

THE U.S. DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
THIRD DISTRICT

RECEIVED

AUG 27 2013

AT 8:30
WILLIAM T. WALSH
CLERK

Hussain Haqq,¹
Plaintiff,²
vs.
MONTGOMERY TOWNSHIP, MONTGOMERY
TOWNSHIP POLICE DEPARTMENT,
WILLIAM WILKES, In his
individual and official
capacities; GERALD DIDONATO, In
his individual and official
capacities; ANDREW PERRY, In
his individual and official
capacities; GUY FILLEBROWN, in
his individual and official
capacity; SOMERSET HILLS TOWING
COMPANY, as a PERSON; SOMERSET
HILLS TOWING COMPANY employee,
"ALLEN," In his individual and
employee capacity
Defendants,

CASE NO. _____
JUDGE: _____
DEPRIVATION OF RIGHTS UNDER 42
U.S.C. §1983, ET SEQ.;
COMPLAINT FOR FALSE
IMPRISONMENT (FALSE ARREST);
INJUNCTIVE RELIEF, AND
DECLARATORY RELIEF AND DAMAGES
BASED ON SEIZURE OF PROPERTY
(PERSON & VEHICLE) WITHOUT DUE
PROCESS OF LAW
DEMAND FOR TRIAL BY JURY

¹ (see attached Exhibit 'A')

² (see attached Exhibit 'A')

INTRODUCTION

This is an action brought by Plaintiff,³ Husain Haqq,⁴ herein after "Plaintiff," against State Officials, in their respective roles and in their individual capacities and their Corporation of political subdivision, who, while acting under the color of law, did willfully and with intent deter, suppress, or otherwise breach some rights of Plaintiff guaranteed and protected by the Federal Constitution, particularly the 1st, 4th, 5th, 6th and 14th Amendments.

This complaint involves the actions of defendants William Wilkes, Gerald DiDonato, and Andrew Perry's unreasonable arrest⁵ and seizure⁶ of Plaintiff and his effects with the assistance of "Allen" of Somerset Hills Towing Company, while Plaintiff was engaged in constitutionally protected conduct.⁷ In addition, the tortuous negligence of Defendant Guy Fillebrown in his refusal to file a vehicle theft report on behalf of Plaintiff.

Be it known, named Defendants: William Wilkes, Gerald DiDonato, and Guy Fillebrown were sent lawful notification October 12, 2012⁸ for which none of the Defendants have given a

³ (see attached Exhibit 'A')

⁴ (see attached Exhibit 'A')

⁵ To deprive a person of his liberty by legal authority. Taking, under real or assumed authority, custody of another for the purpose of holding or detaining him to answer a criminal charge or civil demand. State v. Ferraro, 81 N.J. Super. 213, 195 A.2d 227; People v. Wipfler, 37 Ill.App.3d 400, 346 N.E.2d 41, 44. Black's Law dictionary (5th Edition) p. 100

⁶ The act of taking possession of property, e.g., for a violation of law or by virtue of an execution. Term implies a taking or removal of something from the possession, actual or constructive, of another person or persons. Molina v. State Wis.2d 662, 193 N.W.2d 874, 877.... Black's Law dictionary (5th Edition) p. 1219

⁷ "The claim and exercise of a constitutional right cannot be converted into a crime." Miller v. US, 230 F 486, at 489.

⁸ (see attached Exhibit 'K')

1 response. Be it also known, Defendant SOMERSET HILLS TOWING was
2 issued a lawful notification letter on or about August 9, 2013⁹
3 for which this Defendant has not given a response.

4 Be it known, each of the state officials were to have sworn
5 an "Oath of Office" in regards to their duties and therefore
6 each of their acts under "color" of state law is in direct
7 violation of their oath of office and equates to CRIMINAL
8 CONSPIRACY under 42 U.S.C. §1985.¹⁰

9 PRELIMINARY STATEMENT

10 1. Plaintiff is a dedicated husband and father of five
11 children domicile in the City of Trenton, New Jersey. Around
12 fall of 2009 Plaintiff purchased a used red, four (4) door 1994
13 Honda Accord, with the VIN # 1HGCD5653RA054046.¹¹

14 2. Between June and July of 2012, Plaintiff began searching
15 for a vehicle to purchase that would better accommodate
16 Plaintiff's family size and needs. Plaintiff travelled to
17 various car dealers in search of a newer, more accommodating
18 vehicle.

19
20 ⁹ (see attached Exhibit 'L')

¹⁰ (3) Depriving persons of rights or privileges

21 If two or more persons in any State or Territory conspire or go in disguise
22 on the highway or on the premises of another, for the purpose of depriving,
23 either directly or indirectly, any person or class of persons of the equal
24 protection of the laws, or of equal privileges and immunities under the laws;
25 or for the purpose of preventing or hindering the constituted authorities of
26 any State or Territory from giving or securing to all persons within such
27 State or Territory the equal protection of the laws;...; in any case of
28 conspiracy set forth in this section, if one or more persons engaged therein
do, or cause to be done, any act in furtherance of the object of such
conspiracy, whereby another is injured in his person or property, or deprived
of having and exercising any right or privilege of a citizen of the United
States, the party so injured or deprived may have an action for the recovery
of damages occasioned by such injury or deprivation, against any one or more
of the conspirators. See U.S.C. 42 §1985

¹¹ (see attached Exhibit 'B')

1 3. On July 17, 2012, Plaintiff was travelling southbound on
2 Rt. 206 returning home to Trenton, New Jersey after visiting
3 Sussex Honda dealership in Newtown, New Jersey.

4 4. On July 17, 2012, around 12:10 PM, Plaintiff was stopped
5 at a red traffic light at Trent Place and Rt. 206 amongst other
6 vehicles that were also travelling southbound on Rt. 206. Once
7 the light changed Plaintiff and traffic began to proceed
8 travelling southbound.

9 5. As Plaintiff travelled through the traffic light,
10 Plaintiff noticed in the northbound lane driving north, a
11 vehicle with markings of Montgomery Twp. Police on its side.

12 6. Plaintiff witnessed in Plaintiff's rear view mirror the
13 vehicle in statement number five (5) above had made a U-turn
14 against oncoming traffic and began travelling southbound on Rt.
15 206.

16 7. As Plaintiff continued travelling southbound, after
17 passing Bellemead Griggstown Rd., Plaintiff noticed the flashing
18 lights and siren of the vehicle in statement number five (5)
19 above, directing Plaintiff to the shoulder of the road.

20 8. Plaintiff directed his vehicle to the shoulder of Rt. 206
21 southbound diagonal from Montgomery Township Municipal Building,
22 2261 U.S. 206, Belle Mead, NJ

23 9. A man later known as William Wilkes approached Plaintiff's
24 front right vehicle door stating, "How you doing, sir? License
25 and registration and insurance card, please."¹²

26
27 ¹² (see line 6 and 7, pg. 1 of attached Exhibit 'C')

1 10. Plaintiff asked why Plaintiff was being stopped by William
2 Wilkes.

3 11. William Wilkes stated the following reason for the stop:

4 1) "Because I stopped you and that's the procedure;"^{13, 14} 2) "You
5 have a break light out..."¹⁵ and 3) "...your inspection."^{16, 17} William
6 Wilkes continued stating, "...I noticed that you have that pink
7 slip up there. Did you recently purchase this vehicle?"¹⁸

8 12. While searching for Plaintiff's license, registration, and
9 insurance card, Plaintiff responded, "No. I didn't, no. That's
10 a parking ticket."¹⁹

11 13. William Wilkes acknowledges the pink slip not being what
12 he thought it was stating, "Oh, that's a parking ticket, okay.
13 Because sometimes when you get a car, they give you a pink slip,
14 you put it up there and it gives you like 14 days to get your
15 vehicle inspected. But obviously that's not the case..."²⁰

16 14. Plaintiff asked, "Do you have your oath of office and your
17 ID..."²¹

18 15. William Wilkes began to identify artifacts (his badge,
19 uniform, and recording device) he possessed as proof of his
20 identity. However, WILKES never produced WILKES Oath of Office,
21 and identification card.

22 16. William Wilkes called for backup.

23 ¹³ (see line 11, pg. 1 of attached Exhibit 'C')

24 ¹⁴ (see DVD - DVR 907 at time 12:14:40 of attached Exhibit 'J')

25 ¹⁵ (see line 16, pg. 1 of attached Exhibit 'C')

26 ¹⁶ (see line 16, pg. 1 of attached Exhibit 'C')

27 ¹⁷ "The claim and exercise of a constitutional right cannot be converted into
a crime." Miller v. US, 230 F 486, at 489.

