

**Seigel Law**  
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<sup>◊</sup>Certified by The Supreme Court of  
New Jersey as a Civil Trial Attorney  
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September 28, 2018

Motion's Clerk, Superior Court of New Jersey  
Hudson County Court House  
583 Newark Avenue  
Jersey City, NJ 07306

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

Dear Sir or Madam:

Enclosed please find the following:

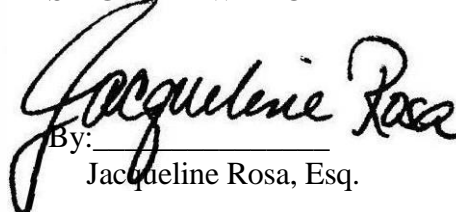
0+1 Notice of Motion with Certification

0+1 Proposed Order

Please charge our Account # 141040 \$50.00 for filing fees.

Please file and return the copy stamped "Filed" to this office in the enclosed envelope.

Very truly yours,  
SEIGEL LAW LLC

  
By: \_\_\_\_\_  
Jacqueline Rosa, Esq.

JR/pd  
Encl.

cc: Philip Espinosa, Esq.  
Brian Chewcaskie, Esq.  
Ruby Kumar-Thompson, Esq.

SEIGEL LAW LLC  
Jacqueline Rosa, Esq.  
Attorney ID: 09372010  
505 Goffle Road  
Ridgewood, New Jersey 07450  
Attorney for Plaintiff(s)  
(201) 444-4000

JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: HUDSON COUNTY

Plaintiff,

DOCKET NO. HUD-L-607-18

v.

*Civil Action*

BOROUGH OF LEONIA, et al,

**NOTICE OF MOTION FOR LEAVE  
TO FILE AMENDED COMPLAINT  
AND TO IMPOSED SANCTIONS  
AGAINST DEFENDANT AND  
AWARD ATTORNEY’S FEES  
AND/OR COSTS TO THE PLAINTIFF**

Defendants.

STATE OF NEW JERSEY DEPARTMENT  
OF TRANSPORTATION

v.

BOROUGH OF LEONIA, et al.

Defendants.

TO: Brian M. Chewcaskie, Esq.  
Gittleman, Muhlstock & Chewcaskie  
2200 Fletcher Avenue  
Fort Lee, NJ 07024  
Attorneys for

**Office of The Attorney General**

Philip Espinosa, Esq.  
RJ Hughes Justice Complex  
25 Market Street, Box 080  
Trenton, NJ 08625-0080

Cleary Giacobbe Alfieri Jacobs, LLC  
Ruby Kumar-Thompson, Esq.  
169 Ramapo Valley Road Upper Level – Suite 105  
Oakland, New Jersey 07436

**PLEASE TAKE NOTICE** that on **Friday, October 26, 2018**, in the forenoon or as soon as counsel may be heard, the undersigned, counsel for Plaintiff, shall make application to the Hudson County Superior Court, Law Division, Jersey City, New Jersey, for entry of an Order permitting Plaintiff Leave to File and Serve an Amended Complaint.

**PLEASE TAKE FURTHER NOTICE** that reliance shall be placed upon the annexed Certification of Jacqueline Rosa, Esq. in support of this application.

**PLEASE TAKE FURTHER NOTICE** that pursuant to Rule 1:6-2 the movant requests the Court consider the matter on the papers, without oral argument, unless the Court or adversary requests otherwise.

A proposed form of Order and the Amended Complaint are attached.

SEIGEL LAW LLC

BY:   
Jacqueline Rosa, Esq.  
Attorney for Plaintiff

Dated: September 28, 2018

**CERTIFICATION OF MAILING**

The within Motion For Leave To File And Serve An Amended Complaint, together with supporting certification has been filed with the Superior Court of New Jersey (Civil), Hudson County, Jersey City, New Jersey.

On September 28, 2018, I, the undersigned, mailed to the counsel listed below by Lawyers Service a copy of all pleadings.

**Discovery End Date:** May 24, 2019

SEIGEL LAW LLC

BY:   
Jacqueline Rosa, Esq.  
Attorney for Plaintiff

Dated: September 28, 2018

SEIGEL LAW LLC  
505 Goffle Road  
Ridgewood, New Jersey 07450  
Attorney for Plaintiff  
(201) 444-4000

JACQUELINE ROSA,

Plaintiff,

v.

BOROUGH OF LEONIA, et al,

Defendants.

STATE OF NEW JERSEY DEPARTMENT  
OF TRANSPORTATION

v.

