

DEPARTMENT OF POLICE
THE TOWNSHIP OF MIDDLETOWN

TOWNSHIP HALL, 1 KING'S HIGHWAY

MIDDLETOWN, NJ 07748-2594

(732) 615-2100

FAX: (732) 796-0049



June 17, 2020

opra+request-12531-634fde4a@requests.opramachine.com

Dear UC Research,

The Middletown Township Police Department received your Open Public Records Act (OPRA) request on May 27, 2020. Please see the response to your request below:

Request:

1. A list of all lawsuits and cases in which any officer of the police department was involved between 2012 and 2019. For each lawsuit/case, please provide the date (month and year) of the alleged incident at issue, whether the alleged incident was excessive force, settlement amount (if any), and final compensation amount ruled (if any).

2. Please provide copies of the complaint in any lawsuits and cases described above.

Response:

1. No responsive records. The Middletown Police Department does not maintain such a list.
2. Please see the attached responsive records.

If your request for access to a government record has been denied or unfilled within seven (7) business days, by law you have the right to challenge the decision by the Middletown Township Police Department to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (GRC) by completing the Denial of Access Complaint Form. In addition to the website, information can be obtained from the GRC Staff by email Government.Records@dca.nj.gov, toll-free phone number (866-850-0511), fax (609-633-6337), or by U.S. mail at P.O. Box 819, Trenton, New Jersey, 08625-0819.

Respectfully,

A handwritten signature in black ink, appearing to read "Lt. E. Volkland".

Ernest Volkland
Lieutenant, Bureau Commander
Records and Service Bureau
Middletown Township Police Department
1 Kings Highway
Middletown, NJ 07748

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

GARY L. O'NEAL, ET AL.,
Plaintiff

V.

SUMMONS IN A CIVIL CASE

MIDDLETOWN TOWNSHIP, ET AL.,
Defendant

CASE
NUMBER: 3:18-CV-05269-BRM-LHG

TO: *(Name and address of Defendant):*

Chief of Police Craig Weber
One Kings Highway
Middletown, NJ 07748

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States Agency, or an office or employee of the United States described in Fed. R. civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Thomas J. Mallon, Esq.
Mallon & Tranger
86 Court Street
Freehold, NJ 07728

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

WILLIAM T. WALSH
CLERK

John Moller
(By) DEPUTY CLERK



ISSUED ON 2018-04-04 09:07:31, Clerk
USDC NJD

RETURN OF SERVICE	
Service of the Summons and complaint was made by me(1)	DATE
NAME OF SERVER (PRINT)	TITLE
<i>Check one box below to indicate appropriate method of service</i>	
☐ Served personally upon the defendant. Place where served: _____ _____ ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. ☐ Name of person with whom the summons and complaint were left: _____ ☐ Returned unexecuted: _____ _____ ☐ Other (specify) : _____ _____ _____	
STATEMENT OF SERVICE FEES	
TRAVEL	SERVICES
TOTAL	
DECLARATION OF SERVER	
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct. Executed on _____ Date _____ Signature of Server _____ Address of Server	

LAW OFFICES OF MALLON & TRANGER

86 Court Street

Freehold, NJ 07728

Telephone: (732) 780-0230

Facsimile: (732) 780-5002

Attorneys for Plaintiffs, Gary L. O'Neal and Gary J. O'Neal

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
TRENTON VICINAGE**

GARY L. O'NEAL and GARY J. O'NEAL, : Civil No.: TO BE ASSIGNED
: :
Plaintiffs, : Civil Action
: :
v. : :
: :
MIDDLETOWN TOWNSHIP; MIDDLETOWN : COMPLAINT AND JURY DEMAND
TOWNSHIP POLICE DEPARTMENT; : :
DETECTIVE RICHARD FULHAM; : :
POLICE CHIEF CRAIG WEBER; : :
JOHN DOES #1-3; and : :
JOHN DOES #4-10, : :
: :
Defendants. :

Plaintiffs, Gary L. O'Neal and Gary J. O'Neal, by way of
Complaint against the Defendants, say:

JURISDICTION AND VENUE

1. The jurisdiction of this Court is invoked pursuant to 42 U.S.C. §1983. This Court has jurisdiction over Plaintiffs' federal civil rights claims pursuant to 28 U.S.C. §§1331 and 1343, and supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. §1367.
2. Venue is proper under 28 U.S.C. §1391 because the events giving rise to Plaintiffs' claims occurred in this District

and the parties reside in this District.

PARTIES

3. Plaintiff, Gary L. O'Neal, is a resident of Middletown Township in Monmouth County, New Jersey. Plaintiff, Gary L. O'Neal, is the father of Plaintiff, Gary J. O'Neal, and Adam O'Neal.
4. Plaintiff, Gary J. O'Neal, is a son of Plaintiff, Gary L. O'Neal, and, at all times relevant to the allegations of this Complaint, was a resident of the Borough of Keyport in Monmouth County, New Jersey.
5. Defendant, Middletown Township, is a municipality organized within the State of New Jersey, and, at all times relevant to the allegations of this Complaint, was the employer of the individual Defendants.
6. At all times relevant to the allegations of this Complaint, Defendant, Richard Fulham was a Detective employed by Middletown Township and acting in the course of his employment and/or under color of state law. He is sued in his official and individual capacity.
7. At all times relevant to the allegations of this Complaint, Defendant, Craig Weber, served as Police Chief for Middletown Township and was responsible for the training, supervision and discipline of Middletown Township Police Officers, including without limitation, Defendants Fulham

and John Does #1-3. He is sued in his official and individual capacity.

8. At all times relevant to the allegations of this Complaint, Defendants, John Does #1-3, were law enforcement officers employed by Middletown Township and acting in the course of their employment and/or under color of state law. They are sued in their official and individual capacities.
9. At all times relevant to the allegations of this Complaint, Defendants, John Does #4-10, were supervisory law enforcement officials employed by Middletown Township responsible for the training, supervision and discipline of Middletown Township Police Officers, including without limitation, Defendants Fulham and John Does #1-3. They are sued in their official and individual capacity.

FACTS

10. On June 17, 2016, Plaintiff, Gary L. O'Neal, was at his residence with his son, Plaintiff, Gary J. O'Neal.
11. Plaintiff, Gary L. O'Neal, lived at his residence with his son, Adam O'Neal.
12. At the time of this incident, Plaintiff, Gary J. O'Neal, was staying with his father for several days and sleeping on a couch. Plaintiff, Gary J. O'Neal, resided with his mother in Keyport, New Jersey.
13. Notably, Adam O'Neal had his own private bedroom with a lock

on the door. The door was locked.

14. That morning, Defendant, Richard Fulham, executed a Search Warrant at the residence of Plaintiff, Gary L. O'Neal. Defendant Fulham had received intelligence that Adam O'Neal was involved in the sale of marijuana.
15. Absolutely no intelligence had been received that either Plaintiff was involved in the sale of drugs out of this residence.
16. Defendant Fulham's June 15, 2016 Affidavit in support of the Search Warrant specifically identified Adam O'Neal as the target and Plaintiffs as mere residents of the house.
17. At the time of the Search Warrant's execution, Adam O'Neal was not at the residence. He was working at All Phase Heating and Air Conditioning, located two minutes away by foot.
18. Plaintiff, Gary J. O'Neal, heard a battering ram being used to break down the front door of the house. As Plaintiff, Gary J. O'Neal, opened the door, police officers forcibly entered the house.
19. Upon entry, Defendants, John Does #1-3, grabbed a hold of Plaintiff, Gary L. O'Neal, threw him to the ground, and forcibly handcuffed him.
20. At no time did Plaintiff, Gary L. O'Neal, engage in any action that warranted the use of such excessive force.

21. Plaintiff, Gary J. O'Neal, was handcuffed and pulled outside.
22. After the Search Warrant was executed, Defendant Fulham determined that all CDS, paraphernalia and monetary evidence found was located only in Adam O'Neal's locked bedroom.
23. After Plaintiffs were removed from the house and taken outside, a Middletown Township police officer stated to Plaintiff, Gary L. O'Neal, "If Adam does the right thing, you won't be arrested."
24. Nonetheless, Defendant Fulham charged both Plaintiffs with First Degree Maintaining or Operating a Controlled Dangerous Substance Production Facility, in violation of N.J.S.A. 2C:35-44; Second Degree Conspiracy to Maintain a Manufacturing Facility, in violation of N.J.S.A. 2C:5-2A(1); Third Degree Possession of a Controlled Dangerous Substance (Psilocybin), in violation of N.J.S.A. 2C:35-10A(1); Third Degree Possession of CDS (Cocaine), in violation of N.J.S.A. 2C:35-10A(1); Third Degree Possession of CDS (Heroin), in violation of N.J.S.A. 2C:35-10A(1); Third Degree Possession of CDS (Ecstasy/MDMA), in violation of N.J.S.A. 2C:35-10A(1); Fourth Degree Possession of CDS (Hashish), in violation of N.J.S.A. 2C:35-10A(3); Fourth Degree Possession of CDS (Marijuana), in violation of N.J.S.A. 2C:35-10A(3); Third Degree Possession with Intent to Distribute CDS

(Cocaine), in violation of N.J.S.A. 2C:35-5B(3); Third Degree Possession with Intent to Distribute CDS (Psilocybin), in violation of N.J.S.A. 2C:35-5B(3); Third Degree Possession with Intent to Distribute CDS (Ecstasy/MDMA), in violation of N.J.S.A. 2C:35-5B(3); Third Degree Possession with Intent to Distribute CDS (Hashish), in violation of N.J.S.A. 2C:35-5B(11); and Third Degree Possession with Intent to Distribute CDS (Marijuana), in violation of N.J.S.A. 2C:35-5B(3).

25. These charges were improper, had no basis in fact, and were not supported by probable cause.
26. As a result, Plaintiffs were arrested and incarcerated.
27. After the house was searched but before Plaintiffs were transported to police headquarters, Defendant Fulham stated to Plaintiffs, "Adam is in a lot of trouble. He's like Scarface."
28. Bail was initially set for Plaintiff, Gary L. O'Neal, at \$270,000.00 full. Bail was reduced on July 22, 2016 to \$15,000.00 10%.
29. Bail was initially set for Plaintiff, Gary J. O'Neal, at \$285,000.00 full. On August 05, 2016, bail was reduced to \$15,000.00 10% after two motions were filed with the Court on his behalf.
30. Adam O'Neal was also arrested on June 17, 2016. At the time

of his arrest, he informed Defendant Fulham that all CDS, paraphernalia, and contraband recovered by way of the Search Warrant's execution was his and did not belong to either Plaintiffs. Moreover, Adam O'Neal advised that Plaintiffs were not involved in any way with the drugs found in his locked bedroom.

31. Despite this admission, Defendant Fulham allowed Plaintiffs to remain incarcerated. Plaintiff, Gary L. O'Neal, remained incarcerated for approximately 36 days. Plaintiff, Gary J. O'Neal, remained incarcerated for approximately 50 days.
32. On or about April 11, 2017, the charges filed against Plaintiffs by Defendant Fulham were dismissed.

CAUSES OF ACTION

COUNT I

42 U.S.C. §1983

**FALSE ARREST AND FALSE IMPRISONMENT
DEFENDANT, RICHARD FULHAM**

33. Plaintiffs repeat the allegations of the previous paragraphs as if set forth at length herein.
34. Defendant's actions resulted in Plaintiffs being unlawfully detained, falsely arrested and falsely imprisoned, thereby depriving Plaintiffs of their right to be free from an unreasonable seizure of their persons, in violation of the Fourth Amendment to the United States Constitution.
35. As a direct and proximate cause of Defendant's actions, Plaintiffs have sustained lost income, physical injury,

emotional distress, pain and suffering, and/or attorney's fees, and will continue to incur same for some time to come.

COUNT II
42 U.S.C. §1983
MALICIOUS PROSECUTION
DEFENDANT, RICHARD FULHAM

36. Plaintiffs repeat the allegations of the previous paragraphs as if set forth at length herein.
37. Defendant caused Plaintiffs to be maliciously prosecuted, in violation of Plaintiffs' rights guaranteed under the Fourth Amendment to the United States Constitution.
38. This prosecution was malicious as Defendant lacked probable cause to initiate criminal proceedings against Plaintiffs.
39. As a direct and proximate cause of Defendant's actions, Plaintiffs have sustained lost income, physical injury, emotional distress, pain and suffering, and/or attorney's fees, and will continue to incur same for some time to come.