28 ¹⁸ (see line 20 and 21, pg. 1 of attached Exhibit 'C')

¹⁹ (see line 23, pg. 1 of attached Exhibit 'C')

²⁰ (see line 25, 26, and 27, pg. 1 of attached Exhibit 'C')

²¹ (see line 30, pg. 1 of attached Exhibit 'C')

1 17. Plaintiff gave William Wilkes Plaintiff's private
2 identification card,²² which William Wilkes said, "Okay. This
3 isn't a valid driver's license."²³ And Plaintiff gave William
4 Wilkes Plaintiff's "valid driver's license" and a recently
5 expired insurance card, but could not locate Plaintiff's
6 registration card during this arrest.²⁴

7 18. Within minutes, two (2) men later known as Sergeant Gerald
8 DiDonato and Officer Andrew Perry arrived on the scene. William
9 Wilkes explained twice to the arriving superior officer and the
10 other officer that, "He needs to see my oath of office and my ID
11 card or else he's not gonna comply with any of my orders."²⁵
12 William Wilkes returned Plaintiff's private identification card
13 and took Plaintiff's driver's license to the vehicle William
14 Wilkes exited.

15 19. Plaintiff again demanded to see the Oath of Office²⁶ of
16 William Wilkes, which William Wilkes did not produce.

17 20. William Wilkes returned to Plaintiff's vehicle with five
18 (5) summonses, which he explained, "You're being issued a
19 summons for no insurance, you're being issued a summons for
20 failure to produce valid insurance, you're being issued a
21 summons for failure to produce valid registration, you're being
22
23

24 ²² (see attached exhibit 'D')

25 ²³ (see line 5, pg. 2 of attached Exhibit 'C')

26 ²⁴ To deprive a person of his liberty by legal authority. Taking, under real
27 or assumed authority, custody of another for the purpose of holding or
28 detaining him to answer a criminal charge or civil demand. State v. Ferraro,
81 N.J. Super. 213, 195 A.2d 227; People v. Wipfler, 37 Ill.App.3d 400, 346
N.E.2d 41, 44. Black's Law dictionary (5th Edition) p. 100

²⁵ (see line 13, 14, 18 and 19, pg. 2 of attached Exhibit 'C')

²⁶ (see line 55, pg. 2 of attached Exhibit 'C')

1 issued a summons for passenger side break light out, and you're
2 being issued a summons for failure to inspect your vehicle."^{27, 28}

3 21. William Wilkes informed Plaintiff that William Wilkes is
4 going to have Plaintiff's vehicle towed and that the tow truck
5 was on its way to tow Plaintiff's vehicle for not having proof
6 of insurance.²⁹

7 22. William Wilkes breached the peace³⁰ of Plaintiff's front
8 left window and placed the summonses from paragraph twenty (20)
9 above on the dashboard of Plaintiff's vehicle.

10 23. Plaintiff requested the summonses to be removed, stating
11 "Please don't, please don't do that. Can you take that? That
12 doesn't belong to me. Can you take that?"³¹ Because they did not
13 belong to Plaintiff.

14 24. William Wilkes did not remove the summonses from
15 Plaintiff's vehicle.

16 ///

17 ///

18 ²⁷ (see line 32 - 36, pg. 4 of attached Exhibit 'C')

19 ²⁸ "The claim and exercise of a constitutional right cannot be converted into
a crime." Miller v. US, 230 F 486, at 489.

20 ²⁹ 39:3-29.1a. Provision of proof of insurance; impoundment of vehicle. 79. a. Upon
the issuance of a summons for failing to possess or exhibit an insurance
21 identification card in violation of R.S.39:3-29, the violator or registrant
shall have 24 hours from the time of the citation to provide the issuing law
22 enforcement agency with the insurance identification card, or other
satisfactory proof of insurance. Failure to provide the insurance
23 identification card or other satisfactory proof of insurance within the 24-
hour time frame shall result in the issuance of a warrant for the immediate
24 impoundment of the vehicle that was being operated when the summons was
issued. A motor vehicle impounded pursuant to the provisions of this
subsection shall be removed to a storage space or garage. The registrant
25 shall be responsible for the cost of the removal and storage of the impounded
motor vehicle.

26 ³⁰ A violation or disturbance of the public tranquility and order. State v.
Boles, 5 Conn. Cir. 22, 240 A.2d 920, 927. Black's Law dictionary (5th
27 Edition) p. 171

28 ³¹ (see line 42 and 43, pg. 4 of attached Exhibit 'C')

1 25. After about twenty-seven (27) minutes of being arrested
2 from exercising constitutionally protected conduct,³² Plaintiff
3 stated, "Well, I'm not gonna wait any longer for - for you guys.
4 You guys haven't shown me any kind of ID, so I'm gonna be
5 leaving."³³

6 26. Sergeant Gerald DiDonato breach the peace³⁴ of Plaintiff's
7 vehicle reaching inside Plaintiff's vehicle through the guest
8 window unlocked the door, then opened the guest door and entered
9 Plaintiff's vehicle.

10 27. Sergeant Gerald DiDonato removed and seized Plaintiff's
11 set of keys from the ignition and exited Plaintiff's vehicle,
12 closing Plaintiff's vehicle door behind him.

13 28. Sergeant Gerald DiDonato removed and seized Plaintiff's
14 car key and breached the peace³⁵ of Plaintiff's vehicle once more
15 by dropping Plaintiff's remaining keys in the guest seat through
16 the front guest window.

17 29. Within a minute afterwards Sergeant Gerald DiDonato spoke
18 with and gave Plaintiff's car key to William Wilkes.

19 30. Slightly prior to paragraph 25 above, William Wilkes is
20 heard stating to Andrew Perry, "Yeah. He wasn't even gonna get
21 probably a summons out of this until he started -..."^{36, 37}

22
23 ³² "The claim and exercise of a constitutional right cannot be converted into
a crime." Miller v. US, 230 F 486, at 489.

24 ³³ (see line 23 and 24, pg. 4 of attached Exhibit 'E')

25 ³⁴ A violation or disturbance of the public tranquility and order. State v.
Boles, 5 Conn. Cir. 22, 240 A.2d 920, 927. Black's Law dictionary (5th
Edition) p. 171

26 ³⁵ A violation or disturbance of the public tranquility and order. State v.
Boles, 5 Conn. Cir. 22, 240 A.2d 920, 927. Black's Law dictionary (5th
Edition) p. 171

27 ³⁶ (see line 18, pg. 5 of attached Exhibit 'C')

28 ³⁷ (see DVD - DVR 907 at time 12:38:55 PM of attached Exhibit 'J')

1 31. After approximately thirty (30) minutes of being detained
2 from constitutionally protected conduct,³⁸ Somerset Hills Towing
3 arrived on the scene.

4 32. Somerset Hills Towing operator was given the key to
5 Plaintiff's vehicle by William Wilkes.

6 33. WILKES and DIDONATO spoke with ALLEN in front of
7 Plaintiff's vehicle about towing Plaintiff's vehicle with
8 Plaintiff in Plaintiff's vehicle,³⁹ while PERRY stood behind
9 Plaintiff's vehicle.

10 34. Plaintiff was told by Sergeant Gerald DiDonato that if
11 Plaintiff did not exit Plaintiff's vehicle, "...we'll remove you
12 from the car, put you under arrest for obstruction, take you
13 over to the police station, charge you, fingerprint and
14 photograph you and then release you."⁴⁰

15 35. Plaintiff exited Plaintiff's vehicle under stress, duress,
16 coercion, and threat.

17 36. As Plaintiff was gathering Plaintiff's belongings and
18 preparing to move to the rear of Plaintiff's vehicle, Sergeant
19 Gerald DiDonato grabbed Plaintiff's upper right arm, forcefully
20 moving Plaintiff to the rear of Plaintiff's vehicle. As
21 Plaintiff neared the rear of the vehicle, Sergeant Gerald
22 DiDonato gave Plaintiff a shove.⁴¹

23 ///

24 ///

25 ³⁸ "The claim and exercise of a constitutional right cannot be converted into
a crime." Miller v. US, 230 F 486, at 489.

