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Plaintiffs

MONIKA SOLARSKA-GNAT AND
 SLAWOMIR M. GNAT

vs.

Defendants

TOWNSHIP OF CLARK, A PUBLIC
 ENTITY OF THE STATE OF NEW
 JERSEY, CLARK TOWNSHIP POLICE
 DEPARTMENT, A PUBLIC ENTITY OF
 THE STATE OF NEW JERSEY,
 PATROL OFFICER THEODORE
 MCKEOWN, A PUBLIC EMPLOYEE OF
 THE STATE OF NEW JERSEY,
 LIEUTENANT ANTONIO MANATA, A
 PUBLIC EMPLOYEE OF THE STATE
 OF NEW JERSEY AND JOHN DOE 1-
 100 (FICTITIOUS NAMES PURSUANT
 TO RULE 4:26-2)

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION: UNION COUNTY

Docket No.

CIVIL ACTION

**MOTOR VEHICLE ACCIDENT
 COMPLAINT
 DEMAND FOR JURY TRIAL
 DESIGNATION OF TRIAL ATTORNEY
 DEMAND FOR ANSWERS TO
 INTERROGATORIES**

Plaintiffs, Monika Solarska-Gnat and Slawomir M. Gnat,
 residing in the Township of Linden, County of Union and State of
 New Jersey, by way of Complaint against the Defendants, say:

FIRST COUNT

1. At all times material to the within cause of action,
 Defendants, Township of Clark and Clark Township Police
 Department, were public entities of the State of New Jersey.

2. At all times material to the within cause of action,
 Defendants, Patrol Officer Theodore McKeown, Lieutenant Antonio
 Manata and John Doe 1-100 (fictitious names pursuant to Rule 4:26-

2), were public employees of the State of New Jersey and, more specifically, law enforcement personnel, dispatchers or other persons employed by Defendants, Township of Clark and/or Clark Township Police Department.

3. On or about January 9, 2019, Earl L. Downey (hereinafter "Downey"), an individual residing at 261 Halsted Street, East Orange, New Jersey, was operating a certain 530 BMW vehicle owned by Shavon N. Bell on Westfield Avenue in the vicinity of the Clark Township Police Department Headquarters, when the vehicle was stopped by Defendant Patrol Officer Theodore McKeown at or near the area of Benjamin Street, Clark, New Jersey.

4. Defendant Patrol Officer Theodore McKeown initiated the stop of the Downey vehicle since its rear passenger tire was flat and its front windows were tinted dark, in violation of certain Motor Vehicle and Traffic Acts of the State of New Jersey.

5. While the vehicle was stopped, Defendant Patrol Officer Theodore McKeown, assisted by Clark Township Police Officers, Sergio D'Andrea and Nicholas Kurus, conducted a series of Standardized Field Sobriety Tests on Downey to determine if he was intoxicated.

6. Based upon his observations of Downey and the results of the tests he conducted, Defendant Patrol Officer Theodore McKeown did not conclusively determine that Downey was intoxicated.

7. When Defendant Patrol Officer Theodore McKeown asked Downey to supply his driver's license and/or other identification documents, Downey entered the BMW vehicle and fled from the scene.

8. Defendant Patrol Officer Theodore McKeown proceeded to pursue Downey in the Clark Township Police vehicle identified as MPU927, travelling at a high rate of speed and through numerous intersections in the Township of Clark and the City of Rahway. At the intersection of Westfield Avenue and St. Georges Avenue, the Downey vehicle and the police vehicle operated by Defendant Patrol Officer Theodore McKeown, turned left onto St. Georges Avenue into the City of Linden. While still fleeing and/or eluding the police vehicle operated by Defendant Patrol Officer Theodore McKeown in active pursuit, Downey continued to operate his vehicle eastbound on St. Georges Avenue and, at the intersection of St. Georges Avenue and DeWitt Terrace, Linden, New Jersey, he collided with the Subaru Crosstrek vehicle owned and operated by Plaintiff Monika Solarska-Gnat, and in which her husband, Slawomir M. Gnat, was a passenger.