COUNT III
42 U.S.C. §1983
EXCESSIVE FORCE
DEFENDANTS, JOHN DOES #1-3

40. Plaintiffs repeat the allegations of the previous paragraphs as if set forth at length herein.
41. Defendants' actions toward Plaintiff, Gary L. O'Neal, as outlined above, constitute the use of force that was excessive and objectively unreasonable under the circumstances.

42. As a direct and proximate cause of Defendants' use of excessive force, Plaintiff, Gary L. O'Neal, has sustained physical injury, emotional distress, pain and suffering, and will continue to incur same for some time to come.

COUNT IV
42 U.S.C. §1983
UNLAWFUL POLICY OR CUSTOM
FAILURE TO TRAIN, SUPERVISE AND DISCIPLINE
MONELL CLAIM
DEFENDANT, MIDDLETOWN TOWNSHIP

43. Plaintiffs repeat the allegations of the previous paragraphs as if set forth at length herein.
44. Defendant, Middletown Township, has a duty to train, supervise and discipline police officers, and to institute policies, practices and customs, so as to ensure that police officers make lawful arrests and do not use excessive force.
45. Defendant, Middletown Township, was on actual and/or constructive notice that its police officers were engaged in the practice or custom of making false arrests and using excessive force on citizens.
46. Defendant has knowingly and recklessly failed to fulfill this duty and has failed to institute policies and/or practices to prevent, penalize and cure such abuses.
47. This pattern, practice and/or policy of failing to train reflects deliberate indifference to the rights of persons such as Plaintiffs.
48. The injuries suffered by Plaintiffs are the proximate result

of Defendant's deliberate indifference to properly train.

49. As a direct and proximate cause of Defendant's failure to train, Plaintiffs have sustained lost income, physical injury, emotional distress, pain and suffering, and/or attorney's fees, and will continue to incur same for some time to come.

COUNT V

42 U.S.C. §1983

**FAILURE TO TRAIN, SUPERVISE AND CORRECT
UNCONSTITUTIONAL PRACTICES
SUPERVISORY LIABILITY**

DEFENDANTS, POLICE CHIEF CRAIG WEBER AND JOHN DOES #4-10

50. Plaintiffs repeat the allegations of the previous paragraphs as if set forth at length herein.
51. Defendants, Police Chief Craig Weber and John Does #4-10, have a duty to train, supervise and discipline police officers, and to institute policies, practices and customs, so as to ensure that police officers make lawful arrests and do not use excessive force.
52. Defendants' failure to train, supervise and discipline police officers who make false arrests and use excessive force amounts to a pattern, practice and/or policy of lax or no supervision of police officers when they engage in conduct that violates the constitutional rights of citizens.
53. This pattern, practice and/or policy of failing to train, supervise and discipline reflects deliberate indifference to the rights of persons such as Plaintiffs.

58. As a direct and proximate cause of Defendants' failure to train, supervise and discipline, Plaintiffs have sustained lost income, physical injury, emotional distress, pain and suffering, and/or attorney's fees, and will continue to incur same for some time to come.

**COUNT VI
VIOLATION OF NEW JERSEY STATE CONSTITUTION
AND/OR NEW JERSEY CIVIL RIGHTS ACT**

59. Plaintiffs repeat the allegations of the previous paragraphs as if set forth at length herein.
60. This Court has supplemental jurisdiction to hear and adjudicate state law claims.
61. Defendants' actions, as outlined above, have violated Plaintiffs' civil rights under the New Jersey State Constitution and/or New Jersey Civil Rights Act.
62. As a direct and proximate cause of Defendants' actions, Plaintiffs have sustained lost income, physical injury, emotional distress, pain and suffering, and/or attorney's fees, and will continue to incur same for some time to come.

RELIEF

WHEREFORE, Plaintiffs seek relief and judgment against the Defendants, including but not limited to:

1. An award of compensatory damages and punitive damages based on the intentional and malicious acts of the Defendants, which are allowed by the statutes pleaded herein or as

- permitted by common law and rules;
2. An award of reasonable attorney's fees and all costs of suit and interest thereon;
 3. An award of damages as allowed under 42 U.S.C. §1983 and 42 U.S.C. §1988;
 4. Any other award and equitable relief allowed under statute or pursuant to the law or equitable and just power of this Court to which Plaintiffs are entitled; and
 5. Any prospective injunctive relief that the Court deems just and appropriate under the circumstances.

JURY DEMAND

Plaintiffs hereby demand trial by jury of all issues in this action.

DESIGNATION OF TRIAL COUNSEL

Plaintiffs designate Thomas J. Mallon, Esq., as trial counsel in this matter.

s/ Thomas J. Mallon
THOMAS J. MALLON

Dated: April 03, 2018

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.*

I. (a) PLAINTIFFS

GARY L. O'NEAL and GARY J. O'NEAL

(b) County of Residence of First Listed Plaintiff **MONMOUTH**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

MALLON & TRANGER
86 COURT STREET, FREEHOLD, NJ 07728 (732) 780-0230

DEFENDANTS

MIDDLETOWN TOWNSHIP; MIDDLETOWN TOWNSHIP POLICE DEPT.; RICHARD FULHAM; CRAIG WEBER; JOHN DOES 1-10

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONVEYANCE CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business in This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business in Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT		TORTS		Click here for: Nature of Suit Code Descriptions	
☐ 110 Insurance	☐ 310 Airplane	☐ 303 Personal Injury - Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881	☐ 422 Appeal 28 USC 158	☐ 375 False Claims Act
☐ 120 Marine	☐ 315 Airplane Product Liability	☐ 307 Health Care/Pharmaceutical Personal Injury Product Liability	☐ 690 Other	☐ 423 Withdrawal 28 USC 157	☐ 376 Qui Tam (31 USC 3729(a))
☐ 130 Motor Vehicle	☐ 320 Assault, Libel & Slander	☐ 368 Asbestos Personal Injury Product Liability			☐ 400 State Reapportionment
☐ 140 Negotiable Instrument	☐ 330 Federal Employers' Liability	☐ 370 Other Fraud			☐ 410 Antitrust
☐ 150 Recovery of Overpayment & Enforcement of Judgment	☐ 340 Marine	☐ 371 Trick in Lending			☐ 430 Banks and Banking
☐ 151 Medicare Act	☐ 345 Marine Product Liability	☐ 380 Other Personal Property Damage			☐ 450 Commerce
☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)	☐ 350 Motor Vehicle	☐ 385 Property Damage Product Liability			☐ 460 Deportation
☐ 153 Recovery of Overpayment of Veteran's Benefits	☐ 355 Motor Vehicle Product Liability				☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 160 Stockholders' Suits	☐ 360 Other Personal Injury - Medical Malpractice				☐ 480 Consumer Credit
☐ 190 Other Contract					☐ 490 Cable/Sat TV
☐ 195 Contract Product Liability					☐ 500 Securities/Commodities Exchange
☐ 196 Franchise					☐ 890 Other Statutory Actions
					☐ 891 Agricultural Acts
					☐ 893 Environmental Matters
					☐ 895 Freedom of Information Act
					☐ 896 Arbitration
					☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
					☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. SECTION 1983

Brief description of cause:

VIOLATION OF CIVIL RIGHTS

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.C.P.

DEMAND \$

CHECK YES only if demanded in complaint.

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

04/03/2018

SIGNATURE OF ATTORNEY OF RECORD

S/ THOMAS J. MALLON

FOR OFFICE USE ONLY

RECEIVED

AMOUNT

APPLYING FEE

JUDGE

MAG JUDGE

LAW OFFICES OF MALLON & TRANGER

86 Court Street

Freehold, NJ 07728

Telephone: (732) 780-0230

Facsimile: (732) 780-5002

Attorneys for Plaintiffs Gary L. O'Neal and Gary J. O'Neal

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
TRENTON VICINAGE**

GARY L. O'NEAL and GARY J. O'NEAL,

Civil Action No.: 18-5269 (BRM-ZNQ)

Plaintiffs,

v.

AMENDED COMPLAINT

**DETECTIVE RICHARD FULHAM
and JOHN DOES #1-3,**

Defendants.

Plaintiffs, Gary L. O'Neal and Gary J. O'Neal, by way of Complaint against the
Defendants, say:

JURISDICTION AND VENUE

1. The jurisdiction of this Court is invoked pursuant to 42 U.S.C. §1983. This Court has jurisdiction over Plaintiffs' federal civil rights claims pursuant to 28 U.S.C. §§1331 and 1343, and supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. §1367.
 2. Venue is proper under 28 U.S.C. §1391 because the events giving rise to Plaintiffs' claims occurred in this District and the parties reside in this District.
-

PARTIES

3. Plaintiff, Gary L. O'Neal, is a resident of Middletown Township in Monmouth County, New Jersey. Plaintiff, Gary L. O'Neal, is the father of Plaintiff, Gary J. O'Neal, and Adam O'Neal.

4. Plaintiff, Gary J. O'Neal, is a son of Plaintiff, Gary L. O'Neal, and, at all times relevant to the allegations of this Complaint, was a resident of the Borough of Keyport in Monmouth County, New Jersey.

5. At all times relevant to the allegations of this Complaint, Defendant, Richard Fulham was a Detective employed by Middletown Township and acting in the course of his employment and/or under color of state law. He is sued in his official and individual capacity.

6. At all times relevant to the allegations of this Complaint, Defendants, John Does #1-3, were law enforcement officers employed by Middletown Township and acting in the course of their employment and/or under color of state law. They are sued in their official and individual capacities.

FACTS

1. On June 17, 2016, Plaintiff, Gary L. O'Neal, was at his residence with his son, Plaintiff, Gary J. O'Neal.

2. Plaintiff, Gary L. O'Neal, lived at his residence with his son, Adam O'Neal.

3. At the time of this incident, Plaintiff, Gary J. O'Neal, was staying with his father for several days and sleeping on a couch. Plaintiff, Gary J. O'Neal, resided with his mother in Keyport, New Jersey.

4. Notably, Adam O'Neal had his own private bedroom with a lock on the door. The door was locked.

5. That morning, Defendant, Richard Fulham, executed a Search Warrant at the residence of Plaintiff, Gary L. O'Neal. Defendant Fulham had received intelligence that Adam O'Neal was involved in the sale of marijuana.

6. Absolutely no intelligence had been received that either Plaintiff was involved in the sale of drugs out of this residence.

7. Defendant Fulham's June 15, 2016 Affidavit in support of the Search Warrant specifically identified Adam O'Neal as the target and Plaintiffs as mere residents of the house.

8. At the time of the Search Warrant's execution, Adam O'Neal was not at the residence. He was working at All Phase Heating and Air Conditioning, located two minutes away by foot.

9. Plaintiff, Gary J. O'Neal, heard a battering ram being used to break down the front door of the house. As Plaintiff, Gary J. O'Neal, opened the door, police officers forcibly entered the house.

10. Upon entry, Defendants, John Does #1-3, grabbed a hold of Plaintiff, Gary L. O'Neal, threw him to the ground, and forcibly handcuffed him.

11. At no time did Plaintiff, Gary L. O'Neal, engage in any action that warranted the use of such excessive force.

12. Plaintiff, Gary J. O'Neal, was handcuffed and pulled outside.

13. After the Search Warrant was executed, Defendant Fulham determined that all CDS, paraphernalia and monetary evidence found was located only in Adam O'Neal's locked bedroom.

14. After Plaintiffs were removed from the house and taken outside, a Middletown Township police officer stated to Plaintiff, Gary L. O'Neal, "If Adam does the right thing, you won't be arrested."