26 ³⁹ (see line 26, 27, 29, 31, 33, 35, 37, 39, and 42, pg. 5 of attached Exhibit
'C' and line 40, 42, and 44, pg. 5 of attached Exhibit 'E')

27 ⁴⁰ (see line 50 - 52, pg. 5 of attached Exhibit 'E')

28 ⁴¹ (see DVD - DVR 907 at time 12:50:10 - 12:50:13 of attached Exhibit 'J')

1 37. Plaintiff proceeded to approach the tow truck operator and
2 asked for his name and a company card, which he, Allen, provided
3 Plaintiff.

4 38. Plaintiff proceeded to walk across Rt. 206 to the
5 Municipal Building to await Plaintiff's mother's arrival to pick
6 up Plaintiff.

7 39. While waiting for Plaintiff's mother, Plaintiff attempted
8 to file a vehicle theft report with Montgomery Township Police
9 Department's Lieutenant Guy Fillebrown.⁴² Montgomery Township
10 Police Department's Lieutenant Guy Fillebrown refused to take
11 the vehicle theft report.

12 40. Plaintiff has been without Plaintiff's vehicle described
13 in paragraph one (1) since Tuesday, July 17, 2012.⁴³

14 JURISDICTION and VENUE

15 41. This action arises under 42 U.S.C. §1983 (Civil Action for
16 Deprivation of Rights), §1985 (Conspiracy to interfere with
17 civil rights), §1986 (Action for neglect to prevent), and §1988
18 (Proceedings in vindication of civil rights).

19 42. The jurisdiction of this court is founded on federal
20 question jurisdiction, 28 U.S.C. §1331, this court also has
21 original jurisdiction pursuant to 28 U.S.C. §1343.

22 43. Venue is proper because all events giving rise to
23 Plaintiffs' causes of action occurred within this district, as
24 provided in 28 U.S.C. § 1391(b)(2).

26 ⁴² (see attached Exhibit 'K' line 7 - 12, pg. 2 of Lawful Notification Letter
27 to Guy Fillebrown, (ID - Lieutenant))

⁴³ (see attached Exhibit 'I')

PARTIES

44. Plaintiff,⁴⁴ Husain Haqq,⁴⁵ herein after "Plaintiff," at all times relevant herein, was domiciled in the City of Trenton, New Jersey.

45. Plaintiff is informed and believes that defendant William Wilkes,⁴⁶ hereinafter "WILKES" is some level of Officer under the authority of the Montgomery Township Police Department and, as such, was at all times relevant to this action, acting while an employed, compensated, enriched and rewarded employee for the Township of Montgomery, a political subdivision organized and existing under the laws of the State of New Jersey. WILKES is being sued in his individual and official capacities.⁴⁷

46. Plaintiff is informed and believes that defendant Gerald DiDonato,⁴⁸ hereinafter "DIDONATO" is some level of Officer under the authority of the Montgomery Township Police Department and, as such, was at all times relevant to this action, acting while an employed, compensated, enriched and rewarded employee for the Township of Montgomery, a political subdivision organized and existing under the laws of the State of New Jersey. DIDONATO is being sued in his individual and official capacities.

47. Plaintiff is informed and believes that defendant Andrew Perry, hereinafter "PERRY" is some level of Officer under the authority of the Montgomery Township Police Department and, as

⁴⁴ (see attached Exhibit 'A')

⁴⁵ (see attached Exhibit 'A')

⁴⁶ (see attached Exhibit 'F')

⁴⁷ An official capacity suit is, in all respects other than name, to be treated as a suit against the entity for which the officer is an agent. Kentucky v. Graham, 473 U.S. 159, 166 (1985)

⁴⁸ (see attached Exhibit 'G')

1 such, was at all times relevant to this action, acting while an
2 employed, compensated, enriched and rewarded employee for the
3 Township of Montgomery, a political subdivision organized and
4 existing under the laws of the State of New Jersey. PERRY is
5 being sued in his individual and official capacities.

6 48. Plaintiff is informed and believes that defendant Guy
7 Fillebrown,⁴⁹ hereinafter "FILLEBROWN" is some level of Officer
8 under the authority of the Montgomery Township Police Department
9 and, as such, was at all times relevant to this action, acting
10 while an employed, compensated, enriched and rewarded employee
11 for the Township of Montgomery, a political subdivision
12 organized and existing under the laws of the State of New
13 Jersey. FILLEBROWN is being sued in his individual and official
14 capacities.

15 49. Montgomery Township, herein after "TOWNSHIP," at all times
16 relevant to this complaint, was, and is, a municipal corporation
17 of the State of New Jersey, responsible for compensating,
18 enriching, rewarding, and making policy for Defendants WILKES,
19 DIDONATO, PERRY, and FILLEBROWN. TOWNSHIP is being sued as a
20 person.

21 50. Somerset Hills Towing, herein after "SOMERSET HILLS," at
22 all times relevant to this complaint, was, and is, a business
23 operating on behalf of Montgomery Township Police department a
24 municipal corporation of the State of New Jersey, responsible
25 for dispatching tow trucks for Defendants WILKES, DIDONATO, and
26 PERRY. SOMERSET HILLS is being sued as a person.

27 ⁴⁹ (see attached Exhibit 'H')

1 51. Plaintiff is informed and believes that Defendant SOMERSET
2 HILLS tow truck operator, hereinafter "ALLEN" provided towing
3 services to the other Defendants, and is the entity that towed
4 Plaintiff's vehicle, and which was last known to be in the
5 possession of Plaintiff's vehicle as described below.

6 FACTUAL ALLEGATIONS

7 52. On Tuesday, July 17, 2012, at approximately 12:13P.M.,
8 Plaintiff was travelling southbound on route 206 toward Trenton,
9 New Jersey to return to Plaintiff's home. Plaintiff observed a
10 "police car" with sirens and flashing lights on driving behind
11 Plaintiff, later determined to be operated by Defendant, WILKES.

12 53. WILKES directed Plaintiff to pull to the shoulder of Rt.
13 206, which Plaintiff did.

14 54. WILKES demanded Plaintiff's driver's license,
15 registration, and insurance card.

16 55. Plaintiff asked why, to which WILKES stated the following
17 reason for the stop: 1) "Because I stopped you and that's the
18 procedure;"⁵⁰ 2) "You have a break light out..."⁵¹ and
19 3) "...your inspection."^{52, 53} William Wilkes continued stating, "...I
20 noticed that you have that pink slip up there. Did you recently
21 purchase this vehicle?"⁵⁴

22 56. While searching for Plaintiff's license, registration, and
23 insurance card, Plaintiff responded, "No. I didn't, no. That's
24 a parking ticket."⁵⁵

25 ⁵⁰ (see line 11, pg. 1 of attached Exhibit 'C')

26 ⁵¹ (see line 16, pg. 1 of attached Exhibit 'C')

27 ⁵² (see line 16, pg. 1 of attached Exhibit 'C')

28 ⁵³ "The claim and exercise of a constitutional right cannot be converted into
a crime." Miller v. US, 230 F 486, at 489.

⁵⁴ (see line 20 and 21, pg. 1 of attached Exhibit 'C')

1 57. WILKES acknowledges the pink slip not being what he
2 thought it was stating, "Oh, that's a parking ticket, okay.
3 Because sometimes when you get a car, they give you a pink slip,
4 you put it up there and it gives you like 14 days to get your
5 vehicle inspected. But obviously that's not the case..."⁵⁶

6 58. Plaintiff asked, "Do you have your oath of office and
7 your ID..."⁵⁷

8 59. WILKES began identify artifacts (his badge, uniform, and
9 recording device) he possessed as proof of his identity.
10 However, WILKES never produced WILKES Oath of Office, or
11 identification card.

12 60. WILKES called for backup.

13 61. Plaintiff gave WILKES Plaintiff's private identification
14 card,⁵⁸ which WILKES said, "Okay. This isn't a valid driver's
15 license."⁵⁹ And Plaintiff gave WILKES Plaintiff's "valid driver's
16 license" and a recently expired insurance card, but could not
17 locate Plaintiff's registration card during this arrest.⁶⁰

18 62. Within minutes, two (2) men later known as DIDONATO and
19 PERRY arrived on the scene. WILKES explained twice to the
20 arriving superior officer and the other officer that, "He needs
21 to see my oath of office and my ID card or else he's not gonna
22

23 ⁵⁵ (see line 23, pg. 1 of attached Exhibit 'C')

24 ⁵⁶ (see line 25, 26, and 27, pg. 1 of attached Exhibit 'C')

25 ⁵⁷ (see line 30, pg. 1 of attached Exhibit 'C')

26 ⁵⁸ (see attached exhibit 'D')

27 ⁵⁹ (see line 5, pg. 2 of attached Exhibit 'C')

28 ⁶⁰ To deprive a person of his liberty by legal authority. Taking, under real or assumed authority, custody of another for the purpose of holding or detaining him to answer a criminal charge or civil demand. State v. Ferraro, 81 N.J. Super. 213, 195 A.2d 227; People v. Wipfler, 37 Ill.App.3d 400, 346 N.E.2d 41, 44. Black's Law dictionary (5th Edition) p. 100

1 comply with any of my orders."⁶¹ WILKES returned Plaintiff's
2 private identification card and took Plaintiff's driver's
3 license to the vehicle WILKES exited.