BOROUGH OF LEONIA, et al.

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: HUDSON COUNTY

DOCKET NO. HUD-L-608-18

*Civil Action*

**CERTIFICATION IN SUPPORT OF  
MOTION FOR LEAVE TO FILE  
AMENDED COMPLAINT AND TO  
IMPOSED SANCTIONS AGAINST  
DEFENDANT AND AWARD  
ATTORNEY'S FEES AND/OR COSTS  
TO THE PLAINTIFF**

I, Jacqueline Rosa, Esq. of full age, hereby certify as follows:

1. I am an Attorney-at-Law in the State of New Jersey and a partner at Seigel Law LLC; I have been entrusted with the handling of this matter on behalf of Plaintiff; and I am fully familiar with the facts set forth herein.
2. By order dated August 31, 2018, this court granted the DOT's motion for summary judgment and the portion of Plaintiff's motion for summary judgment which dealt with the street closures regarding Leonia's traffic ordinance numbers 2017-19, 2018-2 and 2018-5.
3. This court ordered that Leonia was enjoined and permanently restrained from the further enforcement of the old ordinances, including but not limited to the use of signage, police officials notifying motorists about the old ordinances, and the issuance of traffic citations.

4. Since that Order was granted, the defendants have failed to abide by the Order. Instead, defendants have tactfully adopted new ordinances which are eerily similar to the old ordinances.
5. The new ordinances state, Ordinance No. 2018-14 provides that: No person shall operate a vehicle on those streets or parts of streets as described in Schedule XVIII (§ 194-49) attached to and made part of Chapter 194 during the times of the days indicated in said Schedule unless that person (a) Is a resident of said street needing access to his home or can demonstrate a documented need to access a residence on the street or parts of streets as described; or (b) Is traveling to and/or from a Leonia destination. Ordinance No. 2018-14 then restricts traffic on a long list of streets or parts of streets to residents and Leonia destinations only between the hours of 6:00 a.m. to 10:00 a.m. and 4:00 p.m. to 9:00 p.m. (DOT Exhibit D.) Ordinance No. 2018-14 also prohibits right and left turns on additional streets.
6. Ordinance No. 2018-14 also indicates that it will take effect upon publication as required by law. Regarding the other of the new ordinances, Ordinance No. 2018-15 provides that: No person shall operate a vehicle on those streets or parts of streets as described in Schedule XVIII (§ 194-49) attached to and made part of Chapter 194 during the times of the days indicated in said Schedule unless that person (a) Is a resident of said street needing access to his home or can demonstrate a documented need to access a residence on the street or parts of streets as described; or (b) Is traveling to and/or from a Leonia destination.
7. Ordinance No. 2018-16 imposes a fine of \$200.00 which is also not legally valid.
8. Leonia's "new" ordinances are nothing more than the old ordinances with a few alterations, while essentially still discriminating between residents and non-residents.
9. Pursuant to Rule 4:9-1, a party may amend any pleading after the filing of a responsive pleading by requesting leave of court, which is to be freely given in the interest of justice. While amendment remains within the court's sound discretion, it should be liberally

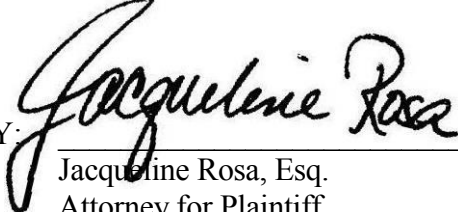
exercised unless undue prejudice would result. Kernan v. One Wash. Park Urban Renewal Assocs., 154 N.J. 437, 457 (1998) (citations omitted) . In this regard, a motion for leave to amend "should generally be granted even if the ultimate merits of the amendment are uncertain." G & W, Inc. v. Borough of E. Rutherford, 280 N.J. Super. 507, 516 (App. Div. 1995).

10. Clearly the new ordinances are legally invalid just like the old ordinances, and in the interest of justice and efficiency, Plaintiff respectfully requests leave to file the amended complaint.
11. Secondly, defendants delayed in following the Court Order until Monday, September 17, 2018 when they passed new Ordinances. By doing so, defendants avoided having to comply with the Court Order at all.
12. Defendants tactfully laid out a plan in which they knew they would not abide by the Court order.
13. Not only have defendants not complied with a Court order but they have passed a new Ordinance that is directly similar to the first one, and by doing so, can claim that the previous court order is moot.
14. However, defendants have also filed a Motion for reconsideration and are still fighting the previous Court order. This is proof that defendants have willfully and egregiously ignored the August 31, 2018 Court order. In the interim of the August 31, 2018 and the filing of this motion, none of the street signs have been covered or removed. Defendants have worked around the Court order because they know that if their motion for reconsideration is denied, then they can just point to the "new" ordinances as proof that the Court Order no longer can be in effect.
15. Defendants have shown a total lack of respect for the Court and are determined to do whatever they want, regardless of judicial intervention.
16. Defendants will continue to violate the court order by constantly implementing new ordinances which they know are legally invalid.