15. Nonetheless, Defendant Fulham charged both Plaintiffs with First Degree Maintaining or Operating a Controlled Dangerous Substance Production Facility, in violation of N.J.S.A. 2C:35-44; Second Degree Conspiracy to Maintain a Manufacturing Facility, in violation of N.J.S.A. 2C:5-2A(1); Third Degree Possession of a Controlled Dangerous Substance (Psilocybin), in violation of N.J.S.A. 2C:35-10A(1); Third Degree Possession of CDS (Cocaine), in violation of N.J.S.A. 2C:35-10A(1); Third Degree Possession of CDS (Heroin), in violation of N.J.S.A. 2C:35-10A(1); Third Degree Possession of CDS (Ecstasy/MDMA), in violation of N.J.S.A. 2C:35-10A(1); Fourth Degree Possession of CDS (Hashish), in violation of N.J.S.A. 2C:35-10A(3); Fourth Degree Possession of CDS (Marijuana), in violation of N.J.S.A. 2C:35-10A(3); Third Degree Possession with Intent to Distribute CDS (Cocaine), in violation of N.J.S.A. 2C:35-5B(3); Third Degree Possession with Intent to Distribute CDS (Psilocybin), in violation of N.J.S.A. 2C:35-5B(3); Third Degree Possession with Intent to Distribute CDS (Ecstasy/MDMA), in violation of N.J.S.A. 2C:35-5B(3); Third Degree Possession with Intent to Distribute CDS (Hashish), in violation of N.J.S.A. 2C:35-5B(11); and Third Degree Possession with Intent to Distribute CDS (Marijuana), in violation of N.J.S.A. 2C:35-5B(3).

16. These charges were improper, had no basis in fact, and were not supported by probable cause.

17. As a result, Plaintiffs were arrested and incarcerated.

18. After the house was searched but before Plaintiffs were transported to police headquarters, Defendant Fulham stated to Plaintiffs, "Adam is in a lot of trouble. He's like Scarface."

19. Bail was initially set for Plaintiff, Gary L. O'Neal, at \$270,000.00 full. Bail was reduced on July 22, 2016 to \$15,000.00 10%.

20. Bail was initially set for Plaintiff, Gary J. O'Neal, at \$285,000.00 full. On August 05, 2016, bail was reduced to \$15,000.00 10% after two motions were filed with the Court on his behalf.

21. Adam O'Neal was also arrested on June 17, 2016. He informed Defendant Fulham that all CDS, paraphernalia, and contraband recovered by way of the Search Warrant's execution was his and did not belong to either Plaintiffs. Moreover, Adam O'Neal advised that Plaintiffs were not involved in any way with the drugs found in his locked bedroom.

22. Despite this admission, Defendant Fulham allowed Plaintiffs to remain incarcerated. Plaintiff, Gary L. O'Neal, remained incarcerated for approximately 36 days. Plaintiff, Gary J. O'Neal, remained incarcerated for approximately 50 days.

23. On or about April 11, 2017, the charges filed against Plaintiffs by Defendant Fulham were dismissed.

CAUSES OF ACTION

COUNT ONE

42 U.S.C. §1983

FALSE ARREST AND FALSE IMPRISONMENT DEFENDANT, RICHARD FULHAM

1. Plaintiffs repeat the allegations of the previous paragraphs as if set forth at length herein.
2. Defendant's actions resulted in Plaintiffs being unlawfully detained, falsely arrested and falsely imprisoned, thereby depriving Plaintiffs of their right to be free from an unreasonable seizure of their persons, in violation of the Fourth Amendment to the United States Constitution.

3. As a direct and proximate cause of Defendant's actions, Plaintiffs have sustained lost income, physical injury, emotional distress, pain and suffering, and/or attorney's fees, and will continue to incur same for some time to come.

COUNT TWO
42 U.S.C. §1983
MALICIOUS PROSECUTION
DEFENDANT, RICHARD FULHAM

1. Plaintiffs repeat the allegations of the previous paragraphs as if set forth at length herein.
2. Defendant caused Plaintiffs to be maliciously prosecuted, in violation of Plaintiffs' rights guaranteed under the Fourth Amendment to the United States Constitution.
3. This prosecution was malicious as Defendant lacked probable cause to initiate criminal proceedings against Plaintiffs.
4. As a direct and proximate cause of Defendant's actions, Plaintiffs have sustained lost income, physical injury, emotional distress, pain and suffering, and/or attorney's fees, and will continue to incur same for some time to come.

COUNT THREE
42 U.S.C. §1983
MALICIOUS ABUSE OF PROCESS
DEFENDANT, RICHARD FULHAM

1. Plaintiffs repeat the allegations of the previous paragraphs as if set forth at length herein.
2. Defendants Fulham and/or John Does 1-3 caused process to issued against Plaintiffs and after the initial issuance of process against Plaintiffs used such process to accomplish some ulterior purpose for which it was not designed or intended, or which was not the legitimate purpose of the particular process employed.

3. Specifically, Adam O'Neal told Defendants Fulham and/or John Does 1-3 that the narcotics and paraphernalia found during the search were solely his after Fulham had prepared the criminal complaints against Plaintiffs. Defendants Fulham and/or John Does 1-3 did nothing with Adam O'Neal's admission, permitting the prosecution and incarceration of Plaintiffs to continue despite their duty to inform their supervisors and the prosecutor's office that they had discovered exculpatory evidence.

4. As a direct and proximate cause of Defendants' actions, Plaintiffs have sustained lost income, physical injury, emotional distress, pain and suffering, and/or attorney's fees, and will continue to incur same for some time to come.

COUNT FOUR
42 U.S.C. §1983
EXCESSIVE FORCE
DEFENDANTS, JOHN DOES #1-3

1. Plaintiffs repeat the allegations of the previous paragraphs as if set forth at length herein.
2. Defendants' actions toward Plaintiff, Gary L. O'Neal, as outlined above, constitute the use of force that was excessive and objectively unreasonable under the circumstances.
3. As a direct and proximate cause of Defendants' use of excessive force, Plaintiff, Gary L. O'Neal, has sustained physical injury, emotional distress, pain and suffering, and will continue to incur same for for some time to come.

COUNT FIVE
VIOLATION OF NEW JERSEY STATE CONSTITUTION
AND/OR NEW JERSEY CIVIL RIGHTS ACT

1. Plaintiffs repeat the allegations of the previous paragraphs as if set forth at length herein.
2. This Court has supplemental jurisdiction to hear and adjudicate state law claims.

3. Defendants' actions, as outlined above, have violated Plaintiffs' civil rights under the New Jersey State Constitution and/or New Jersey Civil Rights Act.

4. As a direct and proximate cause of Defendants' actions, Plaintiffs have sustained lost income, physical injury, emotional distress, pain and suffering, and/or attorney's fees, and will continue to incur same for some time to come.

RELIEF

WHEREFORE, Plaintiffs seek relief and judgment against the Defendants, including but not limited to:

1. An award of compensatory damages and punitive damages based on the intentional and malicious acts of the Defendants, which are allowed by the statutes pleaded herein or as permitted by common law and rules;
2. An award of reasonable attorney's fees and all costs of suit and interest thereon;
3. An award of damages as allowed under 42 U.S.C. §1983 and 42 U.S.C. §1988;
4. Any other award and equitable relief allowed under statute or pursuant to the law or equitable and just power of this Court to which Plaintiffs are entitled; and
5. Any prospective injunctive relief that the Court deems just and appropriate under the circumstances.

JURY DEMAND

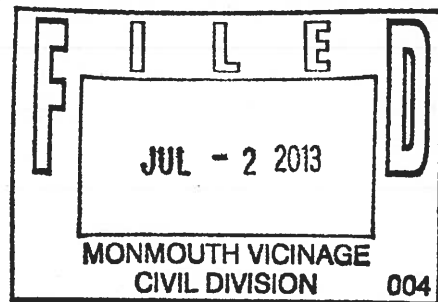
Plaintiffs hereby demand trial by jury of all issues in this action.

DESIGNATION OF TRIAL COUNSEL

Plaintiffs designate Thomas J. Mallon, Esq., as trial counsel in this matter.

/s/ Thomas J. Mallon
THOMAS J. MALLON

Dated: December 12, 2019



LARRY S. LOIGMAN

110 STATE HIGHWAY 35

P.O. Box 97

MIDDLETOWN, NEW JERSEY 07748

(732) 842-9292

Attorney for Plaintiff

A.A.,
Plaintiff,

v.

CHRISTOPHER J. GRAMI-
CCIONI, Esq.; CAREY J. HUFF, Esq.;
OFFICE OF THE COUNTY
PROSECUTOR OF MONMOUTH
COUNTY, NEW JERSEY,

Defendants

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MONMOUTH COUNTY

DOCKET No. *Monv-L-2568-13*

CIVIL ACTION
IN LIEU OF PREROGATIVE WRITS

COMPLAINT

Plaintiff, A.A. (a fictitious name for an undisclosed requestor pursuant to the Open Public Records Act, as more fully set forth below), by way of Complaint against Defendants, says:

1. Plaintiff is a citizen of the State of New Jersey.
2. In or about the first week of November 2013, Defendants received credible information about the theft of a portable electric generator, the property of the Township of Middletown, by one Robert Ochess.
3. On or about June 4, 2013, Plaintiff, through his attorney, in accordance with the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., made demand for access to certain

specific government records as to such incident and related matters, made, maintained or kept on file by the Office of the County Prosecutor of Monmouth County, New Jersey.

4. Pursuant to N.J.S.A. 47:1A-5(i), such request was made without disclosure of the requestor's identity.

5. By letter dated June 11, 2013, Defendant Huff, apparently acting as records custodian for Defendant Prosecutor, refused to disclose any records.

6. By letter dated June 13, 2013, Plaintiff, through his attorney, again demanded access to the subject records.

7. By letter dated June 18, 2013, Defendant Huff, apparently acting as records custodian for Defendant Prosecutor, again refused to disclose any records.

8. Defendants have adamantly, knowingly, wilfully and unreasonably failed and refused to disclose the subject records; to provide a reason for their failure and refusal to disclose the same; or to provide an inventory (a "Vaughn Index," *Vaughn v. Rosen*, 484 F.2d 820 (D.C.Cir., 1973); *Gallant v. NLRB*, 26 F.3d 168, 172-73 (D.C.Cir., 1994); *Delaney, Migdail & Young, Chtd. v. IRS*, 826 F.2d 124, 128 (D.C.Cir., 1987); *Coastal States Gas Corp. v. Dep't of Energy*, 644 F.2d 969, 984 (3d Cir., 1981); *Loigman v. Kimmelman*, 102 N.J. 98, 111 (1986)) of the subject records.

9. The government records must be disclosed to Plaintiff, pursuant to the Open Public Records Act, or common law.

WHEREFORE, Plaintiff demands judgment:

A. Ordering that Defendants immediately cause copies of the subject records to be delivered to Plaintiff's attorney;

B. For costs and fees, including attorney's fees;

C. For such other and further relief as the Court may deem just and equitable.

SECOND COUNT

1. Plaintiff repeats the allegations of the First Count as if set forth at length at this point.
2. Defendants failed, refused and neglected to initiate a criminal investigation, or any investigation, into the generator theft incident.
3. Defendants nonetheless made, maintained or kept on file certain records regarding the information and their failure to initiate a criminal investigation, or any investigation, into the same.
4. The refusal to disclose the subject records resulted from a wilful, intentional, deliberate and knowing effort to violate the Open Public Records Act.
5. The refusal to disclose the subject records resulted from a wilful, intentional, deliberate and knowing effort to conceal from Plaintiff, and from the public, evidence of misconduct by Defendants.
6. The refusal to disclose the subject records resulted from Defendants' effort to pervert, corrupt and obstruct the administration of justice in this State.
7. The refusal to disclose the subject records resulted from the improper personal, partisan and political motives of Defendant Gramiccioni, as a part of his effort to secure for himself the position of Prosecutor of Monmouth County, and not for any lawful, legitimate or proper reason.
8. Defendant Office of the County Prosecutor has long been characterized by indolence, slothfulness, lethargy, inefficiency and incompetence, and by a desire to promote, endorse and encourage public official misconduct, misfeasance, malfeasance, and nonfeasance. The refusal to disclose the subject records was designed and intended to conceal from Plaintiff, and from the public, evidence of the same.
9. The refusal to disclose the subject records did not result from inadvertence, or from a good faith argument for their non-disclosure, or for any other cause allowed by law.

