



Wall Township Police Department

Phone: 732.449.4500 ~ Fax.732-449-1273

www.wallpolice.org



Kenneth Brown Jr.
Chief of Police

November 28, 2017

Dear Mr. Rozzi,

The Township of Wall Police Department's ("Police Department") Records Custodian received your Open Public Records Act ("OPRA") request dated November 20, 2017 on November 21, 2017. As such, the seven (7) business day deadline to respond to your request is December 4, 2017. The Police Department is timely providing you with a response to your request accordingly.

For ease of reference, the Police Department notes that your OPRA request seeks the following:

1. A copy of the complaint served on the township of Wall in *Elissetche v. Patrolman Hatch* and the Wall Township Police Department, Docket No, MON-L-003372-14.
2. A copy of the answer filed on behalf of the township for the above referenced case.
3. A copy of any settlement agreement executed with *Elissetche* to resolve this litigation.

Enclosed please find all records readily identified as responsive to Item Numbers 1 and 2 of your request. With respect to your request for "[a] copy of any settlement agreement executed with *Elissetche* to resolve this litigation," the Police Department has conducted a search for potentially responsive records. However, the Police Department did not identify any records as responsive to this portion of your request.

Your OPRA request is now deemed answered and closed. Thank you for your attention to this matter.

Sincerely,

Kevin Pressey
Wall Township Police Department
2700 Allaire Road
Wall, NJ 07719
(732) 449-4500
kpressey@wallpolice.org



P.O. Box 1168 / 2700 Allaire Rd ~ Wall Township NJ 07719



LAW OFFICE OF DAVID A. AVEDISSIAN, ESQUIRE, LLC

By: David A. Avedissian, Esquire

Attorney ID #023601997

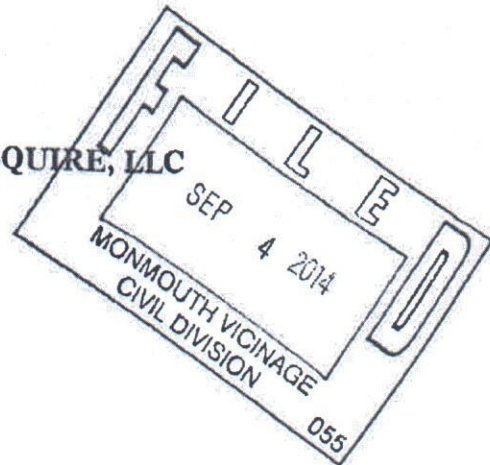
135 Kings Highway East

Haddonfield, NJ 08033

(856) 857-1901

Fax No. (856) 857-1902

Attorney for Plaintiff



BENJAMIN J. ELISSETCHE

Plaintiff

vs.

**PATROLMAN IAN HATCH, CHIEF
ROBERT BRICE, WALL TOWNSHIP
POLICE DEPARTMENT, TOWNSHIP OF
WALL**

Defendants

**SUPERIOR COURT OF NEW JERSEY
MONMOUTH COUNTY - LAW DIVISION**

Docket No.

L 3372-14

Civil Action

**COMPLAINT, JURY DEMAND
and DESIGNATION OF TRIAL
COUNSEL**

Plaintiff, Benjamin J. Elissetche, by way of Complaint against defendants says:

PARTIES

1. At all time herein, plaintiff, Benjamin J. Elissetche was a citizen of the City of Salem, County of Salem, State of New Jersey residing at 141-A W. Broadway, Salem, New Jersey.

2. Defendant, Township of Wall was and still is a domestic municipal corporation duly organized and existing under and by virtue of the laws of the State of New Jersey, with a principal place of business located at 2700 Allaire Road, Wall, New Jersey, 07719.

3. Defendants, Patrolman Ian Hatch, and Wall Township Police Chief Robert Brice are at all times relevant employees of the Wall Township Police Department located at 2700 Allaire Road, Wall, New Jersey, 07719.

JURISDICTION AND VENUE

4. The Court has jurisdiction over the lawsuit because the action arises under the Laws and Constitution of the State of New Jersey, particularly the New Jersey Civil Rights Act. Plaintiff was deprived of his rights secured to him under the Constitution and the laws of the New Jersey including, but not limited to, his right to be secure in his person and property and be free from unlawful arrests and seizures, free from use of unnecessary and excessive police force, and freedom from imprisonments when no probable cause exists.

