation.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

- Police Officer Nicholas Hernandez, while off-duty and assigned to the 94 Precinct, on or about October 27, 2022, wrongfully failed to remain on scene of an off-duty incident involving an individual known to the Department.

P.G. 212-32, Page 1, Paragraph 1

OFF-DUTY INCIDENTS  
INVOLVING UNIFORM  
MEMBERS OF SERVICE

#### **REPORT AND RECOMMENDATION**

10. Plaintiff NICHOLAS HERNANDEZ alleges that he appeared before NYPD Assistant Deputy Trial Commissioner Jeff S. Adler on June 29, 2023.

11. Plaintiff NICHOLAS HERNANDEZ alleges that he entered a plea of Not Guilty to the subject charges through his counsel.

12. Plaintiff NICHOLAS HERNANDEZ alleges that the Department called NYPD Sergeant Victor Torres, Patrol Borough Brooklyn North Investigations Unit, and Nassau County Police Officer Louis Ignarro as witnesses and introduced into evidence Body-Worn Camera footage from responding police officers a recording of a 911 call, a Domestic Incident Report, photographs of the complainant's injuries, and a recorded interview of the complainant.

13. Plaintiff NICHOLAS HERNANDEZ alleges that he testified on his behalf.

14. Plaintiff NICHOLAS HERNANDEZ alleges that on August 4, 2023, NYPD Assistant Deputy Trial Commissioner Jeff S. Adler recommended for Defendant EDWARD A. CABAN to adopt his findings that HERNANDEZ be found Guilty, he forfeits 30 days previously served on suspension without pay, 20 additional vacation days, counseling, and that he be placed on one-year dismissal probation.

### **The Department Trial**

15. Plaintiff NICHOLAS HERNANDEZ alleges that he was employed as a police officer with the Police Department City of New York (NYPD) and maintained an exemplary record until his forced retirement and selective enforcement of discipline.

16. In the early morning hours of October 27, 2022, Plaintiff NICHOLAS HERNANDEZ was involved in an altercation with his girlfriend (“the complainant”), inside the Nassau County apartment that they shared at the time.

17. Plaintiff NICHOLAS HERNANDEZ alleges that they had met about a year-and-a-half earlier when the complainant and he were both police officers assigned to the 94 Precinct.

18. Plaintiff NICHOLAS HERNANDEZ alleges that the complainant subsequently left the NYPD and joined the Suffolk County Police Department, with whom she was employed at the time of this incident.

19. Plaintiff NICHOLAS HERNANDEZ alleges that the parties offer conflicting versions of what occurred on October 27, 2022.

20. Plaintiff NICHOLAS HERNANDEZ alleges that the complainant did not appear to testify at this trial despite numerous phone messages and a subpoena requesting her to do so.

21. Plaintiff NICHOLAS HERNANDEZ alleges that instead, the Department Advocate offered into evidence several prior statements made by the complainant, including some that were hearsay.

22. Plaintiff NICHOLAS HERNANDEZ alleges that NYPD Assistant Deputy Trial Commissioner Jeff S. Adler cautioned that it is well-settled that hearsay evidence is admissible in administrative proceedings and may form the sole basis for a finding of fact.

23. Plaintiff NICHOLAS HERNANDEZ alleges that NYPD Assistant Deputy Trial Commissioner Jeff S. Adler cautioned the hearsay; however, it must be carefully evaluated to determine whether it is sufficiently reliable.

24. Plaintiff NICHOLAS HERNANDEZ alleges that NYPD Assistant Deputy Trial Commissioner Jeff S. Adler cautioned it is preferable to have testimony from a witness, where opposing counsel can cross-examine, and the tribunal can observe witness demeanor.

25. Plaintiff NICHOLAS HERNANDEZ alleges that NYPD Assistant Deputy Trial Commissioner Jeff S. Adler cautioned in the absence of live testimony from the complainant here

that this tribunal carefully considered her multiple prior statements in conjunction with the other evidence presented.

26. Plaintiff NICHOLAS HERNANDEZ alleges that the Department Advocate offered into evidence a recording of the complainant's 911 call, along with the accompanying transcript.

27. Plaintiff NICHOLAS HERNANDEZ alleges that in that call, the complainant stated that she needed help because her boyfriend was hitting her.

28. Plaintiff NICHOLAS HERNANDEZ alleges that she is crying and is sometimes difficult to understand.

29. Plaintiff NICHOLAS HERNANDEZ alleges that she also says that her boyfriend is hitting himself.

#### **Summary of Police Officer Louis Ignarro's Testimony**

30. Plaintiff NICHOLAS HERNANDEZ alleges that Police Officer Louis Ignarro of the Nassau County Police Department responded to a 911 call regarding a domestic incident. He arrived at the scene within 10 minutes but waited about 30 minutes before the complainant allowed officers inside. When she finally opened the door, she appeared scared and upset and had visible injuries:

- Bleeding and swollen lip
- Small cuts on her face
- Redness and bruising on her neck

31. Plaintiff NICHOLAS HERNANDEZ alleges that although she did not request medical attention, EMS was called to examine her. Photographs of her injuries were taken at the scene.