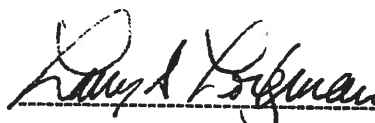
WHEREFORE, Plaintiff demands judgment:

- A. Ordering that Defendants immediately cause copies of the subject records to be delivered to Plaintiff's attorney;
- B. For costs and fees, including attorney's fees;
- C. For the imposition of such sanctions as may be allowed by law, including, but not limited to, N.J.S.A. 47:1A-11;
- D. For such other and further relief as the Court may deem just and equitable.

CERTIFICATION

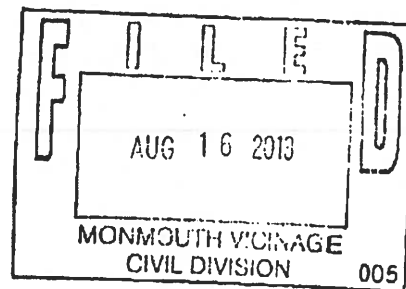
The matter in controversy is not the subject of any other pending or contemplated action, and there are no other parties who should be joined in this action, R. 4:5-1. No transcribed proceedings below have occurred, so no transcripts need be obtained; R. 4:69-4.

July 1, 2013



LARRY S. LOIGMAN, Esq.
Attorney for Plaintiff

LOMURRO, DAVISON, EASTMAN & MUNOZ, P.A.
Monmouth Executive Center
100 Willowbrook Road
Suite 100
Freehold, New Jersey 07728
(732) 462-7170
(732) 409-0292 Fax
Attorney for Plaintiff(s)



SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MONMOUTH COUNTY
DOCKET NO. *MON-L-3199-13*

Plaintiff(s)

CHERYL CADY EMMONS

Civil Action

-VS-

Defendant(s)

LINDA C. NICHOLAS;
JAMES NICHOLAS;
MIDDLETOWN POLICE DEPARTMENT;
SGT. FRED DEICKMANN;
CPL. DARRIN SIMON;
OFFICER CLIFF O'HARA;
OFFICER NICHOLAS CAPRIO;
OFFICER IAN MAY;
OFFICER MICHAEL REUTER;
DFC PETE WHITE; and JOHN
DOES (#1 THRU #10)

COMPLAINT AND DEMAND FOR JURY

Plaintiff, presently residing at 74 Berkshire Drive,
Howell, New Jersey by way of Complaint against the Defendant(s)
herein says:

FIRST COUNT

1. On or about January 4, 2012, the plaintiff was a
pedestrian, working in her capacity as a medical examiner, at the
scene of an accident occurring on Highway 36 North, Middletown,
New Jersey.

2. At the aforesaid time and place, the Defendant, James Nicholas was the owner of a motor vehicle being operated by the defendant, Linda C. Nicholas which was traveling in a northerly direction on Highway 36, in Middletown, New Jersey.

3. Defendant, Linda C. Nicholas, so carelessly and negligently operated her motor vehicle that she struck the plaintiff, Cheryl Cady Emmons.

4. At the time and place aforesaid, the Defendant, Linda C. Nicholas, was the agent, servant and/or employee of defendant, James Nicholas.

5. As a direct result of Defendants' negligence, Plaintiff was caused to sustain severe personal injuries; she has and will be caused to expend large sums of money for medical treatment; she has and will be caused to lose time from her employment; she was caused to sustain permanent injury.

WHEREFORE, Plaintiff hereby demands judgment against all Defendants herein for damages, together with interest and costs of suit.

SECOND COUNT

1. The plaintiff repeats the allegations contained in the First Count as if more fully set forth herein at length.

2. At all times mentioned herein the defendant, Middletown Police Department was careless and negligent in the manner in which it trained and supervised its police officers in various ways including the fact that they

were not properly trained for traffic control at the scene of an accident leaving an open lane through which the defendant, Linda C. Nicholas, was traveling despite the fact that an ongoing police investigation of an accident scene was being conducted.

3. As a result of the defendants negligent failure to control the traffic by means of cones, markers or any other devices or personnel, the plaintiff was caused to step into a lane in order to conduct her job resulting in a collision between the defendant, Nicholas' vehicle and the plaintiff.
4. At all times mentioned herein the defendants, Sgt. Fred Deikmann, Cpl. Darrin Simon, Officers O'Hara, Caprio, May, Reuter; and DFC White were agents, servants, or employees of the defendant, Middletown Police Department.
5. At all times mentioned herein the aforementioned defendants and the John Does (#1 thru #10) whose true identities are unknown to the plaintiff, were careless and negligent in the manner in which they conducted their investigation of the accident scene occurring on January 4, 2012 in that they failed to properly direct traffic away from the accident scene leaving the plaintiff exposed to traffic which, in fact, resulted in her being struck by a moving motor vehicle. The aforementioned defendants were careless and negligent in the manner in which they performed their duties.

6. As a direct and proximate result of the defendants joint and several negligence, the plaintiff was caused to sustain severe personal injuries; she has and will be caused to expend large sums of money for medical care and treatment; she has and will be caused to lose time from her employment; she was caused to sustain permanent injury.

WHEREFORE the plaintiff hereby demands judgment against all defendants herein for damages, together with interest and costs of suit.

DEMAND FOR JURY

Plaintiff hereby demands a trial by jury as to all issues contained herein.

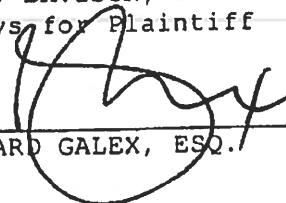
TRIAL ATTORNEY DESIGNATION

Pursuant to R. 4:25-4, Richard Galex, Esq., has been designated as trial counsel in this matter.

NOTICE OF OTHER ACTIONS

Pursuant to R. 4:5-1, I hereby certify that the matter in controversy is not the subject of any other pending or contemplated court action or arbitration.

LOMURRO, DAVISON, EASTMAN & MUNOZ, P.A.
Attorneys for Plaintiff

By: 

RICHARD GALEX, ESQ.

Dated: August 14, 2013

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MICHELE JONES

Plaintiff,

v

**WILLIAM BRUNT,
ROBERT OCHES, CRAIG
BAHRS, FRED
DEICHMANN, and JAMES
VAN NEST, individually and
as officers and employees of the
Town of Middletown, and the
TOWN OF MIDDLETOWN, a
New Jersey municipal
corporation,**

Defendants

Case NO.:

Civil Action

COMPLAINT

and

JURY DEMAND

Plaintiff, complaining of the Defendants, say:

PARTIES and JURISDICTION

1. Plaintiff resides at 27 Hillside Street, Red Bank, Monmouth County, New Jersey.
2. Defendants William Brunt, Robert Ochess, Fred Diechman and Craig Bahrs were, at all times relevant, senior officers in the Town of Middletown Police Department; all, on information and belief, are residents of Monmouth County, New Jersey.
3. Defendant James Van Nest is Assistant Administrator of the Town of Middletown, and, on information and belief, he is a resident of Monmouth County, New Jersey.
4. Defendant Town of Middletown ("the Town") is a New Jersey municipal corporation with its principal place of business at 1 Kings Highway, Middletown, Monmouth County,

New Jersey.

5. This Court has jurisdiction pursuant to 28 USC 1331 as the claims arise under federal statutes, to wit, 42 USC 1985 and 42 USC 2000e(3); and this Court has jurisdiction pursuant to 28 USC 1367 over pendent state law claims.

FACTUAL ALLEGATIONS

6. Plaintiff was hired into Civil Service title "Clerk" on May 1, 2007 by the Town. She was specifically hired for an existing clerical position within the Police Department to coordinate the special police payroll for overtime utility assignments; and to handle all purchasing for the Police Department and to assist with its budget.

7. Plaintiff performed the position to the apparent satisfaction of all concerned. Her direct supervisor was Defendant Lt. William Brunt.

8. Late in 2010/early 2011 Plaintiff began having conflict at the workplace. Near the end of 2010, as she was going into work one day, she saw a colleague Jane Garrity apparently having difficulty navigating the parking lot, as it was snowing. Ms. Garrity was then Secretary to Defendant Chief Oches. Plaintiff offered to assist her, and Ms. Garrity snapped at her "I'm not a fucking invalid!". Thereafter, there was a tension and hostility in the office

9. In July 2011, Garrity said to Plaintiff "Can that skirt be any shorter?". Plaintiff complained to HR, who reported her complaint to Defendant Oches; who reported it to Defendant Brunt. From that time on, rather than taking action against Garrity, Brunt began harassing Plaintiff.

10. Brunt has a history of harassing female employees that is known to the Defendant Town; and the Town has not taken effective steps to deal with his conduct.

11. In or about August 2011, while discussing an anonymous complaint that had been made to P-OSHA about asbestos in the building, Brunt told Plaintiff that "I know who made the complaint", inferring that it was her.

12. In fact, sometime later the PBA President revealed that he had made the complaint

13. When Plaintiff complained to HR about Brunt's constant harassment, she was moved to a different job in Traffic Bureau in or about summer 2012, rather than the Town taking

action against Brunt.

13. The decision to move Plaintiff was made by Defendant Van Nest, who is Assistant Township Administrator, with authority to make such personnel decisions.

14. While Plaintiff kept her title, and her pay was not reduced, this was in fact a demotion as it was a position with far less responsibility, and required a much lower skill level; and opportunities for advancement from that position were lesser.

15. After Plaintiff's transfer, Brunt continued to harass her; among other things, he would use the internal security monitors to determine where Plaintiff was in the building and suddenly appear there. On one occasion, Deputy Chief Weber intercepted Brunt on his way to Plaintiff's workplace, and said to him "You've been ordered by the Chief to leave her alone; why are you going down there?".

16. Late in 2011, as an apparent offshoot of a settlement of a claim of racial bias by a male police officer, an African-American parking enforcement officer, Sherri Fisher was given a part-time clerical position in the Traffic Bureau, working alongside Plaintiff. Fisher had had another part-time position in the Health Dept, and had been passed over for many fulltime positions and had registered repeated complaints. This newly-created position was unnecessary, and was apparently created for the sole purpose of having somewhere to place Fisher. Fisher was uncommunicative with Plaintiff, and uncooperative in keeping to the office schedule; but Police Department management overlooked her behavior.

17. In December 2012, Garrity retired and Plaintiff sought her position; but another less-qualified candidate was selected by Defendant Oches, who had to be sent for training on skills that Plaintiff already had.

18. Defendant Oches has been heard referring to Plaintiff as a "dumb broad".

19. On information and belief, the decision to pass over Plaintiff for this promotion was retaliatory for her complaints about Brunt, and/or was to avoid placing Plaintiff in contact with Brunt, and is yet another reflection of the Town's ineffective policy against sexual and gender-based harassment.

20. In 2013, Plaintiff began to find that her desk was being rifled through while she was at lunch, and private papers disturbed; at or about the same time, Police Cpl. Caprio caught

Fisher going through the wallet which he had inadvertently left in the office. Plaintiff's then supervisor, Sgt. Deickmann, would not discuss her issues with Fisher and when she went to leave the office to report her problems to HR, Deickmann stood in the hallway yelling "I'm **ordering** you to stop!" and when she asked him to lower his voice, shouted "I'm not fucking lowering my voice!".

21. Defendant Bahrs is a Deputy Chief, and has a past history of making overtures to Plaintiff for a romantic relationship. Plaintiff was married at all times relevant, and did nothing to encourage him.

22. In June 2013, Plaintiff was speaking to Defendant Bahrs, who told her that he wanted "to make things better" for her. Plaintiff was discussing the recent complaint of Fisher, that there was a bad smell in their office, and Plaintiff told Bahrs that she thought the smell was Fisher herself, who Plaintiff had observed sweated profusely. Bahrs agreed that it was probably Fisher, and told Plaintiff that 'Black women don't like to bathe regularly, and that's why you never see them in the gym' or words to that effect. Defendant Bahrs then invited Plaintiff to dinner, which she refused.

23. That same day, Defendant Bahrs reported Plaintiff for making racist remarks to him about Fisher, and Plaintiff was subjected to discipline.

24. Still later that day in June 2013, Defendant Bahrs came to Plaintiff's office and demanded that she go with him to a "Meeting" with Defendant Oches. Plaintiff had a panic attack, and landed in the hospital; she was not able to return to work for several months thereafter.

25. In 2013, Plaintiff filed a complaint with the EEOC alleging gender discrimination.

26. Plaintiff received a Right to Sue Letter.

27. Since Plaintiff returned to work in September 2013, and since she complained to the EEOC, she has continued to be harassed by the Defendants.