5. Plaintiff, Benjamin J. Elissetche, was arrested, and charged, without probable cause. While being subjected to these violations, he suffered assaults and sustained severe and permanent injuries to his person.

6. Plaintiff, Benjamin J. Elissetche, was falsely charged without probable cause and is being falsely and maliciously imprisoned and prosecuted without any cause or legal justification.

COMPLAINT

GENERAL ALLEGATIONS

1. The above paragraphs are repeated and incorporated herein as if set forth at length herein.

2. On June 22, 2013, plaintiff was with friends attending a racing event at the Wall Stadium Speedway, Wall Township, Monmouth County, New Jersey.

3. At approximately 7:45 p.m., as plaintiff and his friends were leaving the event, plaintiff observed a police officer drive by in an SUV. As plaintiff was getting into his friend's vehicle, he observed the same police officer walking toward him from a distance.

4. As plaintiff and his friends were sitting in their vehicle, Patrolman Ian Hatch knocked on the window of vehicle in which plaintiff was a passenger with closed fist. Plaintiff rolled down his window when Officer Hatch began yelling.

5. Shortly thereafter, another police officer arrived at the scene, who was later determined to be Chief Robert Brice.

6. Defendant Officer Ian Hatch became very aggressive, opened the car door and plaintiff exited the vehicle. Defendant Hatch then grabbed plaintiff by the arm and tripped him face first into the ground.

7. Defendant Officer Hatch continued his illegal physical assault of plaintiff and caused severe injuries to plaintiff as a result.

8. Specifically, with no probable cause or legal justification, Officer Ian Hatch grabbed plaintiff's hands and plaintiff's shoulder area. Officer Hatch then put his left leg in front of plaintiff and forcefully pushed plaintiff face first into the gravel.

9. Plaintiff lost consciousness and immediately started to bleed profusely from the face.

10. Thereafter, Officer Hatch put his knee in plaintiff's back and when plaintiff tried to raise his face out of the gravel, Officer Hatch drove his face back into the gravel.

11. Officer Ian Hatch and/or Police Chief Robert Brice searched plaintiff's belongings without consent and took plaintiff's wallet and cell phone.

12. Officer Ian Hatch arrested plaintiff.

13. Plaintiff was taken to the Wall Township Police Station where he was charged with NJS 2C:12-1B(5)(A), Aggravated Assault on Patrolman Ian Hatch; NJS 2C:29-1A, Failing to Provide Identification; and NJS 2C:29-2A(B), Resisting Arrest. Plaintiff was released.

COUNT I

VIOLATION OF THE NEW JERSEY CIVIL RIGHTS ACT

(N.J.S.A. 10:6-1 et seq.)

1. The above paragraphs are repeated and incorporated herein as if set forth at length herein.

2. The above described actions by defendant Officer Ian Hatch on June 22, 2013, constitute violations of plaintiff's constitutionally protected rights as provided by the State of New Jersey's Statutes and Constitution, including but not limited to the right to be free from excessive force, illegal assaults by those acting under color of state law, and illegal imprisonments.

COUNT II

VICARIOUS LIABILITY

1. The above paragraphs are repeated and incorporated herein as if set forth at length herein.

2. The actions of defendants as police officers committed under color of and authority of defendant Township of Wall and its police department, and while acting in that official capacity. The actions or inactions of the defendant Township of Wall and its employees deprived plaintiff of rights secured under the laws of the State of New Jersey.

COUNT III

NEGLIGENT SUPERVISION

1. The above paragraphs are repeated and incorporated herein as if set forth at length herein.

2. Defendants, Wall Township and specifically, Police Chief Robert Bryce, as a matter of policy and practice failed to discipline, train or otherwise sanction police officers who violate the rights of citizens, including the plaintiff's, thus encouraging defendant, Patrolman Ian Hatch in this case to engage in the unlawful and actionable conduct described above.

3. Defendants, Township of Wall and Police Chief Robert Brice and its police department as a further matter of policy and practice failed to train properly its police officers and sergeants, including Patrolman Ian Hatch in this case, with respect to the constitutional, statutory and departmental limits of their authority.

4. At all times herein mentioned, defendants, Officer Ian Hatch and Police Chief Robert Brice were acting as the agents, servants and/or employees of the defendant and therefore, their acts are attributable to defendant, Township of Wall.