32. Plaintiff NICHOLAS HERNANDEZ alleges that initially, the complainant was



reluctant to provide her name or details of the incident. However, after Officer Ignarro built rapport, she identified herself as an officer with the Suffolk County Police Department and recounted what happened. According to her:

- She and Hernandez argued over alleged infidelity.
- She went to bed, but Hernandez got on top of her and punched her in the face and neck.
- She could not recall if he strangled her, but had difficulty breathing and swallowing afterward.
- When she later saw marks on her neck in a mirror, she suspected she had been strangled.
- Her eyeglasses were damaged during the altercation.

33. Plaintiff NICHOLAS HERNANDEZ alleges that Officer Ignarro confirmed damage to the glasses but did not vouch for them, and no photographs of the glasses were provided as evidence.

34. Plaintiff NICHOLAS HERNANDEZ alleges that Officer Ignarro completed a Domestic Incident Report (DIR) with the complainant, reading through each section with her before she signed it, attesting to its accuracy. The report stated that:

- Hernandez punched her multiple times in the face and neck, causing pain and swelling.
- She had trouble breathing and swallowing but could not confirm being strangled.
- Her eyeglasses were damaged during the assault.
- Hernandez fled the scene before officers arrived.

35. Plaintiff NICHOLAS HERNANDEZ alleges that the testimony was supported by Body-Worn Camera (BWC) footage from multiple officers, which documented the complainant's demeanor, injuries, and statements.

### **Summary of Sergeant Victor Torres' Testimony**

36. Plaintiff NICHOLAS HERNANDEZ alleges Sergeant Victor Torres of Brooklyn North Investigations was assigned to the case.

37. Plaintiff NICHOLAS HERNANDEZ alleges that Sergeant Torres testified that

Queens North Investigations officers interviewed the complainant by phone on the same day of the incident. A recording and transcript of this interview were entered into evidence.

38. Plaintiff NICHOLAS HERNANDEZ alleges that during the interview, the complainant reiterated that:

- Hernandez suspected her of cheating, which led to an argument.
- While she was lying on the bed, Hernandez got on top of her and began hitting her with his fist, causing bruising and swelling to her face and neck.
- After Hernandez got off of her, she could call 911.
- Hernandez saw her making the call and immediately left the scene.

39. Plaintiff NICHOLAS HERNANDEZ alleges that Sergeant Torres did not conduct a follow-up interview with the complainant, stating that he believed he already had enough information and that re-interviewing her might cause further trauma.

40. Plaintiff NICHOLAS HERNANDEZ alleges that he failed to report the incident to the NYPD until approximately 6:02 AM, about three hours after it occurred.

41. Plaintiff NICHOLAS HERNANDEZ alleges that he was arrested in connection with the incident, but the criminal charges were later adjourned in contemplation of dismissal.

#### **Legal Defenses Designed to Prevent False Arrests and Other Constitutional Violations**

42. Plaintiff NICHOLAS HERNANDEZ alleges that under New York State Criminal Procedure § 140.10 (4)(c), ... when an officer has reasonable cause to believe that more than one family or household member has committed such a misdemeanor, the officer is not required to arrest each such person. In such circumstances, the officer shall attempt to identify and arrest the primary physical aggressor... The officer shall evaluate each complaint separately to determine who the primary physical aggressor is and shall not base the decision to arrest or not to arrest on the willingness of a person to testify or otherwise participate in a judicial proceeding.

43. Plaintiff NICHOLAS HERNANDEZ alleges that under New York State Penal Law § 35.10 (6), the use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances: ... A person may, under the ensuing provisions of this article, use physical force upon another person in self-defense or defense of a third person, or defense of premises, or to prevent theft of or criminal mischief to property, or to effect an arrest or prevent an escape from custody.

44. Plaintiff NICHOLAS HERNANDEZ alleges that under New York State Penal Law § 35.15 (1), a person may, subject to the provisions of subdivision two, use physical force upon another person when and to the extent he or she reasonably believes such to be necessary to defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by such other person...

45. Plaintiff NICHOLAS HERNANDEZ alleges that under New York State Penal Law § 35.20 (2), a person in possession or control of any premises, or a person licensed or privileged to be thereon or therein, may use physical force upon another person when he or she reasonably believes such to be necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted commission by such other person of a criminal trespass upon such premises. Such person may use any degree of physical force, other than deadly physical force, which he or she reasonably believes to be necessary for such purpose, and may use deadly physical force to prevent or terminate the commission or attempted commission of arson, as prescribed in subdivision one, or in the course of a burglary or attempted burglary, as prescribed in subdivision three.

**New York City Administrative Code § 8-107.1  
Victims of domestic violence, sex offenses or stalking**

46. Under §8-107.1, ... because [victims of domestic violence] are embarrassed or because they fear losing their jobs, [they] are often reticent about informing their employers about incidents of domestic violence or about requesting simple accommodations that might assist them in fulfilling their job duties. A growing body of anecdotal evidence suggests that the fear of negative employment actions such as demotion, suspension, loss of pay and/or benefits or termination against employees who have revealed that they are victims of domestic violence is not unwarranted. For example, victims of domestic violence have been terminated or demoted after requesting simple protective measures such as time off or flexible hours to confer with an attorney or a domestic violence counselor, obtain an order of protection or obtain medical or other services for themselves or family members...

47. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant THE CITY OF NEW YORK, through Defendant EDWARD A. CABAN, using 'arbitrary standards' failed to ensure its designees Defendant AMY J. LITWIN and NYPD Assistant Deputy Trial Commissioner Jeff S. Adler applied the legal defenses designed to prevent false arrests and other constitutional violations due to his gender [he couldn't be a victim of domestic violence] and 'lack' of political affiliation with the administration.