28. As a result of all of the conduct of all of the Defendants, Plaintiff has suffered and continues to suffer severe emotional distress.

FIRST COUNT

29. The Defendant Town lacks an effective policy against sexual and gender harassment.

30. As a result of the lack of an effective policy, Defendants Brunt, Bahrs, Deickmann and Oches apparently felt immune from consequences if and when they sexually harassed Plaintiff, or engaged in gender -based discrimination, or retaliated against her for rejecting their sexual advances.

31. For example, when Plaintiff complained about Brunt's workplace harassment of her, rather than disciplining Defendant Brunt, the town transferred Plaintiff to a position of lesser responsibility; and denied her a promotion for which she was completely qualified in order to keep her away from Brunt.

32. Such failure is a violation of the New Jersey LAD, NJSIA 10:5-1, et seq.

WHEREFORE, Plaintiff demands judgment on this Count pursuant to the statute against the Defendant Town for damages, reasonable attorneys' fees and costs of suit.

SECOND COUNT

33. Defendant Bahrs sexually harassed Plaintiff in June 2013.

34. Defendant Bahrs retaliated against Plaintiff for rebuffing his advances by filing a false report about her remarks and subjecting her to discipline.

WHEREFORE, Plaintiff demands judgment on this Count pursuant to the statute against Defendant Bahrs for damages, reasonable attorneys' fees and costs of suit.

THIRD COUNT

35. Defendant Brunt sexually harassed Plaintiff at various times between 2010 and 2013.

36. Defendant Brunt retaliated against Plaintiff for reporting his harassment, by supporting the decision to transfer her to a position of lesser responsibility..

WHEREFORE, Plaintiff demands judgment on this Count pursuant to the statute against Defendant Brunt for damages, reasonable attorneys' fees and costs of suit.

FOURTH COUNT

37. Defendant Oches was aware of Defendant Brunt's sexual harassment of Plaintiff; and on information and belief was also aware of Defendant Bahr's sexual harassment of Plaintiff.

38. Defendant Oches participated in the decisions about how to deal with Defendant Brunt's sexual harassment of Plaintiff.

39. Defendant Oches, as Chief of the Police Department and Brunt's and Bahr's superior,

had the authority and obligation to maintain discipline over him and prevent him from sexually harassing Plaintiff.

40. By failing to take effective action against Defendants Brunt and Bahr, Defendant Oches was an aider and abettor of their sexual harassment of Plaintiff.

WHEREFORE, Plaintiff demands judgment on this Count pursuant to the statute against Defendant Oches for damages, reasonable attorneys' fees and costs of suit

FIFTH COUNT

41. Plaintiff was the most qualified candidate to replace Ms. Garrity as Defendant Oches secretary in December 2012.

42. In passing Plaintiff over for the position, Defendant Oches retaliated against her for her past complaints about Defendant Brunt.

43. Such retaliation was contrary to NJSA 10:5-1, et seq.

WHEREFORE, Plaintiff demands judgment on this Count pursuant to the statute against Defendant Oches for damages, reasonable attorneys' fees and costs of suit

SIXTH COUNT

44. Defendant Van Nest was aware of Defendant Brunt's sexual harassment of Plaintiff.

45. Defendant Van Nest participated in the decisions about how to deal with Defendant Brunt's sexual harassment of Plaintiff.

46. Defendant Van Nest, as Assistant Administrator of the Town, had the authority and obligation to maintain discipline over him and prevent him from sexually harassing Plaintiff.

47. By failing to take effective action against Defendant Brunt, Defendant Van Nest was an aider and abettor of Brunt's sexual harassment of Plaintiff.

WHEREFORE, Plaintiff demands judgment on this Count pursuant to the statute against Defendant Van Nest for damages, reasonable attorneys' fees and costs of suit.

SEVENTH COUNT

48. Defendants, or some of them, retaliated against Plaintiff after she filed her EEOC complaint in October 2013.

49. Such retaliation was contrary to 42 USC 2000e(3).

WHEREFORE, Plaintiff demands judgment on this Count pursuant to the statute against all Defendants, jointly and severally, for damages, reasonable attorneys' fees and costs of suit.

EIGHTH COUNT

50. Defendants, or some of them, at various times in 2012 and 2013, conspired amongst and between themselves to deprive Plaintiff of her rights to equal protection of the laws and due process of law arising under the XIVth Amendment to the United States Constitution, contrary to 42 USC 1985.

WHEREFORE, Plaintiff demands judgment on this Count pursuant to the statute against all Defendants, jointly and severally, for damages, reasonable attorneys' fees and costs of suit.

Dated: October 1, 2014

/s/ George J. Cotz 0463

JURY DEMAND

Plaintiff demands trial by jury.

Dated: October 1, 2014

/s/ George J. Cotz 0463

LAW FIRM OF WILLIAM KOY, L.L.P.

Attorneys for Plaintiff

89 Headquarters Plaza

North Tower, Twelfth Floor

Morristown, New Jersey 07960

(973) 993-1755

Facsimile: (973) 993-1754

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

SAVINO CAPILUPI

Plaintiff,

—vs—

**THE TOWNSHIP OF MIDDLETOWN,
SGT. GERALD WEIMER, SGT.
PATRICIA COLANGELO AND LT.
PAUL BAILEY, AS INDIVIDUALS**

Defendants.

**CIVIL ACTION NO.
BEFORE THE HONORABLE**

**VERIFIED COMPLAINT AND
DEMAND FOR TRIAL BY JURY**

Plaintiff, SAVINO CAPILUPI, by way of this Complaint against the above named

Defendants hereby states:

GENERAL ALLEGATIONS

1. This is an action in which the Plaintiff seeks relief for the violation of rights guaranteed under the laws and Constitution of the State of New Jersey and under the laws and Constitution of the United States.
2. Plaintiff seeks declaratory relief, injunctive relief, and money damages to redress the injury

and deprivation of rights guaranteed by the United States Constitution and the laws and Constitution of the State of New Jersey caused to the Plaintiff by the unconstitutional and unlawful acts of defendants under color of state law and pursuant to official policy, practice, custom or usage, and caused further by a conspiracy to violate said Plaintiff's civil rights by engaging in a course of conduct to harass and retaliate against the Plaintiff, without any legal basis or justification, for the Plaintiff's exercise of lawfully protected rights all of which has caused and continues to cause irreparable damage and injury to the Plaintiff.

JURISDICTION

3. Jurisdiction is invoked herein pursuant to 28 U.S.C. Sections 1331 and 1343 (3) and (4) this being an action seeking redress for the violation of the Plaintiff's constitutional and civil rights.
4. The value of the rights which were violated herein and which continue to be violated is in excess of ten thousand dollars (\$10,000.00) exclusive of interest and costs.
5. Jurisdiction is invoked herein in conjunction with the First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution and the Civil Rights Acts of 1866 and 1871, 42 U.S.C. Section 1983 and 1988.
6. Jurisdiction is also invoked in conjunction with the **Declaratory Judgment Act, 28 U.S.C. Sections 2201 and 2202**, this being an action in which the Plaintiff seeks declaratory and injunctive relief as well as monetary damages.
7. The Plaintiff requests that this Court exercise its discretion and invoke pendent jurisdiction over any and all state law claims and causes of actions which derive from the same nucleus

of operative facts that give rise to the federally based claims and causes of actions.

8. The Plaintiff demands a trial by jury on each and every one of his claims as pled herein.

PARTIES

9. Plaintiff, **Savino Capilupi** ("Plaintiff"), is a citizen of the United States and a resident of Highlands, County of Monmouth, State of New Jersey.
10. Defendant, **Township of Middletown** ("Middletown"), is a political subdivision of the State of New Jersey, County of Monmouth, organized under the laws of the State of New Jersey.
11. Defendant, **Gerald Weimer**, at all times relevant herein, was the Sergeant for the Middletown Police Department, and as such, responsible for promulgating and implementing policies, practices and procedures.
12. Defendant, **Patricia Colangelo**, at all times relevant herein, was FTO and Sergeant for the Middletown Police Department, and as such, responsible for promulgating and implementing Department policies, practices and procedures.
13. Defendant, **Paul Bailey**, at all times relevant herein, was the Sergeant, now Lieutenant of the Middletown Township Police Department, and as such, responsible for promulgating and implementing Department policies, practices and procedures.

ALLEGATIONS OF FACT

14. In or about March 2010, Plaintiff was singled out to his detriment, which has continued to the present, for his application and usage of sick and personal days, a benefit he had received from the Township.

15. On March 25, 2010, Plaintiff was ill and needed to call out sick due to a severe headache that was getting progressively worse. Sgt. Bailey, inappropriately and wrongly, reprimanded Plaintiff for attempting to use this contractual benefit.
16. Afterwards, Plaintiff spoke out about this to his direct supervisors, his Union, and his fellow co-workers, thus sparking Sgt. Bailey to grow more angry, resentful and retaliatory towards him.
17. From that point in time, Sgt. Bailey has singled out Plaintiff, to his detriment, as well as transferring his hostilities toward Plaintiff to his close allies, Sgt. Weimer and Sgt. Colangelo, who were assigned as Plaintiff's supervisors. The pattern of harassment now was continuing.
18. Important to note as a historical item, early on, in 2008, Sgt. Colangelo "soured" on Plaintiff. When Plaintiff was in his third month of Field Training, November 2008, then, Patrol Officer/FTO Colangelo (now Sgt. Colangelo) was assigned as Plaintiff's Field Training Officer (FTO).
19. At the end of the month they spent together, the time came for their meeting with Deputy Chief Braun, as Plaintiff reached the end of the traditional 3 month Field Training Program.
20. To Plaintiff's surprise, when asked by Deputy Chief Braun if he was ready to go out on the road alone, FTO Colangelo stated that she thought Plaintiff needed a few more weeks with her to fine tune certain things.
21. Then, Deputy Chief Braun asked Plaintiff what he thought about it and if he felt he was ready. Plaintiff proceeded to say something to the effect of, "With no disrespect intended

to FTO Colangelo, he felt he was ready; the only way he can truly sharpen up certain points is to get out there and do it.”

22. Deputy Chief Braun agreed with Plaintiff and authorized him to go out on Patrol without an FTO.
23. FTO Colangelo was visibly sour about this although she didn't verbalize anything at that time. Moving forward, from their meeting with Deputy Chief Braun, Plaintiff's time spent with FTO Colangelo in field training was not of a confidential or classified nature. Plaintiff openly spoke about this experience with co-workers who were not surprised about FTO Colangelo's style and many were empathetic to Plaintiff.
24. It became known throughout the department about Plaintiff's experience with FTO Colangelo, even to the point where new hires that were assigned to her, would approach Plaintiff for advice.
25. Then, when Sgt. Colangelo was assigned to his squad as a new Sergeant, May 2013, this assignment was clearly to the detriment of Plaintiff.
26. As a bona fide member of his PBA, Plaintiff would assess issues at hand, and, if necessary, would speak out at Union Meetings. Plaintiff is well known for speaking out within this forum, encouraging the Union leadership and membership to fight against the Township's proposed provision in the next labor contract to restrict the number of personal days that can be taken on the major holidays to two officers per squad, per holiday shift.
27. During the mandatory union meeting of April 25, 2011, Plaintiff stood up and expressed his views therein. Previously, the number of officers that could take personal days on holidays

was not restricted. Although this new provision was proposed by the Township to “reduce overtime costs”, Plaintiff stated that the use of personal days almost always causes overtime and is used by officers when they are unable to get traditional leave due to other officers’ previous requests for leave. Furthermore, Plaintiff stated that, as a family man with a wife and child, he preferred to use his personal days on holidays rather than other events such as the “Super Bowl” or on a nice summer weekend, when standard leave is already spoken for since the use of the personal day on the holiday causes no more annual overtime expense to the Township, versus taking a personal day on a non-holiday shift. Plaintiff further stated that there were always an abundance officers signing up on posted sheets to fill possible overtime spots on the holidays, thus staffing has not and would not be an issue.