9. At the time of the collision, Plaintiff Monika Solarska-Gnat was operating her vehicle in a northbound direction on DeWitt Terrace, Linden, New Jersey, with a traffic signal at the aforesaid intersection permitting her path of travel.

10. After the Downey vehicle struck the vehicle operated by Plaintiff, Monika Solarska-Gnat, it caused the same to shift into

the westbound lane of East St. Georges Avenue where it struck a third, Dodge 150 model vehicle owned and operated by Michael Kokoszka.

11. As a direct and proximate result of the aforescribed accident, Plaintiff Monika Solarska-Gnat sustained severe and permanent personal injuries including, but not limited to, a left clavicle fracture, a pelvic fracture and rib fractures. She has and will continue to suffer great pain of the mind and body, she has been unable to attend to her ordinary routine, employment and affairs, she has lost the quality of life, she has and will continue to incur healthcare expenses, and she has otherwise been injured.

12. As a direct and proximate result of the aforescribed accident, Plaintiff Slawomir M. Gnat has sustained severe and permanent personal injuries including a traumatic brain injury. He has and will continue to suffer great pain of the mind and body, he has and will continue to incur healthcare expenses, he has been unable to attend to his ordinary employment, routine and affairs, he has lost quality of life, and he has otherwise been injured.

13. Defendants John Doe 1-100 (fictitious name pursuant to Rule 4:26-2) were law enforcement employees/dispatchers/other personnel employed by Defendants Township of Clark and/or Clark Township Police Department who hired, trained or supervised Defendants, Patrol Officer Theodore McKeown and Lieutenant Antonio

Manata, and/or who participated in, authorized, supervised, or otherwise were involved in the pursuit of Downey in the course of their employment.

14. The accident and attendant injuries sustained by Plaintiffs, Monika Solarska-Gnat and Slawomir M. Gnat, were directly and proximately caused by the negligence, carelessness, actions or inactions of Defendants, Patrol Officer Theodore McKeown, Lieutenant Antonio Manata and John Doe 1-100 (Fictitious Names pursuant to Rule 4:26-4), in the following particulars:

- In engaging in pursuit of Downey despite the fact that he did not commit a crime of the First or Second Degree, or a serious criminal offense necessitating pursuit.
- In engaging in the pursuit of Downey despite the fact that his identity was known and later apprehension was possible.
- In engaging in the pursuit of Downey despite the risk created to the general public, including Plaintiffs, as a result of the residential nature of area in which the pursuit was conducted and the population, density and volume of vehicular traffic during the weekday, rush hour time when the pursuit was conducted.
- In engaging in the pursuit of Downey when there was a clear, present and unreasonable danger to the public from such pursuit.

- In engaging in the pursuit of Downey in violation of certain guidelines established by the Attorney General of the State of New Jersey and in violation of the Clark Police Department Policy and Procedures on Pursuit and Enforceable Stops and authorizing the pursuit of Downey.
- In failing to terminate the pursuit of Downey.
- In otherwise engaging in a generally negligent, reckless and careless pursuit in violation of law enforcement standards/procedures/policies and in disregard of the safety of others exposed to the actions of Downey.

15. Defendants, Patrol Officer Theodore McKeown, Lieutenant Antonio Manata, and John Doe 1-100 (fictitious names pursuant to Rule 4:26-4), are liable for their aforesaid negligence, carelessness, acts or omissions in accordance with N.J.S.A. 59:3-1.

16. Defendants, Township of Clark and/or Clark Township Police Department, are liable for the actions of its employees, Defendants, Patrol Officer Theodore McKeown, Lieutenant Antonio Manata, and John Doe 1-100 (fictitious names pursuant to Rule 4:26-4), in accordance with N.J.S.A. 59:2-2, in accordance with the doctrine of *respondeat superior*, or in accordance with the principles governing principal/agency relationships.