17. The Court can clearly see that the new ordinances are nothing more than a stall tactic.
18. This is a complete waste of the Court's time as well as myself and the attorney general.
19. In order to ensure that this cycle does not continue the Court must impose sanctions against the defendants and award attorney's fees or litigation costs to the Plaintiffs.
20. The defendants planned out how long they would wait to follow the court order, ensuring that enough time for motions passed and enough time to get their new bogus ordinance off the ground.
21. It is incumbent on this Court to declare that the "new" ordinances are frivolous and still bound under the first court order, that sanctions are imposed on the defendants for intentionally misguiding the court and the plaintiffs and ignoring the August 31, 2018 Order, and award attorney's fees or litigation costs to the Plaintiff's.
22. Therefore Plaintiff respectfully requests that the Court enter an order allowing Plaintiff to file an amended complaint and impose sanctions against the defendants and award attorney's fees and/or costs to the Plaintiff.

I hereby certify that the above referenced 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.

SEIGEL LAW LLC

BY:   
Jacqueline Rosa, Esq.  
Attorney for Plaintiff

Dated: September 28, 2018



SEIGEL LAW LLC  
Attorney ID: 09372010  
505 Goffle Road  
Ridgewood, New Jersey 07450  
Attorney for Plaintiffs  
(201) 444-4000

JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: HUDSON COUNTY

Plaintiff,

DOCKET NO. HUD-L-607-18

v.

*Civil Action*

BOROUGH OF LEONIA, et al,

**ORDER**

Defendant,

STATE OF NEW JERSEY DEPARTMENT  
OF TRANSPORTATION

Plaintiff,

v.

BOROUGH OF LEONIA, et al.

Defendants.

**THIS MATTER** having been opened to the Court upon the application of counsel for Plaintiff, and on notice to all counsel of record, and the Court having considered the moving papers, and any opposition thereto, and good cause having been shown,

**IT IS** on this 12 day of October, 2018,

**ORDERED** that Plaintiff shall be and is hereby granted leave to file and serve an Amended Complaint to include the new Ordinances,

**ORDERED** that plaintiffs shall file and serve the Amended Complaint within     days of its receipt of this Order; and it is further

**ORDERED** that Defendants, shall file an Answer or otherwise responsive pleading, within        days of service of the Amended Complaint and this Order; and it is hereby further

**ORDERED** that Sanctions of \_\_\_\_\_ are imposed against the defendants,

**ORDERED** that attorney's fees are awarded to the Plaintiff in the amount of \_\_\_\_\_.

**ORDERED** that costs of litigation are awarded to the Plaintiff, \_\_\_\_\_.

**ORDERED** that a copy of this Order shall be served upon all parties within seven (7) days of the signing hereof.

\_\_\_\_\_

Opposed [  ]

Unopposed [  ]

# **Exhibit A**

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

JACQUELINE ROSA,

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: BERGEN COUNTY

Plaintiff,

DOCKET NO. BER-L-0750-18

v.

BOROUGH OF LEONIA, et al,

Defendants.

*Civil Action*

STATE OF NEW JERSEY DEPARTMENT  
OF TRANSPORTATION

**AMENDED  
COMPLAINT IN LIEU OF  
PREROGATIVE WRITS**

Plaintiff,

v.

BOROUGH OF LEONIA, et al.

Defendants.

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

**NATURE OF ACTION**

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

**PARTIES**

1. Plaintiff is an interested party affected by the enactment of Defendant, Borough of Leonia’s Ordinance No. 2018-14 and Ordinance No. 2018-15. Plaintiff’s right to travel on public streets

and freely enjoy public streets for the purpose of transportation have been denied, violated and infringed upon by the actions of the Defendants. Plaintiff is a resident of Edgewater, NJ, who commutes through Leonia on a weekly basis, to travel to and from her home. Plaintiff has standing to bring this action because this case involves a substantial public interest, and the Plaintiff has a private interest.

2. Defendant, Borough of Leonia (“Borough”) is the municipality enacting ordinance Ordinance No. 2018-14 and Ordinance No. 2018-15 and infringing upon Plaintiff’s rights.