28. Important to note is that nearly all the non-administrative supervisors in the department (Sergeants and Lieutenants) were in attendance at this, and other PBA meetings. It was obvious that Plaintiff’s comments sparked resentment from soon to be promoted senior officers and the current supervisory ranks, including Sgt. Bailey.
29. It was Sgt. Bailey who regularly touted against the use of personal days on holidays by junior officers. He often stated that there was a “Gentleman’s Agreement” in place where it was understood that junior officers would not take personal days on holidays, although there was no such mention of it in the current contract at the time and such use is a bona fide contractual benefit of all members.
30. From that point in time, Sgt. Bailey has singled out Plaintiff, to his detriment, as well as transferring his hostilities toward Plaintiff to his close allies, Sgt. Weimer and Sgt.

Colangelo, who became Plaintiff's direct supervisors.

31. Plaintiff has also been negatively singled out for his use of his "Rebuttal" comments as to his Performance Evaluations.
32. Beginning with Plaintiff's January through June 2012 Performance Evaluation, Plaintiff was at the Officer In Charge (OIC) Desk, having submitted to Lt. John Kaiser his written comments to one particular section of the review where Sgt. Sean Sweeney had noted an issue with the volume of number of arrests and motor vehicle summonses issued.
33. While standing there waiting for Lt. Kaiser's feedback on what Plaintiff wrote as a Rebuttal, within the Employee Comments section, namely the fact that he was assigned a steady midnight shift in the most quiet section of town (Lincroft area), as opposed to working on the north side of town (highest volume of crime and containing Route 36). Sgt. Bailey disgustedly began to look over Lt. Kaiser's shoulder stating, "What is that all about?" in a most demeaning tone, knowing that Plaintiff was standing right there.
34. Sgt. Bailey continued, saying "He's (Plaintiff) arguing his review", in a disapproving tone, and a heated glare at Plaintiff, obviously intent on intimidating Plaintiff for simply utilizing his right to free speech on the space provided and endorsed by the Township.
35. Sgt. Bailey has continued to single out Plaintiff, to his detriment, as well as transferring his hostilities toward Plaintiff to his close allies, Sgt. Weimer and Sgt. Colangelo, who have become Plaintiff's direct supervisors. The pattern of harassment was continuing.
36. Plaintiff has never had problems with any of his supervisors, other than Sgt. Bailey, prior to Sgt. Colangelo and Sgt. Weimer being promoted and assigned to Plaintiff's squad.

37. The Township's Detective Bureau within the 100 person Police Department is made up of about six detectives plus two supervisors. Sgts. Bailey, Weimer, and Colangelo made up three of the six Detectives for a number of years, which fostered a close and unique relationship therein.
38. Therefore, it became obvious to Plaintiff that Sgt. Weimer and Sgt. Colangelo would have a prior negative disposition against Plaintiff, on their own, through Sgt. Bailey, or both, for his reputation of speaking out in support of his statutory and constitutional rights.
39. On November 18, 2012, Plaintiff closed down the NJ Transit railroad crossing on Oak Hill Road as the safety gates were malfunctioning and a train light could be seen coming from the south. This was a definite safety threat.
40. Sgt. Bailey came to the scene and immediately began scolding Plaintiff. He ordered Plaintiff out of his patrol vehicle, screamed, "Why are you in the car and not directing traffic!", then, "Is there a train coming?", followed by "Stop being lazy and do your job!!". Sgt. Bailey did not permit Plaintiff to say a word. Plaintiff proceeded to tell Sgt. Bailey that he would obey any order he gives, but there was no need to scream at him in front of the public while he is doing his job and protecting their safety.
41. Sgt. Bailey became enraged at Plaintiff's response and proceeded to order Plaintiff off the road into Headquarters to discipline him. In the ensuing discussion, Sgt. Bailey admitted that his judgement and his actions at the tracks were as a result of his disdain for Plaintiff for having to take a sick day due to a family health emergency four days after Superstorm Sandy had hit.

42. Furthermore, Sgt. Bailey admitted to having “bad-mouthed” Plaintiff to others in the department about his use of the contracted benefit of the sick day, which Plaintiff was aware of, and to which Plaintiff had been simultaneously speaking out to others in the PD in defense of the inflammatory statements Sgt. Bailey was making about him. In summary, Plaintiff was again targeted for using a contracted benefit which was his to use and speaking out in defense of it.
43. Since December 2013, Plaintiff has been the victim of direct harassment by Supervisors Weimer and Colangelo.
44. This harassment was preceded by Supervisor Colangelo’s comments to Weimer about Plaintiff, at some point after Weimer was assigned to the squad as Plaintiff’s co-supervisor in November of 2013, which Plaintiff rebutted from his Performance Evaluation submitted in April 2014.
45. Plaintiff continued in this hostile work environment until his resulting medical condition rendered him excused from duty - April 18, 2014. Defendants’ continued to raise the level of Plaintiff’s discomfort, and, now they have succeeded, although Plaintiff did not quit. Plaintiff became medically disabled.
46. It is noted that during this time period of nearly six years, Plaintiff has helped saved lives, exhibited a fine balance of compassion and authority, and has had multiple instances of excellent performance commentary for executing such duties which have been clearly memorialized in his performance evaluations prior to these unfortunate circumstances which Supervisors Weimer and Colangelo have created.

47. Then, with no forewarning at all, Plaintiff was told that his performance has been under a retaliatory scrutiny.
48. This scenario was the beginning of months of dictatorial management marked by repeated abusive language, threats, taunts, inappropriate comments, and unreasonable demands. Together they formed a hostile work environment that over time became increasingly worse, severe and pervasive.
49. On or about December 6, 2013, Plaintiff was dispatched at 3:38 a.m. to an injured deer on the roadway near Oak Hill road and Hwy 35 North. Although there was a perceived delay in Plaintiff's radio response (which Plaintiff fully and properly explained to Sgt. Weimer upon Weimer's arrival on scene) much to Plaintiff's surprise, Sgt. Weimer further told Plaintiff, "You know, you are not pulling your weight around here!"
50. Plaintiff was confused by this as he had never been counseled nor disciplined in the past and had no indication as to why Sgt. Weimer would say this. Sgt. Weimer further stated that Sgt. Colangelo advised him that "he does not back up officers, and although he makes his own opinions on people, Plaintiff had one strike."
51. On the night of January 1, 2014 and into the morning of January 2, 2014, Plaintiff was dispatched to investigate a Juvenile luring case. Due to the complex nature of the case and the attempted pickups and possible abduction situations, Plaintiff spent a total of two (2) hours on the call doing his job in a thorough manner given the circumstances.
- Plaintiff was even encouraged by Sgt. Colangelo to make sure to take good notes for his

report when he proactively called her from the scene to update her on what he was dealing with.

52. Plaintiff was not counseled for spending too much time on the call for the balance of the shift, including when returning to headquarters after his shift, where Sgt. Weimer, Sgt. Colangelo and Lt. Kaiser were all present.
53. During Plaintiff's following shift, he was called off the road to come into dispatch and report to the Officer in Charge (OIC) desk. Upon seeing Sgt. Weimer, Plaintiff was asked to join the Sergeant behind closed doors in the Prosecutor's Office. Sgt. Weimer proceeded to angrily and unprofessionally scold Plaintiff for the amount of time he spent on the luring call the previous day. The fact that Sgt. Weimer chose to scold Plaintiff about the necessary time he spent doing benevolent and key community policing duties involving the luring of a juvenile was quite alarming to Plaintiff.
54. Anytime Plaintiff would try to speak of the detailed circumstances, the Sergeant would speak over him and become angrier, even cursing at Plaintiff, as well as displaying an aggressive posture. During that same meeting Sgt. Weimer aggressively questioned Plaintiff about a first aid call that he was dispatched to three days prior, after Plaintiff was already making his way to fuel up his patrol vehicle and head into headquarters after the "on the road" portion of his shift had ended. It was again obvious to Plaintiff that he was being targeted.

55. Although Plaintiff had not done anything wrong by calling Dispatch to defer the routine first aid call to the current officer that had already been assigned the District multiple hours prior, Sgt. Weimer brought up the call in further attempt to harass, scold and intimidate him. At the end of the meeting Sgt. Weimer had told Plaintiff, "You better remember what I said out on the road (referring to the one strike comment)! Just remember, I may be here a year or four (4) years with you, so watch yourself with me. Now get back on the road!"
56. Following the confrontation with Sgt. Weimer, while back on the road, Plaintiff sent a text message to Lt. Kaiser, to request a meeting with him later that morning (at about 8:00 a.m.) to discuss the incident with Sgt. Weimer. However, at 5:00 a.m. that same morning, Sgt. Weimer ordered Plaintiff to come off the road again in order to do a Special Operations Report about the morning of the first aid call.
57. When Plaintiff arrived back at headquarters he met with Lt. Kaiser. Plaintiff expressed his concerns regarding the meeting with Sgt. Weimer and how he was trying to further trying to intimidate him by forcing him to draft a Special Operations Report over such a small incident, but also for an incident involving no wrongdoing on Plaintiff's part. Lt. Kaiser advised Plaintiff that he would have to do the report, but it would be handled at the squad level and that it was a non-issue.
58. After completing the Special Operations Report, Plaintiff submitted the document to Lt. Kaiser for his review. Lt. Kaiser reviewed and approved the report and agreed to submit

a copy with Sgt. Weimer. After returning from the road at the end of his shift, Sgt. Weimer returned to Plaintiff his submitted Special Operations Report, ordering Plaintiff to revise the document since he was asking for a report of the morning of December 30, 2013, not December 29, 2013, as to which Plaintiff wrote.

59. Plaintiff stayed a half hour past his shift, on his own time, to make the corrections and submitted copies in both Sgt. Weimer and Lt. Kaiser's mailbox. Plaintiff sent a text to his Lieutenant to let him know that he submitted the corrections in both his and Sgt. Weimer's mailboxes. Lt. Kaiser then texted Plaintiff to try and enjoy his weekend and that he believed that Plaintiff had made an honest mistake in blending the two (2) days.
60. At the beginning of Plaintiff's following shift, on or about Monday January 2, 2014, Plaintiff was given a sealed envelope by Sgt. Weimer. Yet again, Plaintiff was given back the Special Operations Report and told to explain what he was doing from 7:42 a.m. when he called the desk, and 8:30 a.m. when he arrived at the OIC desk. Plaintiff decided to speak with the Sergeant in order to resolve the issue. A few words into Plaintiff's response, Sgt. Weimer stated, "you don't want to go down this road with me! We have cameras at OIC Desk, you make \$100k a year do your job, check your business and back up officers!"
61. Rather than continuing the unfounded feud that Sgt. Weimer had begun, Plaintiff then attempted to make peace with Sgt. Weimer by apologizing as if he had done something that may have offended the Sergeant. Plaintiff was perplexed as to where all this

animosity was coming from. Plaintiff then tried to shake Weimer's hand to make a sincere effort of reconciliation. Sgt. Weimer rejected this gesture by Plaintiff, and, in a heated tone, directed Plaintiff to get back on the road.

62. Due to the stress and continued anxiety of Sgt. Weimer's escalating behavior toward Plaintiff, Plaintiff took two (2) hours off at the end of his shift as Comp time, and then took off the following day as a Personal Day. During this time Plaintiff also contacted the Cop to Cop Hotline to speak with a counselor. At the onset of this, and to this day, Plaintiff continues to speak with a "Cop to Cop" counselor in order to manage his stress and anxiety issues due to his treatment at the department.
63. During Plaintiff's February 9, 2014 shift, he headed from his assigned District 5 over to the neighboring District 4 in order to back up an officer that was sent to an alarm activation at Wendy's. Upon arriving at the Wendy's, Plaintiff saw that another officer was already on scene to back up Ptl. Keller and decided not to stop as he believed it to be overkill. While stopped at a light just two lights further north on Highway 35, and about to turn around to head back towards his District, Sgt. Sweeney pulled up next to Plaintiff in his supervisor vehicle. Sgt. Sweeney calmly and understandably told Plaintiff to return to his district in case he received a call. Shortly after, Plaintiff received a radio transmission from Sgt. Weimer ordering him back to headquarters.
64. Upon arriving at headquarters, Plaintiff went to speak with Sgt. Weimer who was manning the OIC desk. Sgt. Weimer scolded Plaintiff and asked, "What is with you?"

Now you can't even stay in your district." Plaintiff tried to explain himself to Sgt.