**NYPD 'ARBITRARY STANDARDS' AND ABUSE OF ITS' STATUTORY AUTHORITY**

48. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant EDWARD A. CABAN, is the former Police Commissioner, Police Department City of New York, and while appointed, an authorized agent acting on behalf of Defendant THE CITY OF NEW YORK.

49. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant THE CITY OF NEW YORK designates the Police Department City of New York [NYPD] as a mayoral agency to

engage in law enforcement activities with the general public and to manage its employees, including handling disciplinary matters.

50. Defendant THE CITY OF NEW YORK, is a municipal corporation and public employer duly incorporated under the laws of the State of New York, with its principal place of business located within the County of New York.

51. Plaintiff NICHOLAS HERNANDEZ alleges that under § 14-115[a] of the New York City Administrative Code, the Commissioner “shall have power, in his or her discretion, on conviction by the commissioner, or by any court or officer of competent jurisdiction, of a member of the force of any criminal offense, or neglect of duty, violation of rules, or neglect or disobedience of orders, or absence without leave, or any conduct injurious to the public peace or welfare, or immoral conduct or conduct unbecoming an officer, or any breach of discipline, to punish the offending party by reprimand, forfeiting and withholding pay for a specified time, suspension without pay during such suspension, or by dismissal from the force.” Moreover, while the Commissioner has delegated to other bodies the responsibility of reviewing, investigating, and prosecuting complaints and making disciplinary recommendations to h[er], [s]he has retained complete power and discretion to modify disciplinary decisions.

52. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant THE CITY OF NEW YORK, through Defendant EDWARD A. CABAN, operated the Patrol Borough Brooklyn North Investigations Unit [PBBN IU], which is allegedly dedicated to preserving the integrity of the NYPD.

53. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant THE CITY OF NEW YORK, through Defendants’ EDWARD A. CABAN and AMY J. LITWIN, operated the

Department Advocates Office [DAO], which allegedly prosecutes civilian and uniformed members of the service accused of violating department policies.

54. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant THE CITY OF NEW YORK, through Defendant EDWARD A. CABAN, operated the Office of the Deputy Commissioner of Trials [DCT], which allegedly ensures that department members are held to the highest standard of conduct and conduct fair and impartial disciplinary trials.

55. Plaintiff NICHOLAS HERNANDEZ alleges that on or about June 21, 2018, former Police Commissioner James P. O'Neill appointed an "Independent Panel" to conduct a "review" of the internal disciplinary system of the NYPD or "Department" and to propose recommendations to improve it.

56. Plaintiff NICHOLAS HERNANDEZ alleges that according to the report summary, the "Panel" consisted of the Honorable Mary Jo White, its chair, the Honorable Robert L. Capers, and the Honorable Barbara S. Jones.

57. Plaintiff NICHOLAS HERNANDEZ alleges that according to the report summary, to carry out its mandate, the "Panel" allegedly surveyed "Department" policies and procedures governing how internal disciplinary cases are initiated, prosecuted, and resolved.

58. Plaintiff NICHOLAS HERNANDEZ alleges that on or about January 25, 2019, in the final report, the "Panel" included a section relating to allegations of systemic favoritism, bias, or significant inconsistencies.

59. Plaintiff NICHOLAS HERNANDEZ alleges that according to the "Panel," "in any adjudicatory system, allegations of systemic favoritism, bias, or significant inconsistencies strike at the core of its legitimacy."

60. Plaintiff NICHOLAS HERNANDEZ alleges that under at least the past four [4] administrations, police commissioners [Defendant EDWARD A. CABAN, Keechant L. Sewell, Dermot F. Shea and James P. O'Neill], abused their statutory authority by using 'arbitrary standards' to determine how disciplinary cases are initiated, prosecuted, and resolved including using gender and political affiliations as impermissible factors.

61. Plaintiff NICHOLAS HERNANDEZ alleges that Agency Attorney Samuel Yee alleged in Samuel Yee v. The City of New York, et al., filed on February 14, 2023, in the Supreme Court, New York County Index No.: 151387/2023, during Defendant AMY J. LITWIN'S tenure [Defendant EDWARD A. CABAN, Keechant L. Sewell, Dermot F. Shea and James P. O'Neill], she engaged in discriminatory practices including intentionally removing lawyers of color off cases involving allegations of discrimination, domestic violence, and sex offenses.

62. Plaintiff NICHOLAS HERNANDEZ alleges that upon information and belief, during Defendant AMY J. LITWIN'S tenure [under Defendant EDWARD A. CABAN, Keechant L. Sewell, Dermot F. Shea and James P. O'Neill], the overwhelming majority of cases involving domestic violence were sustained against male police officers than similarly situated female police officers resulting in a disproportionate disparity in outcomes with male police officers receiving more substantial penalties including termination and the female police officers receiving fewer substantial penalties.

63. Plaintiff NICHOLAS HERNANDEZ alleges that upon information and belief, during Defendant AMY J. LITWIN'S tenure [under Defendant EDWARD A. CABAN, Keechant L. Sewell, Dermot F. Shea and James P. O'Neill], male police officers were less likely

to have cases involving domestic violence dismissed than similarly situated female police officers.

