

13-3209.

Attorney(s): John F. McDonnell, Esq.; NJ Attorney ID No. 000871984
Law Firm: McDonnell Artigliere
Address: 60 Youmans Ave.
Washington, NJ 07882

Telephone No.: (908) 689-5885
Fax No.: 908-689-1576
E-mail:

Attorney(s) for Plaintiff(s): Carl J. Granese

COPY

Carl J. Granese

Plaintiff(s)

vs.

Anthony Gardner

Defendant(s)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
Morris COUNTY
DOCKET NO. MAS-L-002957-13

CIVIL ACTION
Summons

From the State of New Jersey

To the Defendant(s) Named Above: Anthony Gardner

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey, and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$_____ and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

Dated: 11-14-13

Michelle M. Smith /ks
Michelle M. Smith
Superior Court Clerk

Name of Defendant To Be Served: Anthony Gardner

Address of Defendant To Be Served: c/o Mount Olive Police Dept. 204 Flanders
Drakes town Rd., Budd Lake, NJ 07828

Directory of Superior Court Deputy Clerk Offices

ATLANTIC COUNTY:

Deputy Clerk of the Superior Court
Civil Division, Direct Filing
1201 Bacharach Blvd., First Fl.
Atlantic City, NJ 08401
LAWYER REFERRAL
(609) 345-3444
LEGAL SERVICES
(609) 348-4200

BERGEN COUNTY:

Deputy Clerk of the Superior Court
Civil Division, Room 115
Justice Center, 10 Main Street
Hackensack, NJ 07601-0769
LAWYER REFERRAL
(201) 488-0044
LEGAL SERVICES
(201) 487-2166

BURLINGTON COUNTY:

Deputy Clerk of the Superior Court
Central Processing Office
Attn: Judicial Intake
First Floor, Court Facility,
49 Rancocas Road
Mount Holly, NJ 08060
LAWYER REFERRAL
(609) 261-4862
LEGAL SERVICES
(800) 496-4570

CAMDEN COUNTY:

Deputy Clerk of the Superior Court
Civil Processing Office
First Floor, Hall of Justice
101 South Fifth Street, Suite 150
Camden, NJ 08103
LAWYER REFERRAL
(856) 964-4520
LEGAL SERVICES
(856) 964-2010

CAPE MAY COUNTY:

Deputy Clerk of the Superior Court
9 North Main Street
Cape May Court House, NJ 08210
LAWYER REFERRAL
(609) 463-0313
LEGAL SERVICES
(609) 465-3001

CUMBERLAND COUNTY:

Deputy Clerk of the Superior Court
Civil Case Management Office
Broad & Fayette Streets, P.O. Box 10
Bridgeton, NJ 08302
LAWYER REFERRAL
(856) 692-6207
LEGAL SERVICES
(856) 451-0003

ESSEX COUNTY:

Deputy Clerk of the Superior Court
Civil Customer Service
Hall of Records, Room 201
465 Dr. Martin Luther King Jr. Blvd.
Newark, NJ 07102
LAWYER REFERRAL
(973) 622-6204
LEGAL SERVICES
(973) 624-4500

GLOUCESTER COUNTY:

Deputy Clerk of the Superior Court
Civil Case Management Office
Attn: Intake
First Floor, Court House
1 North Broad Street, P.O. Box 750
Woodbury, NJ 08096
LAWYER REFERRAL
(856) 848-4589
LEGAL SERVICES
(856) 848-5360

HUDSON COUNTY:

Deputy Clerk of the Superior Court
Superior Court, Civil Records Dept.
Brennan Courthouse, First Floor
583 Newark Avenue
Jersey City, NJ 07306
LAWYER REFERRAL
(201) 798-2727
LEGAL SERVICES
(201) 792-6363

HUNTERDON COUNTY:

Deputy Clerk of the Superior Court
Civil Division
65 Park Avenue
Flemington, NJ 08822
LAWYER REFERRAL
(908) 735-2611
LEGAL SERVICES
(908) 782-7979

MERCER COUNTY:

Deputy Clerk of the Superior Court
Local Filing Office, Courthouse
175 South Broad St., P.O. Box 8068
Trenton, NJ 08650
LAWYER REFERRAL
(609) 585-6200
LEGAL SERVICES
(609) 695-6249

MIDDLESEX COUNTY:

Deputy Clerk of the Superior Court
Middlesex Vicinage
Second Floor - Tower
56 Paterson Street, P.O. Box 2628
New Brunswick, NJ 08903-2638
LAWYER REFERRAL
(732) 828-0053
LEGAL SERVICES
(732) 249-7600

MONMOUTH COUNTY:

Deputy Clerk of the Superior Court
Monmouth County Courthouse
71 Monument Park, P.O. Box 1269
Freehold, NJ 07728-1269
LAWYER REFERRAL
(732) 431-5544
LEGAL SERVICES
(732) 866-0020

MORRIS COUNTY:

Deputy Clerk of the Superior Court
Civil Division
Washington and Courts Streets, P.O. Box 910
Morristown, NJ 07960-0910
LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 285-6911

OCEAN COUNTY:

Deputy Clerk of the Superior Court
Court House, Room 119
118 Washington Street
Toms River, NJ 08754
LAWYER REFERRAL
(732) 240-3666
LEGAL SERVICES
(732) 841-2727

PASSAIC COUNTY:

Deputy Clerk of the Superior Court
Civil Division
Passaic County Court House
77 Hamilton Street
Paterson, NJ 07505
LAWYER REFERRAL
(978) 278-9223
LEGAL SERVICES
(978) 623-2900

SALEM COUNTY:

Deputy Clerk of the Superior Court
92 Market Street, P.O. Box 29
Salem, NJ 08079
LAWYER REFERRAL
(856) 678-8363
LEGAL SERVICES
(856) 451-0003

SOMERSET COUNTY:

Deputy Clerk of the Superior Court
Civil Division Office
40 North Bridge Street
P.O. Box 3000
Somerville, NJ 08876
LAWYER REFERRAL
(908) 685-2823
LEGAL SERVICES
(908) 231-0840

SUSSEX COUNTY:

Deputy Clerk of the Superior Court
Sussex County Judicial Center
43-47 High Street
Newton, NJ 07860
LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 883-7400

UNION COUNTY:

Deputy Clerk of the Superior Court
First Floor, Court House
2 Broad Street
Elizabeth, NJ 07207-6073
LAWYER REFERRAL
(908) 353-4715
LEGAL SERVICES
(908) 354-4340

WARREN COUNTY:

Deputy Clerk of the Superior Court
Civil Division Office
Warren County Courthouse
413 Second Street
Belvidere, NJ 07823-1500
LAWYER REFERRAL
(978) 267-5882
LEGAL SERVICES
(908) 476-2010

ROBERTO AGUIRRE
SOUTHERN CALIF
COURT STREET
NORTHTOWN NJ 07760

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (973) 656-4100
COURT HOURS

DATE: NOVEMBER 08, 2013
RE: GRANESE VS BARDNER
DOCKET: MRS L -002957 13

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 3.

DISCOVERY IS 450 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON ROBERT J. BRENNAN

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM. 001
AT: (973) 656-4100.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:04-2.

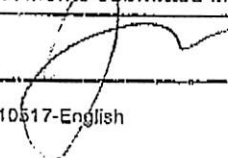
ATTENTION:

ATT: JOHN F MCDONNELL
MCDONNELL & ARTIGLIERE
MCDONNELL & ARTIGLIERE
60 YOUNG AVENUE
WASHINGTON NJ 07002

000000

Appendix XII-B1

copy 2/4/12

	CIVIL CASE INFORMATION STATEMENT (CIS) Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule</i> 4:5-1 Pleading will be rejected for filing, under <i>Rule</i> 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed		FOR USE BY CLERK'S OFFICE ONLY PAYMENT TYPE: ☐ CK ☐ CG ☐ CA CHG/CK NO.: _____ AMOUNT: _____ OVERPAYMENT: _____ BATCH NUMBER: _____
	ATTORNEY / PRO SE NAME John F. McDonnell	TELEPHONE NUMBER (908) 689-5885	COUNTY OF VENUE <i>Morris</i>
	FIRM NAME (if applicable) McDonnell Artigliere		DOCKET NUMBER (when available) <i>62957-13</i>
	OFFICE ADDRESS 60 Youmans Avenue Washington, NJ 07882		DOCUMENT TYPE <i>Complaint</i> JURY DEMAND ☒ Yes ☐ No
NAME OF PARTY (e.g., John Doe, Plaintiff) <i>Carl J. Granese, Plaintiff</i>		CAPTION <i>Carl J. Granese v. Anthony Gardner</i>	
CASE TYPE NUMBER (See reverse side for listing) <i>005</i>		IS THIS A PROFESSIONAL MALPRACTICE CASE? ☐ YES ☒ NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? ☐ Yes ☒ No		IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? ☐ Yes ☒ No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) ☐ NONE ☒ UNKNOWN	
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? ☐ Yes ☒ No		IF YES, IS THAT RELATIONSHIP: ☐ EMPLOYER/EMPLOYEE ☐ FRIEND/NEIGHBOR ☒ OTHER (explain) ☐ FAMILIAL ☐ BUSINESS	
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? ☒ Yes ☐ No			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION			
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? ☐ YES ☒ NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION	
WILL AN INTERPRETER BE NEEDED? ☐ YES ☒ NO		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule</i> 1:38-7(b).			
ATTORNEY SIGNATURE: 			