4 63. While WILKES was in WILKES vehicle, Plaintiff requested to
5 see the Oath of Office of DIDONATO and PERRY, which neither
6 produced.

7 64. WILKES returned to Plaintiff's vehicle with five (5)
8 summonses, which he explained, "You're being issued a summons
9 for no insurance, you're being issued a summons for failure to
10 produce valid insurance, you're being issued a summons for
11 failure to produce valid registration, you're being issued a
12 summons for passenger side break light out, and you're being
13 issued a summons for failure to inspect your vehicle."^{62, 63}

14 65. WILKES informed Plaintiff that WILKES is going to have
15 Plaintiff's vehicle towed and that the tow truck was on its way
16 to tow Plaintiff's vehicle for not having proof of insurance.⁶⁴

17 ///

18 ///

19
20 ⁶¹ (see line 13, 14, 18 and 19, pg. 2 of attached Exhibit 'C')

⁶² (see line 32 - 36, pg. 4 of attached Exhibit 'C')

21 ⁶³ "The claim and exercise of a constitutional right cannot be converted into
a crime." Miller v. US, 230 F 486, at 489.

22 ⁶⁴ 39:3-29.1a. Provision of proof of insurance; impoundment of vehicle. 79. a. Upon
the issuance of a summons for failing to possess or exhibit an insurance
23 identification card in violation of R.S.39:3-29, the violator or registrant
shall have 24 hours from the time of the citation to provide the issuing law
24 enforcement agency with the insurance identification card, or other
satisfactory proof of insurance. Failure to provide the insurance
25 identification card or other satisfactory proof of insurance within the 24-
hour time frame shall result in the issuance of a warrant for the immediate
26 impoundment of the vehicle that was being operated when the summons was
issued. A motor vehicle impounded pursuant to the provisions of this
27 subsection shall be removed to a storage space or garage. The registrant
shall be responsible for the cost of the removal and storage of the impounded
motor vehicle.

1 66. WILKES breached the peace⁶⁵ of Plaintiff's front left
2 window and placed the summonses from paragraph 64 above on the
3 dashboard of Plaintiff's vehicle.

4 67. Plaintiff requested the summonses to be removed, stating
5 "Please don't, please don't do that. Can you take that? That
6 doesn't belong to me. Can you take that?"⁶⁶ Because they did not
7 belong to Plaintiff.

8 68. WILKES did not remove the summonses from Plaintiff's
9 vehicle.

10 69. After about twenty-seven (27) minutes of being arrested
11 from exercising constitutionally protected conduct,⁶⁷ Plaintiff
12 stated, "Well, I'm not gonna wait any longer for - for you guys.
13 You guys haven't shown me any kind of ID, so I'm gonna be
14 leaving."⁶⁸

15 70. DIDONATO breached the peace⁶⁹ of Plaintiff's vehicle
16 reaching inside Plaintiff's vehicle through the guest window
17 unlocked the door, then opened the guest door and entered
18 Plaintiff's vehicle.

19 71. DIDONATO removed and seized Plaintiff's set of keys from
20 the ignition and exited Plaintiff's vehicle, closing Plaintiff's
21 vehicle door behind him.

22 ///

23 ⁶⁵ A violation or disturbance of the public tranquility and order. State v.
24 Boles, 5 Conn. Cir. 22, 240 A.2d 920, 927. Black's Law dictionary (5th
Edition) p. 171

25 ⁶⁶ (see line 42 and 43, pg. 4 of attached Exhibit 'C')

26 ⁶⁷ "The claim and exercise of a constitutional right cannot be converted into
a crime." Miller v. US, 230 F 486, at 489.

27 ⁶⁸ (see line 23 and 24, pg. 4 of attached Exhibit 'E')

28 ⁶⁹ A violation or disturbance of the public tranquility and order. State v.
Boles, 5 Conn. Cir. 22, 240 A.2d 920, 927. Black's Law dictionary (5th
Edition) p. 171

1 72. DIDONATO removed and seized Plaintiff's car key and
2 breached the peace⁷⁰ of Plaintiff's vehicle once more by dropping
3 Plaintiff's remaining keys in the guest seat through the front
4 guest window.

5 73. DIDONATO walked to the rear of Plaintiff's vehicle
6 speaking to WILKES and giving WILKES Plaintiff's car key.

7 74. Slightly prior to paragraph 69, WILKES is heard stating to
8 PERRY, "Yeah. He wasn't even gonna get probably a summons out
9 of this until he started -..."^{71, 72}

10 75. After approximately thirty (30) minutes of being detained
11 from constitutionally protected conduct,⁷³ SOMERSET HILLS TOWING
12 arrived on the scene.

13 76. SOMERSET HILLS TOWING operator was given the key to
14 Plaintiff's vehicle by WILKES.

15 77. WILKES and DIDONATO spoke with ALLEN in front of
16 Plaintiff's vehicle about towing Plaintiff's vehicle with
17 Plaintiff in Plaintiff's vehicle,⁷⁴ while PERRY stood behind
18 Plaintiff's vehicle.

19 78. Plaintiff was told by Sergeant Gerald DiDonato that if
20 Plaintiff did not exit Plaintiff's vehicle, "...we'll remove you
21 from the car, put you under arrest for obstruction, take you
22

23
24 ⁷⁰ A violation or disturbance of the public tranquility and order. State v.
Boles, 5 Conn. Cir. 22, 240 A.2d 920, 927. Black's Law dictionary (5th
Edition) p. 171

25 ⁷¹ (see line 18, pg. 5 of attached Exhibit 'C')

26 ⁷² (see DVD - DVR 907 at time 12:38:55 of attached Exhibit 'J')

27 ⁷³ "The claim and exercise of a constitutional right cannot be converted into
a crime." Miller v. US, 230 F 486, at 489.

28 ⁷⁴ (see line 26, 27, 29, 31, 33, 35, 37, 39, and 42, pg. 5 of attached Exhibit
'C' and line 40, 42, and 44, pg. 5 of attached Exhibit 'E')

1 over to the police station, charge you, fingerprint and
2 photograph you and then release you."⁷⁵

3 79. Plaintiff exited Plaintiff's vehicle under stress, duress,
4 coercion, and threat.

5 80. As Plaintiff was gathering Plaintiff's belongings and
6 preparing to move to the rear of Plaintiff's vehicle, DIDONATO
7 grabbed Plaintiff's upper right arm and forcefully move
8 Plaintiff to the rear of Plaintiff's vehicle.⁷⁶

9 81. DIDONATO shoved Plaintiff as DIDONATO released Plaintiff's
10 arm at the rear of Plaintiff's vehicle.⁷⁷

11 82. ALLEN towed Plaintiff's vehicle to SOMERSET HILLS TOWING
12 in Somerset, New Jersey.

13 83. Plaintiff proceeded to walk across Rt. 206 to the
14 Municipal Building to await Plaintiff's mother's arrival to pick
15 up Plaintiff.

16 84. While waiting for Plaintiff's mother, Plaintiff attempted
17 to file a vehicle theft report with Montgomery Township Police
18 Department's Lieutenant FILLEBROWN. Montgomery Township Police
19 Department's Lieutenant FILLEBROWN refused to take the vehicle
20 theft report.

21 85. Plaintiff has been without Plaintiff's vehicle described
22 in paragraph one (1) since Tuesday, July 17, 2012.⁷⁸

23 ///

24 ///

25
26 ⁷⁵ (see line 50 - 52, pg. 5 of attached Exhibit 'E')

27 ⁷⁶ (see DVD - DVR 907 at time 12:50:10 of attached Exhibit 'J')

⁷⁷ (see DVD - DVR 907 at time 12:50:13 of attached Exhibit 'J')

⁷⁸ (see attached Exhibit "I")

CAUSE OF ACTION - COUNT I

(42 U.S.C. § 1983⁷⁹; Deprivation⁸⁰ of Rights)

86. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 85 above and incorporates the same as if set forth in full.