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

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

5. The Defendant, Judah Zeigler, (“Zeigler”)is the mayor of the Borough of Leonia and approved ordinance Ordinance No. 2018-14 and Ordinance No. 2018-15.

### **FIRST COUNT**

#### **CHALLENGE TO THE VALIDITY OF Ordinance No. 2018-14 and Ordinance No. 2018-15**

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

7. On September 17, 2018, the Borough put into effect Ordinance No. 2018-14 and Ordinance No. 2018-15, which was signed by defendant Rowe and Zeigler and approved by the Council. This ordinance amends chapter 194 to include “temporary closing of streets.”

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

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

10. Any person who is not a resident of the Borough, or who cannot produce valid documentation will be fined two hundred dollars as listed in Ordinance No. 2018-16.

11. Ordinance No. 2018-14 and Ordinance No. 2018-15 violate Plaintiff's right to freedom of travel and are facially and presumptively invalid.

12. Ordinance No. 2018-14, Ordinance No. 2018-15 and Ordinance No. 2018-16 are arbitrary, capricious, and unreasonable.

13. The validity of Ordinance No. 2018-14, Ordinance No. 2018-15 and Ordinance No. 2018-16 are a matter of public interest rather than private interests and requires adjudication. Ordinance No. 2018-14, Ordinance No. 2018-15 and Ordinance No. 2018-16 cause a continuing public harm to travel.

**WHEREFORE**, Plaintiff demands judgment against Defendants, for a declaration that Ordinance No. 2018-14, Ordinance No. 2018-15 and Ordinance No. 2018-16 are void and of no effect, for interest and costs of suit, attorney's fees, and for other such relief as the Court deems just and equitable.

**SECOND COUNT**

**Ordinance No. 2018-14, Ordinance No. 2018-15 ARE IN VIOLATION OF**

**N.J.S.A. 39:4-8**

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

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

16. The Borough has closed streets which clearly have an impact on State Highways.

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

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

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

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

**WHEREFORE**, Plaintiff demands judgment against Defendants, for a declaration that Ordinance No. 2018-14 and Ordinance No. 2018-15 are void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

**THIRD COUNT**

**Ordinance No. 2018-14 and Ordinance No. 2018-15 ARE IN VIOLATION OF N.J.S.A**

**39:4-197.**

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

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

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

**WHEREFORE**, Plaintiff demands judgment against Defendants, for a declaration that Ordinance No. 2018-14 and Ordinance No. 2018-15 are void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

#### **FOURTH COUNT**

**Ordinance No. 2018-14 and Ordinance No. 2018-15 ARE IN VIOLATION N.J.S.A**

#### **39:4-197.2**

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

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

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

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

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



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

**WHEREFORE**, Plaintiff demands judgment against Defendants, for a declaration that Ordinance No. 2018-14 and Ordinance No. 2018-15 are void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

### **FIFTH COUNT**

#### **Ordinance No. 2018-16 IS IN VIOLATION of N.J.S.A 39:4-94.2**

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

31. The Borough has enacted a two hundred dollar (\$200.00) fine for any vehicle who violates Ordinance No. 2018-16.

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

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

**WHEREFORE**, Plaintiff demands judgment against Defendants, for a declaration that Ordinance No. 2018-16 is void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

### **SIXTH COUNT**

#### **Ordinance No. 2018-14 and Ordinance No. 2018-15 ARE A VIOLATION OF PLAINTIFF'S CIVIL RIGHTS UNDER 42 U.S. CODE §1983.**

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

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

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

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

**WHEREFORE**, Plaintiff demands judgment against Defendants, for a declaration that Ordinance No. 2018-14 and Ordinance No. 2018-15 are void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

#### **SEVENTH COUNT**

#### **Ordinance No. 2018-14 and Ordinance No. 2018-15 ARE A VIOLATION OF THE INTERSTATE COMMERCE CLAUSE**

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

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

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

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

**WHEREFORE**, Plaintiff demands judgment against Defendants, for a declaration that Ordinance No. 2018-14 and Ordinance No. 2018-15 are void and of no effect, for interest and costs of suit, and for other such relief as the Court deems just and equitable.

**DESIGNATION OF TRIAL COUNSEL**

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

**CERTIFICATION PURSUANT TO RULE 4:5-1**

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

SEIGEL LAW FIRM LLC

  
\_\_\_\_\_  
Jacqueline Rosa, Esq.  
Pro Se Plaintiff

Dated: September 28, 2018