5. In this particular case, Chief Bryce had a legal duty to intervene and/or otherwise prevent his subordinate Officer Ian Hatch from engaging in the illegal assault of plaintiff which took place in his presence.

6. The actions by Chief Bryce and Wall Township amount to a deliberate indifference for the rights of plaintiff.

COUNT IV

ASSAULT AND BATTERY

1. The above paragraphs are repeated and incorporated herein as if set forth at length herein.

2. It was necessary for plaintiff to hire the undersigned attorney to file this lawsuit. Upon judgement plaintiff is entitled to an award of attorney fees and costs under the New Jersey Civil Rights Act.

PRAYER

1. The above paragraphs are repeated and incorporated herein as if set forth at length herein.

WHEREFORE, plaintiff demands judgment against defendants individually, jointly and/or in the alternative for compensatory damages, punitive damages, attorney fees, interest and costs of suit and such relief as the Court may deem just and equitable.

PLAINTIFF'S DEMAND FOR JURY TRIAL

Plaintiffs assert their rights to a trial by jury on all issues.

DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE that David A. Avedissian, Esquire is hereby designated as trial counsel.

RULE 4:5-1 CERTIFICATION

I certify that the matter in controversy is not the subject of any other action pending in any Court and is not the subject of a pending arbitration proceeding. Further, there are no other parties who should be joined in this litigation of whom I am aware, other than those named herein.

I recognize the continuing objection of each party to file and serve on all parties and the Court supplemental and amended certifications if there is a change in the facts stated in this Certification.

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.

By: _____
David A. Avedissian, Esquire
Attorney for Plaintiff

KING KTRICK JACKSON & McWEENEY, LLC

241 Brick Boulevard

PO Box 547

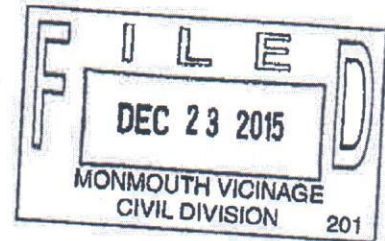
Brick, NJ 08723

732.920.8383 Telephone

732.920.8885 Facsimile

NJID #021381986

Attorney for Defendant, Patrolman Ian Hatch



BENJAMIN J. ELISSETCHE,

Plaintiff,

v.

PATROLMAN IAN HATCH,
CHIEF ROBERT BRICE,
WALL TOWNSHIP POLICE
DEPARTMENT,
TOWNSHIP OF WALL,

Defendants.

SUPERIOR COURT OF NEW JERSEY
MONMOUTH COUNTY: LAW DIVISION

DOCKET NO: MON-L-3372-14

Civil Action

***AMENDED ANSWER, SEPARATE DEFENSES,
JURY DEMAND AND DESIGNATION OF
TRIAL COUNSEL***

Defendant, Patrolman Ian Hatch, by way of Amended Answer to Plaintiffs' Complaint,

says:

PARTIES

1. Defendant Patrolman Ian Hatch lacks sufficient knowledge or information to form a belief as to the truths of the allegations contained in Paragraph 1 of this Count and leaves Plaintiff Benjamin J. Elissetche to his proofs.

2. Admitted.

3. Admitted.

WHEREFORE, Defendant Patrolman Ian Hatch demands judgment dismissing Plaintiff Benjamin J. Elissetche's Complaint in its entirety with prejudice and Defendant Patrolman Ian Hatch be awarded attorney's fees and costs of suit.

JURISDICTION AND VENUE

4. Denied.
5. Denied.
6. Denied.

WHEREFORE, Defendant Patrolman Ian Hatch demands judgment dismissing Plaintiff Benjamin J. Elissetche's Complaint in its entirety with prejudice and Defendant Patrolman Ian Hatch be awarded attorney's fees and costs of suit.

GENERAL ALLEGATIONS

1. Defendant Patrolman Ian Hatch repeats and realleges all statements as set forth hereinabove as if set forth herein at length.

2. Defendant Patrolman Ian Hatch lacks sufficient knowledge or information to form a belief as to the truths of the allegations contained in Paragraph 2 of this Count and leaves Plaintiff Benjamin J. Elissetche to his proofs.

3. Defendant Patrolman Ian Hatch lacks sufficient knowledge or information to form a belief as to the truths of the allegations contained in Paragraph 3 of this Count and leaves Plaintiff Benjamin J. Elissetche to his proofs.