64. Plaintiff NICHOLAS HERNANDEZ alleges that during Deputy Commissioner Trials – Rosemarie Maldonado’s tenure [under Defendant EDWARD A. CABAN, Keechant L. Sewell, Dermot F. Shea and James P. O’Neill], she and her assistant deputy commissioners upon information and belief, the overwhelming majority of cases involving domestic violence are sustained against male police officers than similarly situated female police officers resulting in a disproportionate disparity in outcomes with male police officers receiving more substantial penalties including termination and the female police officers receiving fewer substantial penalties.

65. Plaintiff NICHOLAS HERNANDEZ alleges that during Deputy Commissioner Trials – Rosemarie Maldonado’s tenure [under Defendant EDWARD A. CABAN, Keechant L. Sewell, Dermot F. Shea and James P. O’Neill], she and her assistant deputy commissioners, upon information and belief, male police officers are less likely to have cases involving domestic violence dismissed than similarly situated female police officers.

66. Plaintiff NICHOLAS HERNANDEZ alleges that he raised several defenses related to the Criminal Procedure Law, Penal Law, and New York City Administrative Code during the department trial. Yet, Assistant Deputy Commissioner - Trials Jeff S. Adler declined to apply them.

67. Plaintiff NICHOLAS HERNANDEZ alleges that this is due to the blatant ‘arbitrary standards,’ gender, and political affiliation bias that’s openly practiced within the NYPD Disciplinary System.

**The NYPD Disciplinary Process Uses ‘Arbitrary Standards’ Supported With the Hypocritical ‘Conduct’ of the Police Commissioners’**



68. Plaintiff NICHOLAS HERNANDEZ alleges that for at least the past four [4] administrations under police commissioners [Defendant EDWARD A. CABAN and Keechant L. Sewell and Dermot F. Shea and James P. O'Neill], they knowingly violated NYPD Patrol Guide Procedure No.: 203-10, Page 1, Paragraph 2(c) PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS: “wrongfully and knowingly associated with a person, reasonably believed to be engaged in, likely to engage in or to have engaged in criminal activities.”

69. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant EDWARD A. CABAN and its executive management knowingly associate[d] and in some instances still associate with Jimmy Rodriguez, aka Jamie Rodriguez, the former operator of Jimmy’s Bronx Café associated with Con Sofrito, formerly located at 1315 Commerce Avenue Bronx, N.Y. 10461. The establishment was owned by the 1315 Restaurant Group Corp. DOS ID: 5690783, registered as a Domestic Business Corporation on January 16, 2020. The registered agent is Mr. Richard Caban, retired lieutenant and brother of Defendant EDWARD A. CABAN.

70. Plaintiff NICHOLAS HERNANDEZ alleges that Jimmy Rodriguez, aka Jamie Rodriguez, has a criminal history [acknowledged during interviews with several publications, including The New Yorker on November 9, 1997] with recurring allegations related to the sale of narcotics, prostitution, and other criminal conduct within the former Jimmy’s Bronx Café and now Con Sofrito.<sup>1</sup>

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<sup>1</sup> Moreover, there’s some suggestion from a mob associate John Pennisi, Sitdownnews that he and Anthony Guzzo were considering a money and narcotic deal with Jimmy Rodriguez, former owner of Don Coqui, Jimmy’s Bronx Café and Jimmy’s Uptown who wanted to become a member of the Lucchese Crime family. They believe it was a setup in retaliation for an incident with a Genovese Crime family associate. <https://youtu.be/m9Yp342sPEo?si=DYwa8b5a6OMZJZMh>

71. Plaintiff NICHOLAS HERNANDEZ alleges that, as coined in the publication City and State, Con Sofrito was listed as one of the Top 50 Political Hangouts in New York. [There's a plethora of social media data to support numerous powerful democratic public officials patronizing the establishment].

72. Plaintiff NICHOLAS HERNANDEZ alleges that over the past four [4] years, supported by social media posts and other related data, literally hundreds of NYPD personnel patronized Con Sofrito but were not disciplined for violating NYPD Patrol Guide Procedure No.: 203-10, Page 1, Paragraph 2(c) PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS: “wrongfully and knowingly associated with a person, reasonably believed to be engaged in, likely to engage in or to have engaged in criminal activities.”

73. Plaintiff NICHOLAS HERNANDEZ alleges that this is possible because the NYPD Disciplinary System uses ‘Arbitrary Standards’ and ‘lacks transparency’ over the past four [4] administrations under Defendant EDWARD A. CABAN, Keechant L. Sewell, Dermot F. Shea and James P. O’Neill and their hypocritical ‘conduct’ including its executive management, supports the proposition of systemic favoritism, bias, and significant inconsistencies how disciplinary cases are initiated, prosecuted, and resolved.