17. Timely Notice of Claim were sent to Defendants pursuant to Notice provisions of the New Jersey Tort Claims Act, N.J.S.A.

59:1-1 et seq. More than six (6) months has elapsed since the filing of said Notices, and no disposition of these claims have been made.

WHEREFORE, Plaintiffs, Monika Solarska-Gnat and Slawomir M. Gnat, demand judgment against Defendants, Township of Clark, Clark Township Police Department, Patrol Officer Theodore McKeown, Lieutenant Antonio Manata and/or John Doe 1-100 (fictitious name pursuant to Rule 4:26-2), jointly, severally or in the alternative, in the amount of their damages, together with interest and costs of suit.

SECOND COUNT

1. Plaintiffs, Monika Solarska-Gnat and Slawomir M. Gnat, repeat and reallege each and every allegation of the First Count of the Complaint as though set forth herein more fully at length.

2. Defendants, Township of Clark, Clark Township Police Department, and/or John Doe 1-100 (Fictitious Name pursuant to Rule 4:26-4), negligently trained, supervised, instructed, or otherwise failed to provide proper guidance and instruction to their employees, including Defendants, Patrol Officer Theodore McKeown and/or Lieutenant Antonio Manata, with respect to the proper techniques, methods, guidelines, and standards applicable to police pursuits and/or were otherwise negligent in directing and/or exercising control over the subject pursuit.

WHEREFORE, Plaintiffs, Monika Solarska-Gnat and Slawomir M. Gnat, demand judgment against Defendants, Township of Clark, Clark Township Police Department, and/or John Doe 1-100 (fictitious name pursuant to Rule 4:26-4), jointly, severally or in the alternative, in the amount of their damages, together with interest and costs of suit.

THIRD COUNT

1. Plaintiffs, Monika Solarska-Gnat and Slawomir M. Gnat, repeat and reallege each and every allegation of the First and Second Counts of the Complaint as though set forth herein more fully at length.

2. The actions or inactions of Defendants, Patrol Officer Theodore McKeown and/or Lieutenant Antonio Manata , in connection with the pursuit of the Downey vehicle were conducted in willful disregard of the rights and safety of other motorists, including Plaintiffs, Monika Solarska-Gnat and Slawomir M. Gnat.

3. As a direct and proximate result of the reckless actions and inactions of Defendants, Patrol Officer Theodore McKeown and/or Lieutenant Antonio Manata, in willful disregard of the rights and safety of Plaintiffs, Monika Solarska-Gnat and Slawomir M. Gnat, and in conducting said pursuit in the absence of good faith, Plaintiffs suffered the accident and attendant injuries hereinbefore described.

WHEREFORE, Plaintiffs, Monika Solarska-Gnat and Slawomir M. Gnat, demand judgment against Defendants, Patrol Officer Theodore McKeown and/or Lieutenant Antonio Manata, John Doe 1-100 (fictitious name pursuant to Rule 4:26-4), jointly, severally or in the alternative, in the amount of their damages, together with interest and costs of suit.

FOURTH COUNT

1. Plaintiff, Slawomir M. Gnat, repeats and realleges each and every allegation of the First, Second and Third Counts of the Complaint as though set forth herein more fully at length.

2. At all times relevant herein, Plaintiff, Slawomir M. Gnat, was the lawful spouse of Plaintiff, Monika Solarska-Gnat.

3. As a direct and proximate result of the negligence of Defendants, as aforesaid, Plaintiff, Slawomir M. Gnat, was caused to be deprived of the services, society, companionship and consortium of Plaintiff, Monika Solarska-Gnat, and was otherwise damaged.

WHEREFORE, Plaintiff, Slawomir M. Gnat, demands judgment against Defendants, Township of Clark, Clark Township Police Department, Patrol Officer Theodore McKeown, Lieutenant Antonio Manata and/or John Doe 1-100 (fictitious name pursuant to Rule 4:26-2), jointly, severally or in the alternative, in the amount of his damages, together with interest and costs of suit.