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 508 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 611 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 306 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 589 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE -- PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE -- PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE -- PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT -- OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 608 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Centrally Managed Litigation (Track IV)

- 285 STRYKER TRIDENT HIP IMPLANTS
- 288 PRUDENTIAL TORT LITIGATION
- 289 REGLAN
- 290 POMPTON LAKES ENVIRONMENTAL LITIGATION

- 291 PELVIC MESH/GYNECARE
- 292 PELVIC MESH/BARD
- 293 DEPUY ASR HIP IMPLANT LITIGATION
- 295 ALLODERM REGENERATIVE TISSUE MATRIX
- 623 PROPECIA

Mass Tort (Track IV)

- 266 HORMONE REPLACEMENT THERAPY (HRT)
- 271 ACCUTANE/ISOTRETINOIN
- 274 RISPERDAL/SEROQUEL/ZYPREXA
- 278 ZOMETA/AREXIA
- 279 GADOLINIUM

- 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL
- 282 FOSAMAX
- 284 NUVARING
- 286 LEVAQUIN
- 287 YAZ/YASMIN/OCELLA
- 601 ASBESTOS

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category

☐ Putative Class Action

☐ Title 59

McDONNELL ARTIGLIERE
John F. McDonnell, Esq.
NJ Attorney ID No.: 000871984
60 Youmans Avenue
Washington, NJ 07882
(908) 689-5885
Attorneys for Plaintiff

CARL J. GRANESE,
Plaintiff,

v.

ANTHONY GARDNER,
Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MORRIS COUNTY
DOCKET NO.: 62957-13

Civil Action

COMPLAINT AND DEMAND FOR
TRIAL BY JURY

Plaintiff Carl J. Granese, residing in Flanders, New Jersey, by way of Complaint
against defendant, says:

FACTS COMMON TO ALL COUNTS

1. On April 19, 2012 defendant Anthony Gardner ("Gardner") was employed with the Township of Mount Olive, County of Morris, as a police officer.
2. At approximately 3:30 p.m. on April 19, 2012 defendant Gardner was traveling westbound on Rt. 46 in his patrol car when he observed a red Volkswagen Jetta ("vehicle") allegedly change lanes without signaling and failing to maintain its lane.
3. Plaintiff Carl J. Granese ("plaintiff") was operating the aforementioned vehicle.
4. Defendant Gardner initiated a motor vehicle stop and instructed plaintiff to pull into the parking lot of Equity Plaza.
5. Thereafter, plaintiff provided his credentials to defendant Gardner and stepped out of the vehicle at defendant's request. Despite lacking reasonable suspicion that plaintiff was

impaired, or possessed any illegal substance, defendant asked plaintiff if he had smoked marijuana earlier that day and said plaintiff's vehicle smelled like marijuana. Defendant Gardner then instructed plaintiff to close his eye lids so defendant could observe plaintiff's eyelids. Plaintiff complied. Defendant then instructed plaintiff to open his mouth and stick out his tongue. Plaintiff complied. Defendant determined that plaintiff did not exhibit any sign impairment. Despite this, defendant then instructed plaintiff to perform field sobriety tests. After plaintiff satisfactory performed those tests, defendant Gardner concluded that plaintiff was not impaired. In fact, plaintiff was not impaired and was not under the influence of or in possession of marijuana.

6. Defendant Gardner then requested plaintiff to consent to the search of his vehicle on the alleged basis that defendant Gardner perceived the odor of raw marijuana in plaintiff's vehicle.