87. Plaintiff was arrested⁸¹ without warrant⁸² and/or probable cause, while exercising Plaintiff's constitutionally protected

⁷⁹ Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia. See U.S.C. 42 §1983

⁸⁰ A taking away or confiscation; as the deprivation of a constitutional right or the taking of property under eminent domain without due process of law (i.e. without just compensation). See also **Deprivation of property**. Black's Law dictionary (5th Edition) p. 397

⁸¹ To deprive a person of his liberty by legal authority. Taking, under real or assumed authority, custody of another for the purpose of holding or detaining him to answer a criminal charge or civil demand. State v. Ferraro, 81 N.J. Super. 213, 195 A.2d 227; People v. Wipfler, 37 Ill.App.3d 400, 346 N.E.2d 41, 44. Black's Law dictionary (5th Edition) p. 100

⁸² A written order which is made on behalf of the state and is based upon a complaint issued pursuant to statute and/or court rule and which commands law enforcement officer to arrest a person and bring him before magistrate. Pillsbury v. State, 31 Wis.2d 87, 142 N.W.2d 187, 190. See Fed.R. Crim.P.4. Black's Law dictionary (5th Edition) p. 1421

1 conduct^{83, 84} to "travel upon the public highway,"⁸⁵ in violation
2 of statutes. Plaintiff was deprived of his rights therefrom.⁸⁶

3 88. Defendant WILKES, specific to this arrest⁸⁷ committed acts
4 that clearly violated Plaintiff's First, Fourth, Fifth, and
5 Fourteenth Amendment rights and clearly established law.
6 Further, said acts were committed pursuant to a custom practice
7 or policy.^{88, 89}

8 89. As a further direct result of the conduct of Defendant
9 WILKES as set forth in this Count, Plaintiff has suffered
10 emotional distress including but not limited to odium, severe
11 depression, frustration, anger, loss of self-worth, humiliation
12 and loss of sleep, all to his injury in the amount of
13 \$250,000.00.

14 WHEREFORE Plaintiff prays for General and Punitive Damages
15 against the Defendant.

16 ///

17 ///

18
19 ⁸³ "The claim and exercise of a constitutional right cannot be converted into
a crime." *Miller v. US*, 230 F 486, at 489.

20 ⁸⁴ The right of the citizen to travel upon the public highways and to
transport his property thereon, either by carriage or by automobile, is not a
mere privilege which a city may prohibit or permit at will, but a common law
21 right which he has under the right to life, liberty, and the pursuit of
happiness. *Thompson v. Smith*, 154 SE 579.

22 ⁸⁵ "The claim and exercise of a constitutional right cannot be converted into
a crime." *Miller v. US*, 230 F 486, at 489.

23 ⁸⁶ "Where rights secured by the Constitution are involved, there can be no
rule making or legislation which would abrogate them." *Miranda v. Arizona*,
24 384 US 436, 491.

25 ⁸⁷ To deprive a person of his liberty by legal authority. Taking, under real
or assumed authority, custody of another for the purpose of holding or
detaining him to answer a criminal charge or civil demand. *State v. Ferraro*,
26 81 N.J. Super. 213, 195 A.2d 227; *People v. Wipfler*, 37 Ill.App.3d 400, 346
N.E.2d 41, 44. *Black's Law dictionary* (5th Edition) p. 100

27 ⁸⁸ (see line 11, pg. 1 of attached Exhibit 'C')

⁸⁹ (see DVD - DVR 907 at time 12:14:40 of attached Exhibit 'J')

CAUSE OF ACTION - COUNT II

(42.S.C. § 1983⁹⁰; Deprivation⁹¹ of Rights)

90. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 89 above and incorporates the same as if set forth in full.

91. Plaintiff was arrested⁹² without warrant and/or probable cause, while exercising Plaintiff's constitutionally protected conduct to "travel upon the public highway,"⁹³ in violation of statutes.

92. Plaintiff, without threat, requested lawful identification of Defendant WILKES to assure Defendant WILKES was working in his official capacity or acting as complainant.

93. Plaintiff was denied lawful identification of Defendant WILKES to assure Defendant WILKES was working in his official

⁹⁰ Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia. See U.S.C. 42 §1983

⁹¹ A taking away or confiscation; as the deprivation of a constitutional right or the taking of property under eminent domain without due process of law (i.e. without just compensation). See also **Deprivation of property**. Black's Law dictionary (5th Edition) p. 397

⁹² To deprive a person of his liberty by legal authority. Taking, under real or assumed authority, custody of another for the purpose of holding or detaining him to answer a criminal charge or civil demand. State v. Ferraro, 81 N.J. Super. 213, 195 A.2d 227; People v. Wipfler, 37 Ill.App.3d 400, 346 N.E.2d 41, 44. Black's Law dictionary (5th Edition) p. 100

⁹³ The right of the citizen to travel upon the public highways and to transport his property thereon, either by carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but a common law right which he has under the right to life, liberty, and the pursuit of happiness. *Thompson v. Smith*, 154 SE 579.

1 capacity or acting as a complainant. WILKES called for backup
2 and issued Plaintiff numerous summonses. WILKES stated, "Yeah.
3 He wasn't even gonna get probably a summons out of this until he
4 started -..."^{94, 95} Plaintiff was deprived of his liberty therefrom.

5 94. Defendant WILKES, specific to this arrest⁹⁶ committed acts
6 that clearly violated Plaintiff's First, Fourth, Fifth, and
7 Fourteenth Amendment rights and clearly established law.
8 Further, said acts were committed pursuant to a custom practice
9 or policy.

10 95. As a further direct result of the conduct of Defendant
11 WILKES as set forth in this Count, Plaintiff has suffered
12 emotional distress including but not limited to odium, severe
13 depression, frustration, anger, loss of self-worth, humiliation
14 and loss of sleep, all to his injury in the amount of
15 \$250,000.00.

16 WHEREFORE Plaintiff prays for General and Punitive Damages
17 against the Defendant.

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19 ///

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21 ///

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24 ⁹⁴ (see line 107 of attached Exhibit 'C')

25 ⁹⁵ (see DVD - DVR 907 at time 12:38:55 of attached Exhibit 'J')

26 ⁹⁶ To deprive a person of his liberty by legal authority. Taking, under real
27 or assumed authority, custody of another for the purpose of holding or
detaining him to answer a criminal charge or civil demand. State v. Ferraro,
81 N.J. Super. 213, 195 A.2d 227; People v. Wipfler, 37 Ill.App.3d 400, 346
N.E.2d 41, 44. Black's Law dictionary (5th Edition) p. 100

CAUSE OF ACTION - COUNT III

(42.U.C. § 1983⁹⁷; Compelled⁹⁸ to be a witness against himself)

96. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 95 above and incorporates the same as if set forth in full.

97. Plaintiff was arrested without warrant and/or probable cause while exercising Plaintiff's constitutionally protected conduct to "travel upon the public highway"⁹⁹ and coerced to produce a "driver's license," after showing Plaintiff's private identity card, in violation of statutes. Plaintiff's information was used against Plaintiff therefrom.

98. Defendant WILKES, specific to this arrest committed acts that clearly violated Plaintiff's Fourth, Fifth, and Fourteenth Amendment rights and clearly established law. Further, said acts were committed pursuant to a custom practice or policy.

⁹⁷ Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia. See U.S.C. 42 §1983

⁹⁸ To urge forcefully; under extreme pressure. Word "compel" as used in constitutional right to be free from being compelled in a criminal case to be a witness against one's self means to be subjected to some coercion, fear, terror, inducement, trickery or threat-either physically or psychologically, blatantly or subtly; the hallmark of compulsion is the presence of some operative force producing an involuntary response. U.S. v. Escander, C.A.Fla., 465 F.2d 438, 442. Black's Law dictionary (5th Edition) p. 256

⁹⁹ The right of the citizen to travel upon the public highways and to transport his property thereon, either by carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but a common law right which he has under the right to life, liberty, and the pursuit of happiness. *Thompson v. Smith*, 154 SE 579.

99. As a further direct result of the conduct of Defendant WILKES as set forth in this Count, Plaintiff has suffered emotional distress including but not limited to odium, severe depression, frustration, anger, loss of self-worth, humiliation and loss of sleep, all to his injury in the amount of \$250,000.00.

WHEREFORE Plaintiff prays for General and Punitive Damages against the Defendant.