4. Denied.

5. The allegations contained in Paragraph 5 are not directed toward this Defendant and, therefore, this Defendant makes no answer. To the extent that a response is required, the allegations are denied.

6. Denied.

7. Denied.

8. Denied.

9. Defendant Patrolman Ian Hatch lacks sufficient knowledge or information to form a belief as to the truths of the allegations contained in Paragraph 9 of this Count and leaves Plaintiff Benjamin J. Elissetche to his proofs.

10. Denied.

11. Denied.

12. Denied.

13. Denied.

WHEREFORE, Defendant Patrolman Ian Hatch demands judgment dismissing Plaintiff Benjamin J. Elissetche's Complaint in its entirety with prejudice and Defendant Patrolman Ian Hatch be awarded attorney's fees and costs of suit.

COUNT I

VIOLATION OF THE NEW JERSEY CIVIL RIGHTS ACT (N.J.S.A. 10:6-1, et seq)

1. Defendant Patrolman Ian Hatch repeats and realleges all statements as set forth hereinabove as if set forth herein at length.

2. Denied.

WHEREFORE, Defendant Patrolman Ian Hatch demands judgment dismissing Plaintiff Benjamin J. Elissetche's Complaint in its entirety with prejudice and Defendant Patrolman Ian Hatch be awarded attorney's fees and costs of suit.

COUNT II

VICARIOUS LIABILITY

1. Defendant Patrolman Ian Hatch repeats and realleges all statements as set forth hereinabove as if set forth herein at length.

2. Denied.

WHEREFORE, Defendant Patrolman Ian Hatch demands judgment dismissing Plaintiff Benjamin J. Elissetche's Complaint in its entirety with prejudice and Defendant Patrolman Ian Hatch be awarded attorney's fees and costs of suit.

COUNT III

NEGLIGENT SUPERVISION

1. Defendant Patrolman Ian Hatch repeats and realleges all statements as set forth hereinabove as if set forth herein at length.

2. Denied.

3. Denied.

4. Denied.

5. Denied.

6. Denied.

WHEREFORE, Defendant Patrolman Ian Hatch demands judgment dismissing Plaintiff Benjamin J. Elissetche's Complaint in its entirety with prejudice and Defendant Patrolman Ian Hatch be awarded attorney's fees and costs of suit.

COUNT IV

ASSAULT AND BATTERY

1. Defendant Patrolman Ian Hatch repeats and realleges all statements as set forth hereinabove as if set forth herein at length.

2. Denied.

WHEREFORE, Defendant Patrolman Ian Hatch demands judgment dismissing Plaintiff Benjamin J. Elissetche's Complaint in its entirety with prejudice and Defendant Patrolman Ian Hatch be awarded attorney's fees and costs of suit.

COUNT V

MALICIOUS PROSECUTION

1. Defendant Patrolman Ian Hatch repeats and realleges all statements as set forth hereinabove as if set forth herein at length.

2. Denied.

WHEREFORE, Defendant Patrolman Ian Hatch demands judgment dismissing Plaintiff Benjamin J. Elissetche's Complaint in its entirety with prejudice and Defendant Patrolman Ian Hatch be awarded attorney's fees and costs of suit.

DAMAGES

1. Defendant Patrolman Ian Hatch repeats and realleges all statements as set forth hereinabove as if set forth herein at length.

2. Denied.

3. Denied.

WHEREFORE, Defendant Patrolman Ian Hatch demands judgment dismissing Plaintiff Benjamin J. Elissetche's Complaint in its entirety with prejudice and Defendant Patrolman Ian Hatch be awarded attorney's fees and costs of suit.

ATTORNEY FEES

1. Defendant Patrolman Ian Hatch repeats and realleges all statements as set forth hereinabove as if set forth herein at length.

2. Denied.

WHEREFORE, Defendant Patrolman Ian Hatch demands judgment dismissing Plaintiff Benjamin J. Elissetche's Complaint in its entirety with prejudice and Defendant Patrolman Ian Hatch be awarded attorney's fees and costs of suit.

PRAYER

1. Defendant Patrolman Ian Hatch repeats and realleges all statements as set forth hereinabove as if set forth herein at length.

WHEREFORE, Defendant Patrolman Ian Hatch demands judgment dismissing Plaintiff Benjamin J. Elissetche's Complaint in its entirety with prejudice and Defendant Patrolman Ian Hatch be awarded attorney's fees and costs of suit.