7. Plaintiff lawfully refused defendant Gardner's request to search his vehicle.

8. Defendant Gardner became irritated and angry with plaintiff because of plaintiff's lawful refusal to consent to the search of his vehicle. Defendant Gardner stated something to the effect that plaintiff was wasting defendant Gardner's time because plaintiff would not provide such consent.

9. Thereafter, a Morris County K-9 Unit was requested to respond to the location. While waiting for the K-9 Unit defendant Gardner conceded that he was frustrated that plaintiff was wasting his time by refusing to consent to the search.

10. Sgt. Michael Novak of the Mount Olive Township Police Department arrived on the scene during the course of the stop and investigation. While waiting for the K-9 Unit to arrive, plaintiff asked Sgt. Novak if he could use his cell phone which was in his vehicle.

Sgt. Novak responded by retrieving plaintiff's cell phone from plaintiff's vehicle and handed the cell phone to plaintiff. Upon noticing this, defendant Gardner instructed plaintiff not to use his cell phone.

11. While plaintiff was attempting to place his cell phone in his pocket defendant Gardner forcefully grabbed plaintiff with both arms without warning and threw plaintiff to the ground. While on the ground, defendant Gardner wrestled plaintiff to submission (plaintiff was providing no resistance), handcuffed plaintiff behind his back, arrested plaintiff and took plaintiff's cell phone.

12. Defendant then escorted plaintiff to the rear of defendant's patrol car where plaintiff was again searched without probable cause.

13. Eventually, the Morris County K-9 Unit arrived on the scene. Defendant Gardner and the K-9 Unit conducted a search of plaintiff's vehicle. No marijuana or other drugs were found in the vehicle or on plaintiff.

14. Thereafter, defendant parked plaintiff's vehicle at the scene and locked it. Defendant took plaintiff's keys, wallet and cell phone and transported plaintiff to Mount Olive police headquarters for processing.

15. Upon arrival at police headquarters, plaintiff was again searched and handcuffed to the processing room bench.

16. After a significant period of time, plaintiff was fingerprinted and photographed.

17. Throughout his interactions with defendant Gardner and Sgt. Novak during the aforementioned stop and investigation, plaintiff was polite and cooperative. An MVR recorded the entire incident.

18. Defendant Gardner charged plaintiff with resisting arrest under N.J.S.A. 2C:29-2,

obstruction of justice under N.J.S.A. 2C:19-1, unsafe lane change under N.J.S.A. 39:4-88, failing to have a passenger mirror under N.J.S.A. 39:3-71 and driving with an expired license under N.J.S.A. 39:3-10.

19. Thereafter, plaintiff retained counsel to represent him in connection with the charges brought against him by defendant.

20. Plaintiff was required to attend various Court hearings and was required to incur significant legal expenses and costs in defending the wrongful criminal charges initiated by defendant.

21. Plaintiff pled not guilty to the resisting arrest and obstruction of justice charges.

22. A trial was held in Mount Olive Municipal Court before The Honorable Brian Levine on three dates in November and December 2012.

23. Judge Levine dismissed the resisting arrest charge after the State rested its case. At the conclusion of the trial, plaintiff was found guilty of all remaining charges.

24. Thereafter, plaintiff appealed his obstruction of justice conviction to the Superior Court of New Jersey, County of Morris.

25. On August 15, 2013 The Honorable Mary Gibbons Whipple reversed plaintiff's conviction for obstruction of justice. During the course of her oral opinion, Judge Gibbons Whipple stated on the record that she was "appalled by the conduct of the police in this tape" and that she found "it rather disturbing . . ."

FIRST COUNT

1. Plaintiff repeats the allegations set forth above as if set forth at length herein
2. Defendant deprived plaintiff of various rights and privileges set forth in the New Jersey State Constitution ("N.J. Constitution"), which deprivations are actionable pursuant to the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et seq. ("NJCRA").
3. Plaintiff was arrested without probable cause and subjected to false arrest and false imprisonment. The facts and circumstances within defendant's knowledge were not sufficient to warrant a reasonable person to believe that plaintiff had committed the offense of obstruction of justice or resisting arrest.
4. Plaintiff was deprived of procedural and substantive due process, deprivation of liberty, and was subjected to false arrest and false imprisonment by defendant in violation of Article 1, Paragraph 1 of the New Jersey Constitution, which violations are actionable pursuant to the N.J.C.R.A.
5. Plaintiff did not obstruct, impair or pervert the administration of the law prior to his arrest. Further, plaintiff did not attempt to flee, prevent his arrest, or take any action consistent with an attempt to resist arrest.
6. Plaintiff was wrongfully seized by defendant and suffered a lengthy loss of liberty and freedom of movement as a result of defendant's wrongful conduct.
7. As a result of defendant's wrongful conduct, plaintiff has been injured.