FIFTH COUNT

1. Plaintiff, Monika Solarska-Gnat, repeats and realleges each and every allegation of the First, Second, Third and Fourth Counts of the Complaint as though set forth herein more fully at length.

2. At all times relevant herein, Plaintiff, Monika Solarska-Gnat, was the lawful spouse of Plaintiff, Slawomir M. Gnat.

3. As a direct and proximate result of the negligence of Defendants, as aforesaid, Plaintiff, Monika Solarska-Gnat, was caused to be deprived of the services, society, companionship and consortium of Plaintiff, Slawomir M. Gnat, and was otherwise damaged.

WHEREFORE, Plaintiff, Monika Solarska-Gnat, demands judgment against Defendants, Township of Clark, Clark Township Police Department, Patrol Officer Theodore McKeown, Lieutenant Antonio Manata and/or John Doe 1-100 (fictitious name pursuant to Rule 4:26-2), jointly, severally or in the alternative, in the amount of her damages, together with interest and costs of suit.

DEMAND FOR TRIAL BY JURY

Plaintiffs hereby demand a Trial by jury as to all issues.

NOTICE OF TRIAL COUNSEL

Please take notice that Eric G. Kahn, Esq. is hereby designated as Trial Counsel in the above-captioned matter for the firm of Javerbaum Wurgaft Hicks Kahn Wikstrom & Sinins, PC, pursuant to Rule 4:25 et. seq.

**CERTIFICATION AS TO REDACTION OF
REQUIRED PERSONAL IDENTIFIERS**

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

**JAVERBAUM WURGAFT HICKS KAHN
WIKSTROM & SININS, PC
Attorneys for Plaintiffs**

By: _____



Eric G. Kahn, Esq.

DEMAND FOR ANSWERS TO UNIFORM AND SUPPLEMENTAL INTERROGATORIES

PLEASE TAKE NOTICE that pursuant to Rule 4:17-1(b)(ii)(2), Plaintiff hereby demands answers to **Uniform Interrogatories Form C and Form C(1)** within 60 days of the filing of defendant's Answer to this Complaint.

CERTIFICATION

Pursuant to the requirements of Rule 4:5-1 (NOTICE OF OTHER ACTIONS), I, the undersigned, do hereby certify to the best of my knowledge, information and belief, that except as hereinafter indicated, the subject matter of the controversy referred to in the within pleading is not the subject of any other Cause of Action, pending in any other Court, or of a pending Arbitration Proceeding, nor is any other Cause of Action or Arbitration Proceeding contemplated;

1. OTHER ACTIONS PENDING..... YES ☐ NO ☒
 - A. If YES - Parties to other Pending Actions.
 - B. In my opinion, the following parties should be joined in the within pending Cause of Action.
2. OTHER ACTIONS CONTEMPLATED?..... YES ☐ NO ☒
 - A. If YES - Parties contemplated to be joined, in other Causes of Action.
3. ARBITRATION PROCEEDINGS PENDING?..... YES ☐ NO ☒
 - A. If YES - Parties to Arbitration Proceedings.
 - B. In my opinion, the following parties should be joined in the pending Arbitration Proceedings.
4. OTHER ARBITRATION PROCEEDINGS CONTEMPLATED?..... YES ☐ NO ☒
 - A. If YES - Parties contemplated to be joined to Arbitration Proceedings.

In the event that during the pendency of the within Cause of Action, I shall become aware of any change as to any facts stated herein, I shall file an amended certification and serve a copy thereof on all other parties (or their attorneys) who have appeared in said Cause of Action.

**JAVERBAUM WURGAFT HICKS KAHN
WIKSTROM & SININS, PC
Attorneys for Plaintiffs**

By: 

Eric G. Kahn, Esq.

Dated: October 27, 2020