SEPARATE DEFENSES

1. Defendant Patrolman Ian Hatch denies negligence.
2. The complaint of Plaintiff Benjamin J. Elissetche fails to state a cause of action upon which may be granted.
3. The within suit is barred by the Statute of Limitations, *N.J.S.A. 2A:14-1*, et seq.
4. Defendant Patrolman Ian Hatch is not guilty of any intentional misconduct which proximately caused any alleged injury to Plaintiff Benjamin J. Elissetche.
5. Plaintiff's claims are barred by the doctrine of laches.
6. Plaintiff's claims are barred by the doctrine of unclean hands.
7. Plaintiff's claims are barred, or at least damages are reduced, by the virtue of the doctrine of avoidable consequences.
8. Plaintiff's claims are barred by the doctrine of assumption of risk.
9. Defendant Patrolman Ian Hatch asserts the applicability of the provisions of *N.J.S.A. 59:2-1* and *N.J.S.A. 59:2-2*, as to the immunities available to the public entity and/or public employee.

10. Defendant Patrolman Ian Hatch asserts the applicability of the provisions of *N.J.S.A. 59:2-3* and *N.J.S.A. 59:3-2*, as to the absence of liability from the exercise of judgment or discretion.

11. Defendant Patrolman Ian Hatch asserts the applicability of the provisions of *N.J.S.A. 59:8-3* through *N.J.S.A. 59:8-7* regarding Plaintiff's failure to provide adequate notice of claim.

12. Defendant Patrolman Ian Hatch asserts the applicability of the provisions of *N.J.S.A. 59:8-8* through *N.J.S.A. 59:8-11* regarding Plaintiff's failure to timely notice of claim and/or failure to file notice of claim as set forth therein.

13. Defendant Patrolman Ian Hatch asserts the applicability of the provisions of *N.J.S.A. 59:9-2* concerning interest and limitations on judgment.

14. This court lacks proper jurisdiction of the subject matter of this litigation.

15. Any injury(ies) occurring to Plaintiff was the direct and proximate result of the Plaintiff's own acts and conduct.

16. Defendant Patrolman Ian Hatch, if involved at all, acted within the scope of his authority and in good faith and performance of his duties.

17. Defendant, Patrolman Ian Hatch, if involved at all, acted reasonably and properly under the circumstances.

18. No malicious intent of causing a deprivation of Plaintiff's civil rights and/or constitutional rights has been factually set against the within Defendant.

19. Defendant denies the allegations of any type of improper conduct as set forth in plaintiff's Complaint; however, the alleged misconduct does not rise to the level of a constitutional violation.

20. Defendant is not a person as required by the statutes, and Plaintiff has failed to allege that the alleged injury was the result of actions taken under color of official policy, custom or usage of Defendant.

21. Defendant Patrolman Ian Hatch was carrying out his duties as an official and as an employee of the Township of Wall and Defendant Patrolman Ian Hatch is entitled to qualified immunity under the statutes.

22. Defendant acted in good faith and without malicious intent to deprive Plaintiff of any constitutional rights.

23. The municipal Defendant is immune from Plaintiff's claim for punitive damages.

24. Defendant Patrolman Ian Hatch asserts the applicability of the provisions of *N.J.S.A. 59:9-2* concerning the adequacy of injuries sustained.

25. Defendant Patrolman Ian Hatch reserves the right to raise additional defenses as may be deemed appropriate through discovery.

CROSSCLAIM FOR CONTRIBUTION

Defendant Patrolman Ian Hatch demands judgment against co-defendants for a proportionate share of any sums that may be adjudged against this Defendant pursuant to the Joint Tortfeasors Contribution Act, *N.J.S.A. 2A:53A-1, et seq.*, and the Comparative Negligence Act, *N.J.S.A. 2A:15-5.1, et seq.*

CROSSCLAIM FOR INDEMNIFICATION

While denying any liability to Plaintiff for the damages alleged, if judgment is recovered by Plaintiff against this Defendant, it is hereby asserted that this Defendant's negligence was not morally culpable, but was merely constructive, technical, imputed or vicarious, and that the damage to the Plaintiff arose through the direct and primary negligence of the co-Defendants, or

through breach of an express or implied agreement, and this Defendant therefore demands judgment of indemnification from the co-Defendants for all sums as may be found due against this Defendant in favor of the Plaintiff.