SECOND COUNT

1. Plaintiff repeats the allegations set forth above as if set forth at length herein.
2. Defendant utilized excessive and unreasonable force upon plaintiff.
3. Under the circumstances defendant's conduct in grabbing plaintiff and subduing him

to the ground with force was clearly unreasonable in light of all of the circumstances including, but not limited to: the fact that two other police officers were present; plaintiff had been previously subjected a pat-down search establishing the lack of any weapon; the minimal severity of the offense at issue; plaintiff's passivity and cooperativeness during the stop; the lack of any criminal history establishing plaintiff to be a threat and the fact that plaintiff was not resisting arrest or attempting to evade the police officers.

4. Defendant's aforementioned conduct is in violation of plaintiff's rights to liberty, freedom from unreasonable searches and seizures, procedural and substantive due process and other rights guaranteed by Article 1, Paragraph 1 and Article 1, Paragraph 7 of the New Jersey Constitution which violations are made actionable by the N.J.C.R.A.

5. As a result of defendant's wrongful conduct, plaintiff sustained physical injury and has been otherwise injured.

THIRD COUNT

1. Plaintiff repeats the allegations above as if set forth at length herein.

2. Defendant initiated criminal proceedings against plaintiff without probable cause, as set forth above, and subjected plaintiff to malicious prosecution. The criminal proceedings initiated by defendant ended in plaintiff's favor. Defendant acted maliciously and for a purpose other than bringing plaintiff to justice. Further, during the course of the proceedings, as set forth above, plaintiff was deprived of liberty and other constitutional rights as set forth above.

3. Defendant falsely charged plaintiff with the offenses of obstruction of justice and resisting arrest in a pretextual and retaliatory attempt to justify his excessive and unreasonable force upon plaintiff.

became irritated and angry at plaintiff and asserted that plaintiff was wasting his time by requiring defendant to request a K-9 Unit to the scene to conduct a search.

5. Defendant subjected plaintiff to retaliation for plaintiff's aforementioned constitutionally protected conduct in refusing to consent to a search, by subjecting plaintiff to the aforementioned deprivations of his constitutional rights as set forth above.
5. As a result of defendant's wrongful conduct, plaintiff has been injured.

FIFTH COUNT

1. Plaintiff repeats the allegations of the Facts Common to all Counts and the First, Second, Third and Fourth Counts as if set forth at length herein.
2. Defendant subjected plaintiff to an unreasonable and illegal search of his person and vehicle in violation of plaintiff's rights to procedural and substantive due process, liberty and freedom from unreasonable searches and seizures, in violation of Article 1, Paragraphs 1 and 7 of the New Jersey Constitution, which violations are made actionable by the N.J.C.R.A.
3. As a result of defendant's wrongful conduct, plaintiff has been injured.

WHEREFORE, plaintiff demands judgment against defendant for compensatory damages, emotional distress damages, punitive damages, attorney's fees and costs, interest and any other relief the Court deems just.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby requests a trial by jury as to all Counts and Issues.

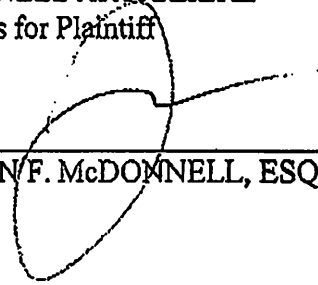
RULE 4:5-1(c) DESIGNATION OF TRIAL COUNSEL

John F. McDonnell is hereby designated as trial counsel for plaintiff.

RULE 4:5-1(b)(2) CERTIFICATION

I, the undersigned, certify that the matter in controversy is not the subject of any other action or arbitration proceeding and no such action or arbitration proceeding is contemplated. Further, I am not aware, at this time, of any other parties that should be joined in this action.

McDONNELL ARTIGLIERE
Attorneys for Plaintiff

By: 
JOHN F. McDONNELL, ESQ.

DATED: 10/31/13