Weimer but was interrupted and told, "You need to do your job, check your businesses, and back up officers!" Plaintiff once again tried to interject but was told, "That's enough of you' I'm going to start documenting this!" Weimer then picked up a phone call and Plaintiff was told by Sgt. Sweeney that he could go back on the road. Sgt. Sweeney was not upset with Plaintiff.

65. A few weeks prior to this exchange with Sgt. Weimer, Sgt. Colangelo called Plaintiff off the road into headquarters to reprimand him for not proactively heading over to a neighboring district for a non-emergency call. Although this was the first and only time that Sgt. Colangelo expressed this concern to Plaintiff, she made certain to cite this in Plaintiff's following evaluation, citing that Plaintiff "struggles with calls for officers requesting backup" a serious allegation of Plaintiff failing to properly perform a vital duty.
66. In summary, Sgt. Colangelo and Sgt. Weimer singled out and placed Plaintiff in a compromising position by first being reprimanded for not proactively going into a neighboring district to back up an officer on a non-emergency call which was not assigned to him, then Plaintiff was reprimanded shortly thereafter for going into a neighboring district as back up to a non-emergency call.
67. While back on the road Plaintiff proceeded to check a few more businesses on Rt. 35 before proceeding to Poricy Park. Plaintiff normally checks parks for at least 15-20

minutes to see if anyone is there after hours, and then often time waits some time to see if anyone pulls in. After approximately 15 minutes, Plaintiff received a call on his cell phone from Sgt. Weimer who was calling from the OIC desk line. During the 24 second call, Sgt. Weimer angrily stated, "Didn't the conversation I just had with you sink in? Why haven't you moved from the same spot?!" Plaintiff tried to respond but was cut off when Sgt. Weimer yelled, "Go check your businesses!" and then hung up. It was clear that Sgt. Weimer had called from the recorded line at the OIC desk to intimidate and harass Plaintiff by making it seem as though he was disobeying orders.

68. After the incident with Sgt. Weimer, Plaintiff again called the Cop to Cop hotline as the pressure and anxiety was building within him. He then had a conversation with Sgt. Sweeney. Sgt. Sweeney told Plaintiff to check his businesses as he normally did and that if Sgt. Weimer tried anything in the morning that he would "have his back".
69. On April 4, 2014, Plaintiff received his most recent Performance Evaluation from Sgt. Colangelo. Plaintiff expressed his concerns and asked multiple questions of Sgt. Colangelo during their session; he then advised her that he would need some time to complete his Rebuttal. Plaintiff then informed Lt. Kaiser that he was already planning to take a personal day the next day, April 5, 2014, and that he would be submitting his written rebuttal to the evaluation to him as soon as possible. Lt. Kaiser told Plaintiff that it would be no problem but conveyed to Plaintiff that the front office has asked him to have all the evaluations to them by April 9th.

70. Following a directly related sick day on April 6th, Plaintiff submitted his rebuttal and signed review within a sealed envelope, addressed to Lt. Kaiser, within Lt. Kaiser's mailbox at the beginning of his next shift on April 9, 2014. However, Sgt. Colangelo took the envelope out of the Lieutenants mailbox and reviewed it herself. At 1:10 a.m., Plaintiff received a call from Lt. Lenge accusing him of not moving on the GPS for an hour. Lt. Lenge's accusations were not accurate since Plaintiff had been patrolling Route 35 checking businesses and only briefly stopped to run radar at the Bank of America to check a development on Lakeshore Drive and had just arrived from being en route to back up another officer.
71. Plaintiff also has text message history to and from Sgt. Sweeney confirming that he was aware of Lt. Lenge's call and that the "GPS must not have been updating". Since Lt. Lenge had not been due in until 1:30 a.m. that morning, it is believed that Sgt. Colangelo had set up Plaintiff by giving Lt. Lenge the false information in order to have him disciplined, in retaliation for writing the rebuttal.
72. On or about April 14, 2014, Plaintiff had a session with Lt. Kaiser and Sgt. Colangelo to discuss his review Rebuttal. Rather than a discussion of Plaintiff's review, Sgt. Colangelo used the meeting to further attack him, first by accusing him of not following chain of command, then by bringing up unrelated matters that weren't even reflected on the evaluation.

73. On April 16, 2014 at 12:30 p.m., Plaintiff received a call from EEO Officer Veneziano. Plaintiff and Veneziano discussed his work environment and hostilities. During the discussion Veneziano informed Plaintiff that although she and Plaintiff have spoken, Acting Deputy Chief Brunt wanted a box checked in the Harassment section of the evaluation and that it would be considered insubordination if Plaintiff refused. As of April 18, 19 and 20, 2014, Plaintiff had taken either personal or sick days in order to further deal with the ongoing anxiety and stress he has been facing at the department.
74. On April 18, 2014, Plaintiff was written out of work by Dr. Parisi (primary care MD) and referred to psychiatric counseling and psychothereapy at Stress Care of NJ, Matawan, NJ. This was now the culmination of the pattern of harassment against Plaintiff while at work, but continued thereafter as Plaintiff was rendered disabled and could not perform the duties of a police officer.
75. Prior to this Dr. Parisi medical write out and mental health referral, Plaintiff was seen by Dr. Parisi's group since February 2014 as to the development of his work related illnesses.
76. Plaintiff also had been calling and receiving calls from "Joe" at the "NJ Cop to Cop Hotline" as early as January, 2014 to the present regarding his work related experiences and their effect on him.

77. In May, 2014, Plaintiff and his Counsel met with Deputy Chief Craig Weber (“Weber”) and Deputy Chief Darren Schwedes (“Schwedes”) for an “Internal Affairs Interview”.
78. On May 7, 2014, Plaintiff began a psychiatric evaluation and psychotherapy at Stress Care of NJ, through to present day. He has been placed on multiple medications for depression, anxiety, and has difficulty sleeping to the present.
79. He has seen Psychiatrists: Dr. Neelgund, Dr. Geller, and currently Dr. DeSantis.
80. On June 12, 2014, Plaintiff received a letter from Middletown Twp./Deputy Chief Darren Schwedes, indicating that their “investigation” has resulted in the exoneration of Sgt. Weimer and Sgt. Colangelo of any wrongdoing against Plaintiff. No other details were provided.
81. On August 14, 2014, due to chest pains, Plaintiff visited the Monmouth Medical Center. He was admitted overnight and diagnosed with work related stress/anxiety and was strongly urged to continue his psychiatric evaluation and psychotherapy.
82. On October 8, 2014, Plaintiff filed for Disability Retirement with the NJ Division of Pensions after 8 months of medical treatment for the illnesses caused by said harassment.
83. His physicians’ findings led to multiple diagnoses that it was not advisable for Plaintiff to return to work as a police officer any longer.

84. In November, 2014, Dr. Geller and Dr. Parisi, filed forms with the State in support of Plaintiff's Disability Retirement application, attesting, in writing, that he is permanently disabled from his duties as a Police Officer with diagnoses of Major Depressive Disorder, PTSD, Panic Disorder, elevated blood pressure and marked weight gain.
85. Additionally, Monmouth Medical Center forwarded Plaintiff's medical records from his work related stress/anxiety attack of August 14, 2014.
86. On February 25, 2015, Plaintiff received notice from Middletown's Assistant Administrator, James Van Nest ("Van Nest"), indicating that the Township was canceling his and his family's health insurance coverage as of February 28, 2015, with only three days' notice, again placing Plaintiff in a very compromising position.
87. On July 22, 2015, Dr. DeSantis filed updated medical documentation in further support of Plaintiff's Disability Retirement application, stating that Plaintiff is permanently disabled from his duties as a Police Officer with diagnoses of Major Depressive Disorder, PTSD, and Panic Disorder.
88. On October 19, 2015, Plaintiff appeared before the Pension Board. The Board voted "no" as to Plaintiff's disability pension application. The Board simply deferred to the Medical Report of Dr. Filippone, the State's Physician.
89. On October 20, 2015, Plaintiff became suicidal and was admitted to the Monmouth Medical Center Psychiatric Hospital for 3 nights. The Long Branch PD found Plaintiff by

the railroad tracks through the life-saving phone skills of Officer Hartsgrove, Highlands PD.

90. Upon discharge, all of Plaintiff's weapons and his Firearm's Permit had been seized per Monmouth County Law Enforcement protocol in Psychiatric matters.
91. On November 23, 2015, Plaintiff's Psychotherapist, Al Malik-Jenkins, submitted a letter refuting the misquoting of his conversation with IME Dr. Filippone on June 6, 2015.
92. On November 25, 2015, Dr. DeSantis submitted yet another current medical examination form to the NJ Division of Pensions. On same date, Dr. DeSantis submits medical document excusing Plaintiff from the inappropriate and unnecessary "Fitness For Duty" exam the Township scheduled for him since Plaintiff has already been diagnosed as "not fit for duty and permanently disabled from his duties as a police officer" on multiple occasions and has filed for disability retirement accordingly.
93. From November 30, 2015, to the present, Plaintiff has filed an extensive and detailed Pension Appeal, which has now been forwarded to the Office of Administrative Law.
94. Within the State's Discovery packet sent on March 18, 2016 was a Pensions Fraud Unit report including false slanted statements made by the Township and it's agents such as the allegation of Plaintiff "demanding" holidays off, the trivialization of his mother's severe illnesses in relation to Plaintiff's motive to speak out for and use his contracted benefits, irrelevant and disturbing quotations such as "to our knowledge she is still alive",

allegations of extortion on the part of Plaintiff's attorney, among many other half-truths and misrepresentations of fact.

95. Also included are allegations of wrongdoing regarding Plaintiff's ministerial role as a horse trainer, a business that has been part of Plaintiff's family for two generations. This personal harassment is now a means to an end to not only eliminate Plaintiff's employment, but now his pension.
96. Plaintiff's minimal involvement with horses and, for that matter, mostly his own horse and has no bearing on the fact that Plaintiff has been specifically rendered mentally unable to perform the duties of a police officer any longer due to the actions of Middletown Township and its agents. Plaintiff has not claimed physical disability nor any other disability that would render his involvement with horses as fraudulent in relation to his filing for disability retirement. This unrelated matter was brought up by the Township to illustrate alleged impropriety regarding Plaintiff's filing for an Ordinary Disability retirement with the NJ Division of Pensions, thus purposefully attempting to spark a denial of Plaintiff's disability pension, which is much less than the standard pension Plaintiff would have deservedly received had he been able to complete twenty years of service.
97. The discriminatory and harassing motives of Middletown and its agents, coupled with its negligent misrepresentations, in addition to the tortious interference with Plaintiff's

economic gain, and attempted constructive discharge, have caused Plaintiff and his family great harm that will be very difficult to recapture. The above clearly points to a pretextual attempted termination. Plaintiff has a right to seek redress for the violation of his constitutional and statutory rights.

98. Plaintiff's initiation of complaints and grievances for wrongful acts against him, as well as statements to his superiors about the improper and unlawful conduct of fellow public employees was and is speech and conduct protected by the First Amendment to the **United States Constitution** and other non-cited legal claims at this point in time.

99. As a consequence of and in retaliation for Plaintiff's 's association and acts and statements therein, and continuously thereafter, up to and including his last active date prior to his medical leave of absence, and even thereafter, the Township and its agents, acting individually and in concert and/or in conspiracy together and at all times under color of state law, have unlawfully, intentionally, and maliciously engaged in an unlawful and unjustified course of conduct and/or pattern of activity, with the intent to cause Plaintiff to suffer adverse actions and to force Plaintiff to leave his employment with Middletown, to stifle and chill Plaintiff's future exercise of freedom of speech and association, to subject Plaintiff to unrelenting mental and physical harassment so long as he remained an officer, and to damage the reputation of Plaintiff in the community as a good citizen and a good officer.