**Jimmy's ConSofrito**

Oct 8, 2022 · 🌐

[Mobile uploads](#)

Police Commissioners Keechant L. Sewell, Edward A. Caban and former Chief of Department Kenneth E. Corey



**Jimmy's ConSofrito**

Oct 8, 2022 · 

Police Commissioners Keechant L. Sewell and Edward A. Caban





**Jimmy's ConSofrito**  
Oct 8, 2022 · 🌐

Jimmy Rodriguez with former Chief of Department Kenneth E. Corey



Mayor Eric L. Adams, Speaker of the New York State Assembly  
Carl E. Heastie with Jimmy Rodriguez



Police Commissioner Edward A. Caban with brothers Richard Caban [owner of 1315 Restaurant Group Corp.] and former NYPD Sergeant James Caban [termination in January 2001]





Jimmy Rodriguez with Patrick J. Lynch, former president of the Police Benevolent Association of the City of New York





Richard Caban [owner of 1315 Restaurant Group Corp.], former Police Commissioner Dermot F. Shea with Jimmy Rodriguez



Jimmy Rodriguez with former Police Commissioner Dermot F. Shea





Police Commissioner Edward A. Caban with Patrick J. Lynch, former president of the Police Benevolent Association of the City of New York



Jimmy Rodriguez with Chief of Housing Martine N. Materasso and Patrick J. Lynch, former president of the Police Benevolent Association of the City of New York



Deputy Commissioner Community Affairs Mark T. Stewart,  
Inspector Victoria C. Perry with unidentified person





Former Chief of Training Juanita N. Holmes and Police Commissioner Edward A. Caban





Jimmy Rodriguez with Deputy Commissioner Equity and Inclusion  
Wendy Garcia [dark clothing with pink shoes]





Jimmy Rodriguez attending the swearing in ceremony of Police Commissioner Edward A. Caban



74. Plaintiff NICHOLAS HERNANDEZ alleges that upon information and belief, none of those mentioned above NYPD personnel or the hundreds of other NYPD personnel patronizing Con Sofrito were terminated for violating NYPD Patrol Guide Procedure No.: 203-10, Page 1, Paragraph 2(c) PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS: “wrongfully and knowingly associated with a person, reasonably believed to be engaged in, likely to engage in or to have engaged in criminal activities.”

**Other ‘Arbitrary Standards’ Departure from the NYPD Disciplinary Matrix**

75. Plaintiff NICHOLAS HERNANDEZ alleges that as reported in the [New York Daily News](#) on October 22, 2023, an NYPD officer accused of having sex with a witness in a carjacking case he investigated was facing termination — until Defendant EDWARD A. CABAN swooped in and saved his career.

76. Police Officer Willie [L.] Thompson was accused of “prohibitive conduct” and making false statements after it came to light that he was sleeping with a woman who saw two men carjack a motorist in Washington Heights on May 23, 2021, according to a recently released NYPD disciplinary report.

77. After a disciplinary hearing in NYPD headquarters, Assistant Deputy Commissioner – Trials Jeff [S.] Adler recommended Thompson’s termination.

78. Plaintiff NICHOLAS HERNANDEZ alleges that according to the Trial Decision, in the Matter of the Charges and Specifications against Police Officer Willie Thompson Case No.: 2021-24396, Commissioner Adler Notes: “He had multiple sexual encounters with a witness in a carjacking case while the prosecution of that matter was still pending, making her feel unsafe. [Thompson’s] attempt to minimize the severity of his misconduct by describing the

complainant as a “peripheral witness” was unpersuasive; the complainant observed the beginning of the altercation, ran to call 911, and subsequently identified the two alleged perpetrators.

79. One week after the sexual encounters came to light, [Thompson] compounded his misconduct by blaming the complainant and telling her that the police would come to her home to question her. Not surprisingly, this conversation intimidated the complainant, who became concerned that she was being investigated for committing a crime. ADA [Yuval] Simichi-Levi described the complainant as “very upset” when she promptly called the ADA to report her encounter with [Thompson] at the bodega...

80. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant EDWARD A. CABAN declined to follow the penalty recommendation of termination, instead imposed an ‘unreviewable’ penalty: thirty [30]-day loss of vacation days and one [1] year dismissal probation.

81. Plaintiff NICHOLAS HERNANDEZ alleges that upon information and belief, Defendant EDWARD A. CABAN imposed the ‘unreviewable’ penalty using Police Officer Willie Thompson’s ‘political affiliation’ as an ‘arbitrary standard’ as an impermissible factor to investigate, prosecute, and resolve the disciplinary matter.

82. Plaintiff NICHOLAS HERNANDEZ alleges that as reported in [The City](#) on July 1, 2024, an NYPD officer Kimberly Lucas pled guilty to possessing and submitting fraudulent COVID vaccine cards to the Department and providing a false statement regarding her vaccine status during an official department investigation and faced termination — until Defendant EDWARD A. CABAN swooped in and saved her career.

83. After a Mitigation Hearing in NYPD headquarters, Assistant Deputy Commissioner – Trials Anne E. Stone recommended Lucas’s termination.

84. Plaintiff NICHOLAS HERNANDEZ alleges that on May 10, 2024, Defendant EDWARD A. CABAN declined to follow the penalty recommendation of termination, instead imposed an ‘unreviewable’ penalty: eighty-five [85]-day loss of vacation days and one [1] year dismissal probation.

85. Plaintiff NICHOLAS HERNANDEZ alleges that upon information and belief, Defendant EDWARD A. CABAN imposed the ‘unreviewable’ penalty using Police Officer Kimberly Lucas’s ‘political affiliation’ as an ‘arbitrary standard’ as an impermissible factor to investigate, prosecute, and resolve the disciplinary matter.

86. Plaintiff NICHOLAS HERNANDEZ alleges that on May 10, 2024, Defendant EDWARD A. CABAN wrote a Memorandum in Support of NYPD’s Deviation From the Disciplinary System Penalty Guidelines.

87. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant EDWARD A. CABAN claims to have reviewed “The facts and circumstances presented in the Report and Recommendation from Assistant Deputy Commissioner of Trials, Anne E. Stone, have been carefully considered.”

88. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant EDWARD A. CABAN claims, “In this matter, while I agree with the findings, I do not agree with the proposed penalty recommendation of separation from the Department.

89. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant EDWARD A. CABAN claims, “Police Officer Kimberly Lucas pled guilty to possessing and submitting fraudulent COVID vaccine cards to the Department, and providing a false statement regarding her vaccine status during an official department investigation, thereby impeding an investigation.

90. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant EDWARD A. CABAN claims, “I measured several factors against the proposed penalty recommendation. At the time of the incident, Police Officer Lucas had fulfilled nine years of exemplary service in the rank of police officer, with favorable performance evaluations and no formal disciplinary history.

91. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant EDWARD A. CABAN claims, “In addition, I considered Police Officer Lucas’ accomplishments, which consisted of receiving several medals for meritorious police duty and excellent police duty.

92. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant EDWARD A. CABAN claims, “While I am aware that Police Officer Lucas’ length of service and excellent career history does not excuse the above misconduct, it may be utilized to ‘mitigate the penalty.’”

93. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant EDWARD A. CABAN claims, “As part of the mitigated penalty, I will impose a period of dismissal probation, in addition to penalty days, to ensure that Police Officer Lucas is properly monitored and evaluated.

94. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant EDWARD A. CABAN claims, “In summary, under these circumstances, a significant loss of penalty days, as well as a period of monitoring, would appropriately penalize Police Officer Lucas for her misconduct while recognizing the mitigating information presented at the hearing,

95. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant EDWARD A. CABAN claims, “Therefore, Police Officer Lucas shall forfeit eight-five (85) vacation days and be placed on one (1) year dismissal probation, as a disciplinary penalty.”

96. Plaintiff NICHOLAS HERNANDEZ alleges that there are many other instances handled by Defendant EDWARD A. CABAN and Former Police Commissioner Keechant L.

Sewell including:

- Police Officer Handoly Ramos Shield No.: 2700 Tax Registry No.: 953297  
Disciplinary Case Case No.: 2018-18647, pled GUILTY to violating NYPD  
Patrol Guide Procedure No.: 203-10, Page 1, Paragraph 2(c) PUBLIC CONTACT  
– PROHIBITED CONDUCT GENERAL REGULATIONS: wrongfully and  
knowingly associated with a person, reasonably believed to be engaged in, likely  
to engage in or to have engaged in criminal activities and related charges. The  
matter was resolved on March 30, 2018, with a penalty imposed consisting of  
thirty-five [35] vacation days lost and one [1] year dismissal probation.
- Detective Kaz R. Daughtry Shield No.: 3581 Tax Registry No.: 940052  
Disciplinary Case Case No.: 2021-23939 pled guilty to misleading and inaccurate  
statements. The matter was resolved on September 7, 2021, with a penalty of  
twenty [20] vacation days lost.

97. Plaintiff NICHOLAS HERNANDEZ alleges that on May 24, 2024, after a disciplinary hearing in NYPD headquarters, Assistant Deputy Commissioner – Trials Jeff [S.] Adler recommended Police Officer Delare Rathour’s termination.

98. Plaintiff NICHOLAS HERNANDEZ alleges that Assistant Deputy Commissioner – Trials Jeff [S.] Adler conducted a detailed review of Police Officer Delare Rathour’s conduct in the disciplinary cases 2020-22533 and 2023-27756.

99. Plaintiff NICHOLAS HERNANDEZ alleges that ADC Adler's findings highlight Rathour's severe misconduct involving multiple incidents of domestic violence and reckless endangerment, leading him to recommend the termination of employment with the NYPD.

100. Plaintiff NICHOLAS HERNANDEZ alleges that ADC Adler found Rathour guilty of engaging in two separate incidents of domestic violence.

101. Plaintiff NICHOLAS HERNANDEZ alleges that in the first incident, Rathour argued with his wife after she exited the shower and shoved her into a closet after a heated argument, causing her to fall and sustain significant injuries to her back and spine.

102. Plaintiff NICHOLAS HERNANDEZ alleges that despite her obvious pain, Rathour refused to take her to the hospital, leaving her to seek medical assistance from her in-laws.

103. Plaintiff NICHOLAS HERNANDEZ alleges that in the second incident, Rathour exhibited reckless behavior by driving erratically with his wife in the vehicle despite an active order of protection requiring him to refrain from any actions that could endanger her.

104. Plaintiff NICHOLAS HERNANDEZ alleges that during the incident, Rathour ran multiple red lights, drove against traffic, and continued driving despite the wife screaming and attempting to exit the moving vehicle.

105. Plaintiff NICHOLAS HERNANDEZ alleges that video evidence captured the incident, showing the wife's leg hanging out of the passenger door while she screamed for help. Despite her visible distress and the clear danger, Rathour continued driving recklessly for several blocks.

106. Plaintiff NICHOLAS HERNANDEZ alleges that ADC Adler emphasized the egregious nature of this behavior, noting that the order of protection did not deter Rathour's conduct and demonstrated a blatant disregard for his wife's safety and public safety.