CAUSE OF ACTION - COUNT IV

(42.S.C. § 1983100; Unreasonable seizure of Plaintiff's person)

100. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 99 above and incorporates the same as if set forth in full.

101. Plaintiff was unreasonably seized while exercising Plaintiff's constitutionally protected conduct to "travel upon the public highway"¹⁰¹ and in violation of statutes. Plaintiff

¹⁰⁰ Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia. See U.S.C. 42 §1983

¹⁰¹ The right of the citizen to travel upon the public highways and to transport his property thereon, either by carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but a common law right which he has under the right to life, liberty, and the pursuit of happiness. *Thompson v. Smith*, 154 SE 579.

1 was "travelling upon the public highway"¹⁰² in the opposite
2 direction of Defendant WILKES without exhibiting just cause for
3 Plaintiff's arrest. Plaintiff was told, "You have a break light
4 out..."¹⁰³ as the initial reason for the arrest. Defendant did not
5 show how a break light being out was a crime, nor did Defendant
6 show himself rightfully before Plaintiff during the
7 approximately forty (40) minute arrest. Plaintiff was deprived
8 of his liberty therefrom.

9 102. Defendants WILKES, DIDONATO, and PERRY specific to this
10 unreasonable seizure committed acts that clearly violated
11 Plaintiff's First, Fourth, Fifth, and Fourteenth Amendment
12 rights and clearly established law. Further, said acts were
13 committed pursuant to a custom practice or policy.

14 103. As a further direct result of the conduct of Defendants
15 as set forth in this Count, Plaintiff has suffered emotional
16 distress including but not limited to odium, severe depression,
17 frustration, anger, loss of self-worth, humiliation and loss of
18 sleep, all to his injury in the amount of \$250,000.00.

19 WHEREFORE Plaintiff prays for General Damages and Punitive
20 against the Defendants jointly and severally.

21 ///

22 ///

23 ///

24 ///

25 ¹⁰² The right of the citizen to travel upon the public highways and to
26 transport his property thereon, either by carriage or by automobile, is not a
27 mere privilege which a city may prohibit or permit at will, but a common law
28 right which he has under the right to life, liberty, and the pursuit of
happiness. *Thompson v. Smith*, 154 SE 579.

¹⁰³ (see line 7 of attached Exhibit 'C')

CAUSE OF ACTION - COUNT V

(42.S.C. § 1983¹⁰⁴; Unreasonable seizure of Plaintiff's Effects
and Papers).

104. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 103 above and incorporates the same as if set forth in full.

105. Defendants WILKES, DIDONATO, PERRY and ALLEN unreasonably seized Plaintiff's effects, including Plaintiff's vehicle and other personal effects and papers which were inside Plaintiff's vehicle's trunk and cabin at the time of the seizure.

106. Defendants WILKES, DIDONATO, PERRY and ALLEN specific to this unreasonable seizure of Plaintiff's effects committed acts that clearly violated Plaintiff's First, Fourth, Fifth and Fourteenth Amendment rights and clearly established law. Further, said acts were committed pursuant to a custom practice or policy.

107. As a further direct result of the conduct of Defendants as set forth in this Count, has suffered emotional distress including but not limited to odium, severe depression,

¹⁰⁴ Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia. See U.S.C. 42 §1983

1 frustration, anxiety, anger, loss of self-worth, humiliation and
2 loss of sleep all to his injury in the amount of \$250,000.00.

3 WHEREFORE Plaintiff prays for Punitive and General Damages
4 against the Defendants jointly and severally.

5 CAUSE OF ACTION - COUNT VI

6 (42.S.C. § 1983¹⁰⁵; Unreasonable Seizure of Plaintiff's Person

7 without Due Process)

8 108. Plaintiff repeats and re-alleges the allegations
9 contained in paragraphs 1 through 107 above and incorporates the
10 same as if set forth in full.

11 109. Defendants WILKES, DIDONATO, and PERRY unreasonably
12 seized Plaintiff's Person, absent any due process of law.
13 Defendants WILKES, DIDONATO, and PERRY specific to this
14 unreasonable seizure of Plaintiff's Person, committed acts that
15 clearly violated Plaintiff's Fourth, Fifth and Fourteenth
16 Amendment rights and clearly established law. Further, said acts
17 were committed pursuant to a custom practice or policy.

18 110. As a further direct result of the conduct of Defendants
19 as set forth in this Count, Plaintiff has suffered emotional
20 distress including but not limited to odium, severe depression,

21
22 ¹⁰⁵ Every person who, under color of any statute, ordinance, regulation,
23 custom, or usage, of any State or Territory or the District of Columbia,
24 subjects, or causes to be subjected, any citizen of the United States or
25 other person within the jurisdiction thereof to the deprivation of any
26 rights, privileges, or immunities secured by the Constitution and laws, shall
27 be liable to the party injured in an action at law, suit in equity, or other
28 proper proceeding for redress, except that in any action brought against a
judicial officer for an act or omission taken in such officer's judicial
capacity, injunctive relief shall not be granted unless a declaratory decree
was violated or declaratory relief was unavailable. For the purposes of this
section, any Act of Congress applicable exclusively to the District of
Columbia shall be considered to be a statute of the District of Columbia. See
U.S.C. 42 §1983

1 frustration, anxiety, anger, loss of self-worth, humiliation and
2 loss of sleep all to his injury in the amount of \$250,000.00.

3 WHEREFORE Plaintiff prays for Punitive and General Damages
4 against the Defendants jointly and severally.

5 CAUSE OF ACTION - COUNT VII

6 (42.S.C. § 1983¹⁰⁶; Unreasonable Seizure of Plaintiff's Property
7 without Due Process)

8 111. Plaintiff repeats and re-alleges the allegations
9 contained in paragraphs 1 through 110 above and incorporates the
10 same as if set forth in full.

11 112. Defendants WILKES, DIDONATO, PERRY and ALLEN
12 unreasonably seized Plaintiff's affect, "used red, four (4) door
13 1994 Honda Accord, with the VIN # 1HGCD5653RA054046¹⁰⁷ vehicle
14 and personal effects and papers which were inside Plaintiff's
15 vehicle's trunk and cabin at the time of the seizure," absent
16 any due process of law. Defendants WILKES, DIDONATO, PERRY and
17 ALLEN specific to this unreasonable seizure of Plaintiff's
18 effect, "used red, four (4) door 1994 Honda Accord, with the VIN
19 # 1HGCD5653RA054046¹⁰⁸ vehicle and personal effects and papers

20
21 ¹⁰⁶ Every person who, under color of any statute, ordinance, regulation,
22 custom, or usage, of any State or Territory or the District of Columbia,
23 subjects, or causes to be subjected, any citizen of the United States or
24 other person within the jurisdiction thereof to the deprivation of any
25 rights, privileges, or immunities secured by the Constitution and laws, shall
26 be liable to the party injured in an action at law, suit in equity, or other
27 proper proceeding for redress, except that in any action brought against a
28 judicial officer for an act or omission taken in such officer's judicial
capacity, injunctive relief shall not be granted unless a declaratory decree
was violated or declaratory relief was unavailable. For the purposes of this
section, any Act of Congress applicable exclusively to the District of
Columbia shall be considered to be a statute of the District of Columbia. See
U.S.C. 42 §1983

¹⁰⁷ (see attached Exhibit 'B')

¹⁰⁸ (see attached Exhibit 'B')

1 which were inside Plaintiff's vehicle's trunk and cabin at the
2 time of the seizure," committed acts that clearly violated
3 Plaintiff's Fourth, Fifth and Fourteenth Amendment rights and
4 clearly established law. Further, said acts were committed
5 pursuant to a custom practice or policy.¹⁰⁹

6 113. As a further direct result of the conduct of Defendants
7 as set forth in this Count, Plaintiff has suffered emotional
8 distress including but not limited to odium, severe depression,
9 frustration, anxiety, anger, loss of self-worth, humiliation and
10 loss of sleep all to his injury in the amount of \$250,000.00.

11 WHEREFORE Plaintiff prays for Punitive and General Damages
12 against the Defendants jointly and severally.

13 CAUSE OF ACTION - COUNT VIII

14 (Assault and Battery¹¹⁰)

15 114. Plaintiff repeats and re-alleges the allegations
16 contained in paragraphs 1 through 113 above and incorporates the
17 same as if set forth in full.

18 115. Defendant DIDONATO did intentionally and offensively
19 contact Plaintiff's body¹¹¹ thereby gaining further control over
20 Plaintiff and did thereby, assault and batter Plaintiff.