100. Conduct engaged in by the Township and its agents, in addition to the above, acting individually and in concert and/or conspiracy together and at all times under color of state law, includes:
- a. Plaintiff was the subject of unwarranted abuse and harassment in that his name was coupled with derogatory comments and language by the Township and its agents.
 - b. Threats have been made upon Plaintiff, whereby others would not associate with him based upon the actions of the Township and its agents.
 - c. Plaintiff was victimized by terrible assignments and tasks, while others enjoyed preferred assignments and benefits.
101. The Township and its agents, despite their knowledge of, and in some cases their participation in, the harassment and unlawful treatment that Plaintiff was and still is being subjected to, failed to take any steps to prevent this conduct and, in fact, tolerated, permitted and/or participated in the aforementioned pattern of behavior with knowledge thereof.
102. At no time during the months of harassment that Plaintiff has suffered has the Township and its agents, despite their actual knowledge of the existence of the harassment and the retaliatory conduct of themselves and other officers, taken any steps to prevent the harassment from taking place, nor at any time have any of the agents punished or

disciplined in any way for any acts of harassment they have carried out, even though many of those acts have amounted to violations of the laws stated herein as well as the policies and procedures of the Township.

103. The Township policymaking and supervisory officials have instituted no training, issued no written directives or instructions, and implemented no specific supervisory procedures to prevent the harassment and infliction of personal injury on Plaintiff.
104. By its failure to take any steps to protect Plaintiff from the harassment he has been subjected to, and by its failure to take any steps to punish those responsible for this harassment, the Township, and its agents, despite their actual knowledge of the existence of the harassment and participants in the retaliatory conduct, have, by their acts and omissions, ratified the unconstitutional conduct and encouraged the continuation of this harassment to the present day.
105. The aforementioned conduct of the Township and its agents was intentional, malicious, willful, wanton, in reckless disregard of, or grossly negligent to Plaintiff's constitutional rights in that such conduct shocks the conscience, is offensive to human dignity, offends even the most hardened sensibilities, and is fundamentally offensive to a civilized society.
106. The fact that the Township and its agents' unrelenting campaign of harassment of Plaintiff, premised as it was on Plaintiff's exercise of his protected rights, and motivated by a desire to punish Plaintiff for that exercise, was done under color of state law, by

individuals in authority and sworn to uphold the law, constitutes as well conduct that shocks the conscience.

107. As a result of the Township and its agents' conduct, Plaintiff has suffered, among other things, the following specific, objective injuries:

- a. The chilling of Plaintiff's 's right of speech in that the Plaintiff had been deterred from reporting further incidents.
- b. The chilling of Plaintiff's right of association in that he has been deterred from associating with law abiding citizens for the sole reason that his association has been utilized by the Township and its agents as the basis for subjecting Plaintiff to harassment and personal injury.

108. Plaintiff's initiation of complaints and grievances for the wrongful acts against him, as well as statements to his superiors about the improper and unlawful conduct of fellow public employees was and is speech and conduct protected by the First Amendment to the **United States Constitution.**

109. As a consequence of and in retaliation for Plaintiff's association and acts and statements therein, and continuously thereafter, up to and including the date of the filing of this complaint, the defendants herein, and others known and unknown, acting individually and in concert and/or in conspiracy together and at all times under color of state law, have unlawfully, intentionally, and maliciously engaged in an unlawful and unjustified course

of conduct and/or pattern of activity, with the intent, inter alia, to cause the plaintiff to lose his employment or to force the plaintiff to leave his employment with Middletown, to stifle and chill plaintiff's future exercise of freedom of speech and association, to subject plaintiff to unrelenting mental and physical harassment so long as he remained an officer, and to damage the reputation of plaintiff in the community as a good citizen and a good officer.

110. Defendants, despite their knowledge of, and in some cases their participation in, the harassment and unlawful treatment the plaintiff was and still is being subjected to, failed to take any steps to prevent this conduct and, in fact, tolerated, permitted and/or participated in the aforementioned pattern of behavior with knowledge thereof.
111. As a direct and proximate result of the defendants' retaliation and punishment of the plaintiff for his exercise of First Amendment rights, the plaintiff has been chilled or deterred from further exercise of those rights. This includes, but is not limited to, the fact that the plaintiff, has been continually ostracized and harassed by the Township.
112. As a direct consequence and proximate result of the conduct of the defendants as described above, the plaintiff has been subjected to a deprivation, under color of state law, of his constitutional rights, including his rights under the **First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution**, as guaranteed and

protected by 42 U.S.C. 1983, 1988, and of his rights as guaranteed by the **Constitution** and statutes of the State of New Jersey.

113. As a direct consequence and proximate result of the conduct of the defendants as described above, plaintiff has suffered irreparable damage, severe emotional and psychological distress, anguish, anxiety and injury, pain and suffering, and damage to his reputation and character due to the willful, wanton and deliberate conduct of the defendants.

COUNT ONE

114. The plaintiff incorporates by reference the allegations set forth in Paragraphs 1 through 113 as if fully set forth herein.
115. The conduct of the defendants, acting under color of state law, in retaliating against and punishing the plaintiff for his exercise of his **First Amendment rights**, which has both chilled and deterred him from the unfettered exercise of his rights and caused and continues to cause him specific, objective harm, were done intentionally, willfully, maliciously and/or with a reckless disregard for the natural and probable consequences of their acts, were done without lawful justification, and were designed to and intentionally cause the Plaintiff severe emotional and psychological distress, anguish, anxiety and injury, pain and suffering, property damage and property loss, and damage to reputation and character, as well as an attempted constructive discharge, in violation of the

Plaintiff's Constitutional rights as guaranteed under **42 U.S.C. 1983**, and the **First and Fourteenth Amendments to the United States Constitution**.

COUNT TWO

116. Plaintiffs reiterate and incorporate by reference the allegations in Paragraphs 1 through 115 as if fully set forth herein.
117. The conduct of the defendants, acting under color of state law, in retaliating against and punishing the plaintiff for his exercise of his First Amendment rights, which has both chilled and deterred him from the unfettered exercise of his rights and caused and continues to cause his specific, objective harm, amounts to conduct that is shocking to the conscience and that offends human dignity, and was done intentionally, willfully, maliciously and/or with a reckless disregard for the natural and probable consequences of their acts, were done without lawful justification, and were designed to and did intentionally cause the plaintiff severe emotional and psychological distress, anguish, anxiety and injury, pain and suffering, property damage and property loss, and damage to reputation and character, as well as an attempted constructive discharge, in violation of the plaintiff's Constitutional rights as guaranteed under **42 U.S.C. 1983**, and the **Fifth and Fourteenth Amendments to the United States Constitution**.

COUNT THREE

118. The plaintiff incorporates by reference the allegations set forth in Paragraphs 1 through 117 as if fully set forth herein.
119. The conduct and actions of defendants, acting under color of state law and in concert with one another, violated plaintiff's rights under 42 U.S.C. 1983 and the **First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution**. These defendants conspired to deprive the plaintiffs of the aforementioned rights by conspiring to harass and retaliate against the plaintiff for the plaintiff's exercise of protected First Amendment rights of speech and association.
120. In furtherance of this conspiracy, one or more of the defendants participating therein did or cause to be done a number of covert acts, all in effort to retaliate against him.
121. As a direct and proximate result of the defendants' actions, plaintiff suffered injury to his person and property and was deprived of his rights under 42 U.S.C. 1983 and the **First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution**.

COUNT FOUR

122. The plaintiff incorporates by reference the allegations set forth in Paragraphs 1 through 121, as if fully set forth herein.
123. At all times relevant to this complaint, the County and the individual defendants were under their direction and control. The individual defendants, whom at all times relevant

to this complaint, were responsible for promulgating policies and practices for the County.

124. At all times relevant to this complaint, the individually named defendants, were ultimately responsible for the instruction, supervision, control and discipline of officers for the Department.
125. Upon the occurrences, the individual defendants, participated in, and was informed of the unlawful and continued harassment. On information and belief, the individual named defendants conveyed this information and other confidential and damaging information regarding plaintiff to other members of the Department.
126. Between the initiating of acts against plaintiff and the present, there has been no non-biased investigation of conduct against plaintiff by anyone having authority to do so within the Department.
127. No formal or informal disciplinary action was taken against any officer by any authority, nor were any steps taken to protect the plaintiff from this harassment or retaliation for his having exercised his First Amendment rights, nor were any steps taken to prevent the defendant officers from engaging in future acts of harassment and retaliation against the plaintiff.
128. The failure of defendants to take steps to prevent the plaintiff from being subjected to harassment and retaliation, to thoroughly investigate who was responsible for the

harassment and retaliation, and/or to take action against those who were responsible for the harassment and retaliation, amounted to a ratification of this harassment by these defendants and an encouragement to those who were responsible that they could continue to harass and retaliate against the plaintiff without fear of being sanctioned in any way for their unjustified and illegal behavior.

129. In effect, defendants created, authorized, maintained, permitted and enforced a policy, practice, custom or usage of failing to properly instruct, supervise, control and discipline members of the Department.
130. The failure of defendants to diligently exercise their duties to instruct, train, supervise, control and discipline members of the Department constituted deliberate indifference to the plaintiff's constitutional rights, and was and is a direct and proximate cause of the injuries that he has suffered and continues to suffer today.
131. Pursuant to the aforementioned customs, policies, practices and usages, the defendants, directly or indirectly, under color of law, approved or ratified the unlawful, deliberate, malicious, reckless and wanton conduct of defendant's officers as heretofore described.
132. As a direct and proximate result of the acts and omissions of the defendants, the plaintiff has been subjected to the deprivation of rights, privileges and immunities secured to him by the **First, Fourth, Fifth and Fourteenth Amendments to the United States**

Constitution and 42 U.S.C. 1983.

133. As a direct and proximate result of the aforesaid acts and omissions of the defendants, the plaintiff has suffered severe emotional and psychological distress, anguish, anxiety and injury, pain and suffering, and damage to his reputation and character.

COUNT FIVE

Intentional Infliction of Emotional Distress

134. Plaintiff repeats and realleges the facts contained in paragraphs 1-133, as if fully set forth herein at length.
135. The conduct of the defendants was extreme and outrageous against the Plaintiff and continues to cause him specific, objective harm, and was done intentionally, willfully, maliciously and recklessly, without lawful justification, and was designed to, and
- professional standing and character.

COUNT SIX

Retaliation

136. Plaintiff repeats and realleges the facts contained in paragraphs 1-135, as if fully set

forth herein at length.

137. The actions of Defendants are clearly in retaliation to the conveyances, accomplishments and achievements of Plaintiff in violation of public policy.

138. As a result thereto, Plaintiff has sustained damages.

WHEREFORE, the plaintiff demands the following relief jointly and severally against all of the defendants:

- A. An award of compensatory damages generally against the defendants, and each of them jointly and severally.
- B. An award of punitive damages against the defendants, with the exception of the defendant, Middletown Township, and each of them jointly and severally.
- C. A declaration that the aforementioned actions of the defendants are unconstitutional and in violation of the United States and New Jersey statutory law.
- D. A court order granting a permanent injunction against the defendants, and all persons in active concert and participation with them, from the commission or omission of any of the aforesaid unlawful acts or any similar acts against plaintiff, and that the defendants take such action as may be necessary to prevent future commission or omission of any of said unlawful acts against plaintiff.
- E. The convening and empaneling of a jury to consider the merits of the claims herein.

F. A court order that the plaintiff is entitled to the costs involved in maintaining this action, including attorneys' fees.

G. Such other and further relief as this Court may deem appropriate and equitable, including injunctive and declaratory relief as may be required in the interests of justice.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. Koy', is written over a horizontal line.

WILLIAM F. KOY, ESQ.

LAW FIRM OF WILLIAM KOY, L.L.P.

Attorneys for Plaintiff

Dated: April 12, 2016

Assignment of Trial Counsel

William F. Koy, Esq. and William J. Koy, Esq. are hereby assigned as trial counsel.

VERIFICATION

I DECLARE THAT:

I am the plaintiff in the above entitled action. I have read the foregoing Complaint and know the contents herein. This is true of my own knowledge, except as to those matters which are therein stated upon my information and belief, and as to those matters, Plaintiff believes them to be true.

Plaintiff declare under penalty of perjury that the foregoing is true and correct and that this verification is executed this 13th day of April, 2016.


Savino Capilupi, Plaintiff

Email Scan Verification

I Certify that Savino Capilupi was not available to sign this document. The above is filed with a facsimile of his original signature and I certify that the affiant acknowledged to me the genuineness of the signature and that the document or a copy with an original signature affixed will be filed if requested by the Court or a party.



WILLIAM F. KOY, ESQ.

Dated: April 13 2016