107. Plaintiff NICHOLAS HERNANDEZ alleges that ADC Adler recommended termination based on the totality of the misconduct and the pattern of abusive behavior.

108. Plaintiff NICHOLAS HERNANDEZ alleges that despite this strong recommendation, it is notable that Defendant EDWARD A. CABAN ultimately deviated from Adler's findings, opting for a series of lesser penalties instead of termination.

109. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant EDWARD A. CABAN deviated from the recommendations of ADC Adler due to his political affiliation with Rathour's father. This deviation and others like it raise questions about the consistency and integrity of the NYPD's disciplinary process.

#### **The Probation Period – Post-Trial**

110. Plaintiff NICHOLAS HERNANDEZ alleges that on November 15, 2023, Defendant EDWARD A. CABAN adopted NYPD Assistant Deputy Commissioner Jeff S. Adler's findings, finding Plaintiff guilty and imposing a penalty of 30 days previously served on suspension without pay, forfeiture of 20 additional vacation days, mandatory counseling, and placement on one-year dismissal probation.

111. Plaintiff NICHOLAS HERNANDEZ alleges that on January 25, 2024, a video was posted on TikTok depicting his vehicle with a license plate covering.

112. Plaintiff NICHOLAS HERNANDEZ alleges that on January 29, 2024, Captain Joseph Mauccli, the commanding officer of Internal Affairs Bureau Group No. 31, issued an interoffice memorandum (UF49) to the Commanding Officer, 94th Precinct, regarding the

TikTok video.

113. Plaintiff NICHOLAS HERNANDEZ alleges that the UF49 notified the Commanding Officer, 94th Precinct, that his vehicle appeared in the TikTok video displaying front and rear license plates containing what appeared to be Velcro strips in violation of VTL § 402.1(b). No disciplinary action was taken at that time.

114. Plaintiff NICHOLAS HERNANDEZ alleges that on April 17, 2025, despite being assured that no further action would be taken, he was summoned for a department interview regarding the alleged license plate violation from January 25, 2024.

115. Plaintiff NICHOLAS HERNANDEZ alleges that he is unaware of who initiated the reopening of the disciplinary matter regarding his vehicle license plate; however, as the final decision-maker, Defendant JESSICA S. TISCH had the authority to halt the proceedings but instead allowed the disciplinary investigation to move forward, despite prior assurances that no further action would be taken.

116. Plaintiff NICHOLAS HERNANDEZ alleges that shortly thereafter, members of the Internal Affairs Bureau modified his duty status to “no enforcement, no firearm” without due process, justification, or prior notice.

117. Plaintiff NICHOLAS HERNANDEZ alleges that on February 20, 2025, under direct threat of termination from Defendant JESSICA S. TISCH, he was coerced into applying for a Vested Interest Retirement Pension and immediately separated from service.

118. Plaintiff NICHOLAS HERNANDEZ alleges that the reopening of the disciplinary matter regarding the TikTok video was motivated by political affiliation discrimination, selective enforcement, and gender-based bias. The plaintiff was disproportionately targeted as a male officer accused of domestic violence, while similarly situated female officers were given more



lenient treatment or had their cases dismissed altogether.

119. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant JESSICA S. TISCH'S actions violated his rights under the Equal Protection Clause of the Fourteenth Amendment, 42 U.S.C. § 1983, and gender discrimination protections under New York State Executive Law § 296 (NYSHRL) and New York City Administrative Code § 8-107 (NYCHRL). Defendant TISCH'S actions further violated protections for victims of domestic violence under NYC Administrative Code § 8-107.7, as he was subjected to heightened scrutiny and unjust retaliation based on gender stereotypes, assuming male officers cannot be domestic violence victims.

120. Plaintiff NICHOLAS HERNANDEZ alleges that Defendant JESSICA S. TISCH acted with deliberate indifference to his due process and equal protection rights, as she selectively targeted him based on political affiliation and gender while failing to impose similar disciplinary measures on female officers accused of domestic violence. Her actions demonstrate a pattern of arbitrary and discriminatory decision-making within the NYPD's disciplinary process.

## **VIOLATIONS AND CLAIMS ALLEGED**

### **FIRST CLAIM FOR RELIEF**

#### **Political Affiliation Discrimination Under 42 U.S.C. § 1983 (First Amendment Violation)**

121. Plaintiff NICHOLAS HERNANDEZ alleges that he was subjected to adverse employment actions, including escalated disciplinary measures and termination, due to his lack of political affiliations or connections with influential figures within the NYPD and local political networks.

122. Defendants JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN, acting under the color of state law, utilized political favoritism as an impermissible factor in the investigation, prosecution, and resolution of disciplinary actions against Plaintiff.

123. Defendants JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN'S actions were motivated by Plaintiff's lack of connections or loyalty to influential figures within the NYPD, constituting political affiliation discrimination and a violation of Plaintiff's First Amendment rights.

124. As a direct result of Defendants JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN'S conduct, Plaintiff suffered damages, including lost wages, lost pension rights, emotional distress, and damage to his personal and professional reputation.

## **SECOND CLAIM FOR RELIEF**

### **Equal Protection Violation Under 42 U.S.C. § 1983**

125. Plaintiff NICHOLAS HERNANDEZ alleges that Defendants JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN engaged in selective enforcement of disciplinary measures based on political favoritism, treating officers with political affiliations or connections to influential figures within the NYPD more favorably than Plaintiff.