ANSWER TO ALL CROSSCLAIMS

Defendant Patrolman Ian Hatch hereby denies each and every allegation contained in any and all crossclaims asserted against him or to be asserted against him.

DEMAND FOR SPECIFICATION OF DAMAGES

Defendant Patrolman Ian Hatch demands that pursuant to *Rule 4:5-2* that the Plaintiff and each party asserting a crossclaim serve upon this party a Statement of Damages Claimed.

RESERVATION OF DEFENSES AND OBJECTIONS

Defendant Patrolman Ian Hatch hereby reserves the right to interpose such other defenses and objections as a continuing investigation may disclose.

RESERVATION TO STRIKE

Defendant Patrolman Ian Hatch reserves the right to move at or before the trial of this matter to strike the Complaint on the grounds set forth in the Separate Defenses. Defendant Patrolman Ian Hatch hereby reserves the right to move at or before trial of this matter to strike the Complaint on the grounds that it fails to set forth a cause of action.

Defendant Patrolman Ian Hatch hereby reserves the right to move at or before the trial of this matter to dismiss the Complaint on the grounds that there is no jurisdiction over this defendant, and/or that this action is barred by common law or statutory law.

DEMANDS

Within five (5) days, you shall furnish this Defendant with a written statement of the amount of damages claimed, pursuant to *Rule 4:18-2*.

JURY DEMAND

Defendant Patrolman Ian Hatch demands a trial by jury to all issues herein.

DEMAND FOR SPECIFICATION OF MONEY DAMAGES

PLEASE TAKE NOTICE that Defendant Patrolman Ian Hatch hereby demands that Plaintiff Benjamin J. Elissetche serve upon Defendant Patrolman Ian Hatch within five (5) days from the date of service of this Amended Answer a written specification of the amount of monies which Plaintiff claims pursuant to *Rule 4:5-2*.

DEMAND FOR PRODUCTION OF STATEMENTS

Defendant Patrolman Ian Hatch demands that each other party produce and serve upon this party a true and complete copy of any statements allegedly made by this party or any other party to this litigation (Pursuant to *Rule 4:10-2*).

DEMAND FOR PRODUCTION OF INTERROGATORIES

Defendant Patrolman Ian Hatch demands that each other party serve upon this party true and complete copies of all interrogatories propounded by a party and answered by that party. This demand is deemed continuing. (Pursuant to *Rule 4:17-4*)

CERTIFICATION IN ACCORDANCE WITH RULE 4:5-1

The undersigned certifies on information and belief as follows:

1. The matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding.
2. No other action or arbitration proceeding is contemplated. No other party should be joined.

I HEREBY CERTIFY that the foregoing statements made by me are true and correct. I am aware that if any of the foregoing statements made by me are not true and correct, that I am subject to punishment.

KING KITRICK JACKSON &
McWEENEY, LLC
Attorneys for Defendant,
Patrolman Ian Hatch

By: 

MARK G. KITRICK, ESQ.

Dated: December 22, 2015

CERTIFICATION

The undersigned attorney hereby certifies that the original of the within or attached pleading together with all supporting papers has been filed with the Clerk of the Superior Court, Monmouth County and a true copy has been filed with the Clerk of the applicable county. I further certify that a true copy of the within pleading has been served upon all parties appearing of record as having filed an appearance or appearing pro se (and who have so noticed this counsel within the period of time allowed in accordance with the Rules of the Court (*Rule 1:6-4 or 4:6-1(a)*) as may be applicable), or in accordance with court order or stipulation of counsel, if applicable.

DESIGNATION OF TRIAL COUNSEL

Pursuant to **Rule 4:25-4**, notice is hereby given that **MARK G. KITRICK, ESQ.** is designated as trial counsel in the above-captioned matter.

CERTIFICATION

Pursuant to **Rule 4:5-1**, I certify that to the best of my knowledge, the matter in controversy is not the subject of a pending action or arbitration, no other action or arbitration proceeding is at this time contemplated and to the knowledge of the undersigned, no other parties should be joined in this action at the present time.

I hereby certify that a copy of the within Answer was duly served within the time prescribed by the Rules.

I certify that the within 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.

KING KITRICK JACKSON &
McWEENEY, LLC
Attorneys for Defendant,
Patrolman Ian Hatch

By: _____

MARK G. KITRICK, ESQ.

Dated: December 22, 2015