21 ///

22 ¹⁰⁹ (see line 5 of attached Exhibit 'C')

23 ¹¹⁰ Assault and Battery

24 Any unlawful touching of another which is without justification or excuse. It
25 is both a tort, Trogun v. Fruchtman, 58 Wis.2d 569, 207 N.W.2d 297, as well
26 as a crime, Scruggs v. State, Ind.App., 317 N.E.2d 807, 809. The two crimes
27 differ from each other in that battery requires physical contact of some sort
(bodily injury or offensive touching), whereas assault is committed without
28 physical contact. In most jurisdictions, statutes have created aggravated
assaults and batteries, punishable as felonies, and worded in various ways.
See Battery. Black's Law dictionary (6th Edition) p. 115

¹¹¹ (see DVD - DVR 907 at time 12:50:10 - 12:50:13 of attached Exhibit 'J')

1 WHEREFORE Plaintiff prays for Punitive and General Damages
2 against the Defendant for Aggravated Battery.

3 CAUSE OF ACTION - COUNT IX

4 (Negligence)¹¹²

5 116. Plaintiff repeats and re-alleges the allegations
6 contained in paragraphs 1 through 115 above and incorporates the
7 same as if set forth in full.

8 117. Defendants WILKES, DIDONATO, PERRY and FILLEBROWN have
9 a legal duty to prevent and refrain from conduct that deters,
10 suppresses, or otherwise breach Plaintiff Constitutionally
11 protected rights and clearly established law regarding how
12 public servants conduct themselves with respect to the people
13 and citizens of these United States.

14 118. Because of the foregoing, Defendants were the actual
15 and proximate cause of all injury suffered by Plaintiff.

16 WHEREFORE Plaintiff prays for Punitive and General Damages
17 against the Defendants jointly and severally, for Tortious
18 Negligence.

19 ///

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24 ///

25 ¹¹² Conduct which falls below the standard established by law for the
26 protection of others against unreasonable risk of harm; it is the departure
27 from the conduct expectable of a reasonable prudent person under like
28 circumstances. Pence v. Ketchum, La., 326 So.2d 831, 836. Black's Law
dictionary (5th Edition) p. 931

CAUSE OF ACTION - COUNT X

(Violation of Title 2C:13-3 False Imprisonment¹¹³ (False Arrest))

119. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 118 above and incorporates the same as if set forth in full.

120. Defendants WILKES, DIDONATO, and PERRY physically held Plaintiff with weapons, threat, and theft of Plaintiff's vehicle key with the intention of keeping Plaintiff in confinement to Plaintiff's vehicle, which Defendants were not authorized to hold,¹¹⁴ and there was no possibility of escape for Plaintiff.

WHEREFORE Plaintiff prays for Punitive and General Damages against the Defendants jointly and severally, for Tortious False Imprisonment.

CAUSE OF ACTION - COUNT XI

(Intentional Infliction of Emotional and Mental Distress)

121. Plaintiff repeats and re-alleges the allegations contained in paragraphs 1 through 120 above and incorporates the same as if set forth in full.

122. Defendants WILKES, DIDONATO, PERRY and FILLEBROWN's conduct was grossly unreasonable, and as a direct and proximate result of their actions, Plaintiff has suffered substantial emotional and mental distress from the unreasonable seizure, the

¹¹³ False imprisonment

A person commits a disorderly persons offense if he knowingly restrains another unlawfully so as to interfere substantially with his liberty. In any prosecution under this section, it is an affirmative defense that the person restrained was a child less than 18 years old and that the actor was a relative or legal guardian of such child and that his sole purpose was to assume control of such child. See N.J.S.A. 2C:13-3

¹¹⁴ There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights." Sherer v. Cullen, 481 F 946

1 assault and battery, negligence, and the false imprisonment of
2 Plaintiff.

3 WHEREFORE, Plaintiff prays for Compensatory and Punitive
4 Damages against the Defendants jointly and severally, for the
5 tort of Intentional Infliction of Mental Distress.

6 CAUSE OF ACTION - COUNT XII

7 (Injunctive Relief)¹¹⁵

8 123. The allegations set forth above in Paragraphs 1 through
9 122, inclusive, are incorporated into this cause of action by
10 reference as if set forth in full.

11 124. An actual controversy now exists between Plaintiff and
12 Defendant SOMERSET HILLS TOWING as to whether Defendants'
13 seizure policies, which aides in providing for the seizure of
14 motor vehicles without the "...violator or registrant having 24
15 hours from the time of the citation to provide the issuing law
16 enforcement agency with the insurance identification card, or
17 other satisfactory proof of insurance and without the issuance
18 of a warrant for the immediate impoundment of the vehicle that
19 was being operated when the summons was issued,..."¹¹⁶ violate due
20

21 ¹¹⁵ A prohibitive, equitable remedy issued or granted by a court at the suit of
22 a party complainant, directed to a party defendant in the action, or to a
23 party made a defendant for that purpose, forbidding the latter to do some
24 act, or to permit his servants or agents to do some act, which he is
25 threatening or attempting to commit, or restraining him in the continuance
26 thereof, such act being unjust and inequitable, injurious to the plaintiff
27 and not such can be adequately redressed by an action in law. A judicial
28 process operating in personam, and requiring person to whom it is directed to
do or refrain from doing a particular thing. Gainsburg v. Dodge, 193 Ark.
473, 101 S.W.2d 178, 180. Fed.R.Civil P.65 Black's Law dictionary (5th
Edition) p. 705

26 ¹¹⁶ 39:3-29.1a. Provision of proof of insurance; impoundment of vehicle.

27 79. a. Upon the issuance of a summons for failing to possess or exhibit
28 an insurance identification card in violation of R.S.39:3-29, the violator or
registrant shall have 24 hours from the time of the citation to provide the

1 process of law as guaranteed by the United States and New Jersey
2 Constitution.

3 125. Unless the court issues an injunction, the parties will
4 not know whether Defendants' seizure custom practice or policy
5 comply with the due process clause of the United States and New
6 Jersey Constitutions, and there will continue to be disputes and
7 controversy surrounding Defendants' MONTGOMERY TOWNSHIP,
8 MONTGOMERY TOWNSHIP POLICE DEPARTMENT, WILLIAM WILKES, GERALD
9 DIDONATO, ANDREW PERRY and SOMERSET HILL TOWING seizure policy.
10 In addition, thousands of motor vehicle operators in New Jersey
11 may potentially be illegally deprived of their property for an
12 extended period of time based on improper procedures or
13 policies, with no opportunity at which they can prove that the
14 seizure is improper.

15 126. Defendants' SOMERSET HILL TOWING is liable under the
16 Doctrine of *Respondent Superior* for the acts of their employee
17 committed within the scope of their employee duties, but outside
18 the scope of their discretion in a long train of abuses which is
19 a custom, policy, or practice to violate clearly established
20 law.

21 ///

22 ///

23
24 issuing law enforcement agency with the insurance identification card, or
25 other satisfactory proof of insurance. Failure to provide the insurance
26 identification card or other satisfactory proof of insurance within the 24-
27 hour time frame shall result in the issuance of a warrant for the immediate
impoundment of the vehicle that was being operated when the summons was
issued. A motor vehicle impounded pursuant to the provisions of this
subsection shall be removed to a storage space or garage. The registrant
shall be responsible for the cost of the removal and storage of the impounded
motor vehicle.

1 WHEREFORE, Plaintiff prays for Compensatory and Punitive
2 Damages against the Defendants jointly and severally, for the
3 tort of Intentional Infliction of Mental Distress.

4 CAUSE OF ACTION - COUNT XIII

5 (Declaratory¹¹⁷ Relief)

6 127. The allegations set forth above in Paragraphs 1 through
7 126, inclusive, are incorporated into this cause of action by
8 reference as if set forth in full.

9 128. An actual controversy now exists between Plaintiff and
10 Defendants as to whether Defendants' seizure policies, which
11 provide for the seizure of motor vehicles without the "...violation
12 or registrant having 24 hours from the time of the citation to
13 provide the issuing law enforcement agency with the insurance
14 identification card, or other satisfactory proof of insurance
15 and without the issuance of a warrant for the immediate
16 impoundment of the vehicle that was being operated when the
17 summons was issued,..."¹¹⁸ violate due process of law as guaranteed
18 by the United States and New Jersey Constitutions.

19 ///

20
21 ¹¹⁷ Explanatory; designed to fix or elucidate what before was uncertain or
doubtful. Black's Law dictionary (5th Edition) p. 368

22 ¹¹⁸ 39:3-29.1a. Provision of proof of insurance; impoundment of vehicle.