126. Defendants JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN acted with deliberate indifference, applying disparate disciplinary standards influenced by political favoritism rather than objective evidence and legal principles.

127. This differential treatment was not based on a legitimate governmental interest but on arbitrary distinctions related to political favoritism, violating the Equal Protection Clause of the Fourteenth Amendment.

128. As a direct result of Defendants JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN'S conduct, Plaintiff suffered damages, including lost wages, lost pension rights, emotional distress, and damage to his personal and professional reputation.

### **THIRD CLAIM FOR RELIEF**

#### **Gender Discrimination Under New York State Executive Law § 296 (NYSHRL)**

129. Plaintiff NICHOLAS HERNANDEZ alleges that Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN discriminated against him based on his gender, subjecting him to harsher disciplinary actions compared to similarly situated female officers.

130. The NYPD's disciplinary process, influenced by Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN, relied on gender-based stereotypes, presuming that male officers are the primary aggressors in domestic violence incidents.

131. Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN dismissed Plaintiff's self-defense claims. They disregarded credible evidence favoring gender-biased assumptions, leading to an unjust disciplinary outcome.

132. Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN'S conduct constitutes unlawful gender discrimination under the New York State Human Rights Law (NYSHRL), resulting in damages to Plaintiff, including lost wages, lost pension rights, emotional distress, and damage to his personal and professional reputation.

### **FOURTH CLAIM FOR RELIEF**

#### **Retaliation Under New York State Executive Law § 296 (NYSHRL)**

133. Plaintiff NICHOLAS HERNANDEZ engaged in protected activity by asserting his defenses under the Criminal Procedure Law, Penal Law, and New York City Administrative Code and challenging the biased disciplinary proceedings, including claims of self-defense and gender discrimination.

134. In response, Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN escalated disciplinary measures, disregarded legal defenses, and ultimately recommended his termination, constituting retaliatory conduct.

135. The retaliatory actions taken against Plaintiff were motivated by his objections to the discriminatory process and his lack of political connections, violating the anti-retaliation provisions of the NYSHRL.

136. As a result of Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN'S retaliatory conduct, Plaintiff suffered damages, including lost wages, lost pension rights, emotional distress, and damage to his personal and professional reputation.

#### **FIFTH CLAIM FOR RELIEF**

##### **Gender Discrimination Under New York City Human Rights Law (NYCHRL) § 8-107**

137. Plaintiff NICHOLAS HERNANDEZ alleges that Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN discriminated against him based on his gender, subjecting him to disparate treatment in the disciplinary process compared to female officers who were involved in similar domestic incidents.

138. The NYCHRL provides broader protections than the NYSHRL, prohibiting gender discrimination in any form. Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN'S actions, influenced by gender-based

stereotypes, presumed male officers like Plaintiff to be the primary aggressors and dismissed credible evidence supporting his claims of victimization.

139. Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN failed to ensure a fair and unbiased process, leading to an outcome driven by gender bias.

140. Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN'S conduct violated the NYCHRL, causing Plaintiff significant harm, including lost wages, lost pension rights, emotional distress, and damage to his personal and professional reputation.

#### **SIXTH CLAIM FOR RELIEF**

##### **Victim of Domestic Violence Protections Under NYC Administrative Code § 8-107.7**

141. Plaintiff NICHOLAS HERNANDEZ alleges that he was a victim of domestic violence, as defined under NYC Administrative Code § 8-107.7, and faced discrimination and adverse actions by Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN due to his victim status.

142. The NYPD disciplinary process, led by Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN, ignored Plaintiff's status as a domestic violence victim and failed to provide reasonable accommodations or consider statutory defenses related to his victimization.

143. Instead of offering support or applying appropriate legal defenses, Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN treated Plaintiff as the primary aggressor based on gender stereotypes, violating the protections afforded to domestic violence victims under NYC law.



144. As a direct result of Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN'S conduct, Plaintiff suffered damages, including lost wages, lost pension rights, emotional distress, and damage to his personal and professional reputation.

### **SEVENTH CLAIM FOR RELIEF**

#### **Retaliation Under New York City Human Rights Law (NYCHRL) § 8-107**

145. Plaintiff NICHOLAS HERNANDEZ engaged in protected activity by reporting his status as a victim of domestic violence and challenging the discriminatory and biased disciplinary proceedings.

146. In response, Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN took retaliatory actions, including escalating charges, recommending harsh penalties, and disregarding exculpatory evidence, leading to his termination.

147. Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN'S actions constitute unlawful retaliation under the NYCHRL, which provides broad protections against retaliation for engaging in protected activities, including reporting domestic violence victimization.

148. As a direct result of Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN'S conduct, Plaintiff suffered damages, including lost wages, lost pension rights, emotional distress, and damage to his personal and professional reputation.

### **JURY TRIAL**

149. Plaintiff NICHOLAS HERNANDEZ demands a trial by jury of all issues in this

action that are so triable.

**PRAYER FOR RELIEF**

Wherefore, Plaintiff NICHOLAS HERNANDEZ demands compensatory and punitive damages from Defendants' THE CITY OF NEW YORK, JESSICA S. TISCH, EDWARD A. CABAN, and AMY J. LITWIN including other available statutory remedies, both legal and equitable, interests and costs.

Dated: March 6, 2025  
New York, N.Y.

Respectfully submitted,

By: /s/Eric Sanders  
Eric Sanders (ES0224)

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