23 79. a. Upon the issuance of a summons for failing to possess or exhibit
24 an insurance identification card in violation of R.S.39:3-29, the violator or
25 registrant shall have 24 hours from the time of the citation to provide the
26 issuing law enforcement agency with the insurance identification card, or
27 other satisfactory proof of insurance. Failure to provide the insurance
identification card or other satisfactory proof of insurance within the 24-
hour time frame shall result in the issuance of a warrant for the immediate
impoundment of the vehicle that was being operated when the summons was
issued. A motor vehicle impounded pursuant to the provisions of this
subsection shall be removed to a storage space or garage. The registrant
shall be responsible for the cost of the removal and storage of the impounded
motor vehicle.

1 129. Unless the court issues an appropriate declaration of
2 rights, the parties will not know whether Defendants' seizure
3 policy complies with the due process clause of the United States
4 and New Jersey Constitutions, and there will continue to be
5 disputes and controversy surrounding Defendants' MONTGOMERY
6 TOWNSHIP, MONTGOMERY TOWNSHIP POLICE DEPARTMENT, WILLIAM WILKES,
7 GERALD DIDONATO, and ANDREW PERRY seizure policy. In addition,
8 thousands of motor vehicle operators in New Jersey may
9 potentially be illegally deprived of their property for an
10 extended period of time based on improper procedures or
11 policies, with no opportunity at which they can prove that the
12 seizure is improper.

13 WHEREFORE, Plaintiff prays for Compensatory and Punitive
14 Damages against the Defendants jointly and severally, for the
15 tort of Intentional Infliction of Mental Distress.

16 DEMAND

17 WHEREFORE, Plaintiff prays for relief against Defendants,
18 and each of them, as follows:

19 DEMAND AS TO COUNT I

- 20 a) For General damages against Defendant WILLIAM WILKES in
21 his individual and official capacities in the amount of
22 \$250,000.00 each violation of protected right
23 b) For Punitive damages against Defendant WILLIAM WILKES in
24 his individual and official capacities in the amount of
25 \$250,000.00 each violation of protected right
26
27

DEMAND AS TO COUNT II

- a) For General damages against Defendant WILLIAM WILKES in his individual and official capacities in the amount of \$250,000.00 each violation of protected right
- b) For Punitive damages against Defendant WILLIAM WILKES in his individual and official capacities in the amount of \$250,000.00 each violation of protected right

DEMAND AS TO COUNT III

- a) For General damages against Defendant WILLIAM WILKES in his individual and official capacities in the amount of \$250,000.00 each violation of protected right
- b) For Punitive damages against Defendant WILLIAM WILKES in his individual and official capacities in the amount of \$250,000.00 each violation of protected right

DEMAND AS TO COUNT IV

- a) For General damages against Defendant WILLIAM WILKES, GERALD DIDONATO, and ANDREW PERRY in their individual and official capacities in the amount of \$250,000.00 each violation of protected right individually and severally
- b) For Punitive damages against Defendant WILLIAM WILKES, GERALD DIDONATO, and ANDREW PERRY in their individual and official capacities in the amount of \$250,000.00 each violation of protected right individually and severally

DEMAND AS TO COUNT V

- a) For General damages against Defendant WILLIAM WILKES, GERALD DIDONATO, ANDREW PERRY, and ALLEN in their individual and official capacities in the amount of \$250,000.00 each violation of protected right individually and severally
- b) For Punitive damages against Defendant WILLIAM WILKES, GERALD DIDONATO, ANDREW PERRY, and ALLEN in their individual and official capacities in the amount of \$250,000.00 each violation of protected right individually and severally

DEMAND AS TO COUNT VI

- a) For General damages against Defendant WILLIAM WILKES, GERALD DIDONATO, and ANDREW PERRY in their individual and official capacities in the amount of \$250,000.00 each violation of protected right individually and severally
- b) For Punitive damages against Defendant WILLIAM WILKES, GERALD DIDONATO, and ANDREW PERRY in their individual and official capacities in the amount of \$250,000.00 each violation of protected right individually and severally

DEMAND AS TO COUNT VII

- a) For General damages against Defendant WILLIAM WILKES, GERALD DIDONATO, and ANDREW PERRY in their individual and official capacities in the amount of \$250,000.00

1 each violation of protected right individually and
2 severally

3 b) For Punitive damages against Defendant WILLIAM WILKES,
4 GERALD DIDONATO, and ANDREW PERRY in their individual
5 and official capacities in the amount of \$250,000.00
6 each violation of protected right individually and
7 severally

8 DEMAND AS TO COUNT VIII

9 a) For General damages against Defendant GERALD DIDONATO in
10 his individual and official capacity in the amount of
11 \$400,000.00

12 b) For Punitive damages in the amount of \$100,000.00

13 DEMAND AS TO COUNT IX

14 a) For General damages against Defendants WILLIAM WILKES,
15 GERALD DIDONATO, ANDREW PERRY, and GUY FILLEBROWN in
16 their individual and official capacities in the amount
17 of \$400,000.00 individually and severally

18 b) For Punitive damages in the amount of \$100,000.00
19 individually and severally

20 DEMAND AS TO COUNT X

21 a) For General damages against Defendants WILLIAM WILKES,
22 GERALD DIDONATO, and ANDREW PERRY in their individual
23 and official capacity in the amount of \$400,000.00
24 individually and severally

25 b) For Punitive damages in the amount of \$100,000.00
26 individually and severally

DEMAND AS TO COUNT XI

- a) For General damages against Defendants WILLIAM WILKES, GERALD DIDONATO, ANDREW PERRY, and GUY FILLEBROWN in their individual and official capacity in the amount of \$400,000.00 individually and severally
- b) For Punitive damages against Defendants WILLIAM WILKES, GERALD DIDONATO, ANDREW PERRY, and GUY FILLEBROWN in their individual and official capacity in the amount of \$100,000.00 individually and severally

DEMAND AS TO COUNT XII

- a) For General damages against Defendants MONTGOMERY TOWNSHIP, MONTGOMERY TOWNSHIP POLICE DEPARTMENT, WILLIAM WILKES, GERALD DIDONATO, ANDREW PERRY, GUY FILLEBROWN, SOMERSET HILLS TOWING, and "ALLEN" in their individual and official capacity as the law will allow
- a) For Punitive damages as the law will allow
- b) Reasonable legal costs & fees, along with costs of suit; and, such other relief as this Court may find to be just and proper

DEMAND AS TO COUNT XIII

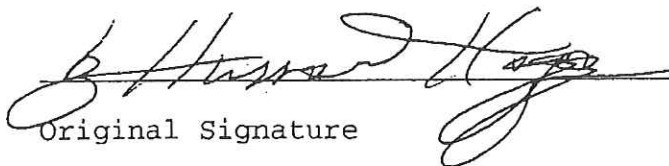
- a) For General damages against Defendants MONTGOMERY TOWNSHIP, MONTGOMERY TOWNSHIP POLICE DEPARTMENT, WILLIAM WILKES, GERALD DIDONATO, ANDREW PERRY, GUY FILLEBROWN, SOMERSET HILLS TOWING, and "ALLEN" in their individual and official capacity as the law will allow
- b) For Punitive damages as the law will allow

1 c) Reasonable legal costs & fees, along with costs of suit;
2 and, such other relief as this Court may find to be just
3 and proper

4 DEMAND FOR TRIAL BY JURY

5 I DECLARE UNDER PENALTY OF PERJURY THE
6 FOREGOING IS TRUE AND CORRECT TO THE
7 BEST OF MY KNOWLEDGE.

8 DATED this 27th day of August, 2013.

9
10 
11 Original Signature

12 Hussain Haqq

13 87 Liberty Street

14 Trenton, New Jersey, [08611]

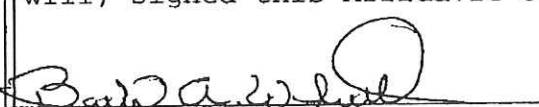
15 In Proper Person

16 NOTARY STATEMENT

17 STATE OF NEW JERSEY

18 COUNTY OF MERCER

19 I swear that on this 27th day of August, 2013, the above named
20 Affiant, Hussain Haqq, appeared before me, and of his own free
21 will, signed this Affidavit of Truth.

22 
23 Notary Public

24 1-2-2014
25 My Commission Expires

26 NOTARY SEAL
27
28