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

MICHAEL CASTRO,

Plaintiff,

vs.

ATLANTIC COUNTY, and its agents, servants,
representatives, and employees;
ATLANTIC COUNTY PROSECUTOR'S OFFICE,
and its agents, servants, representatives and employees;
JAMES MCCLAIN, individually and in his official
capacity as Atlantic County Prosecutor;
MICHAEL MATTIOLI, individually and in his
capacity as a detective for the Atlantic County
Prosecutor's Office; **JOHN MAHER**, individually and
in his capacity as a Chief Assistant Prosecutor for the
Atlantic County Prosecutor's Office; **JAMES RAUCH**,
individually and in his capacity as a detective for the
Atlantic County Prosecutor's Office;
BRUCE DESHIELDS, individually and in his capacity
as a supervisor for the Atlantic County Prosecutor's
Office; **DARREN DOOLEY**, individually and in his
capacity as Chief of Detectives for the Atlantic County
Prosecutor's Office; **MULLICA TOWNSHIP**;
MULLICA DEPARTMENT OF PUBLIC SAFETY;
MULLICA TOWNSHIP POLICE DEPARTMENT;
JAKE O'HARA, individually and in his capacity as a
police officer for Mullica Township; and
JOHN DOES 1-5, individually and in their official
capacities; jointly, severally and in the alternative,

Defendants.

: Docket No.

: CIVIL ACTION

: COMPLAINT & JURY DEMAND

Plaintiff Michael Castro, residing at 488 Arneys Mount Birmingham Road, Pemberton, New Jersey 08068, by and through his attorneys, The Cody Law Firm, L.L.C., by way of Complaint against the defendants, does hereby state and say as follows:

ADDRESSES (L. Civ. R. 10.1)

Atlantic County
1333 Atlantic Avenue
Atlantic City, NJ 08401

Atlantic County Prosecutor's Office
4997 Unami Boulevard
Mays Landing, NJ 08330

James McClain, Esq.
Atlantic County Prosecutor
4997 Unami Boulevard
Mays Landing, NJ 08330

Detective Michael Mattioli
4997 Unami Boulevard
Mays Landing, NJ 08330

John Maher, Esq.
Chief Assistant Prosecutor
4997 Unami Boulevard
Mays Landing, NJ 08330

Detective James Rauch
4997 Unami Boulevard
Mays Landing, NJ 08330

Captain Bruce Deshields
4997 Unami Boulevard
Mays Landing, NJ 08330

Chief Darren Dooley
Chief of Detectives
4997 Unami Boulevard
Mays Landing, NJ 08330

Mullica Township
4528 White Horse Pike
Hammonton, NJ 08037

Mullica Department of Public Safety
Division of Police
Township of Mullica
4528 White Horse Pike
Hammonton, NJ 08037

Mullica Police Department
4528 White Horse Pike
Hammonton, NJ 08037

Patrolman Jake O'Hara
4528 White Horse Pike
Hammonton, NJ 08037

PARTIES

1. Plaintiff Michael K. Castro is a natural person, citizen of the United States and resident of the State of New Jersey. Plaintiff resides at 488 Arneys Mount Birmingham Road, Pemberton, New Jersey 08068.

2. Defendant Atlantic County is a municipal corporation organized and existing under the laws of the State of New Jersey. It has offices located at 1333 Atlantic Avenue in Atlantic City, New Jersey. Atlantic County owns, operates, manages, directs and controls the Atlantic County Prosecutor's Office, which employs the defendant prosecutors, detectives and supervisors. Atlantic County has acted through its agents, servants, representatives and employees, who were policy makers and supervisors, and through the individually named defendants.

3. Defendant Atlantic County Prosecutor's Office ("ACPO") is located at 4997 Unami Boulevard in Mays Landing, New Jersey and was created pursuant to N.J.S.A. 2A:158-1 *et seq.* At all times mentioned in this Complaint, ACPO governed the affairs and was responsible for the conduct of its detectives, supervisors, prosecutors and employees, and was legally responsible for their hiring, training, supervision, discipline and retention.

4. Defendant James McClain, Esq. is the Atlantic County Prosecutor and was the acting prosecutor for Atlantic County, New Jersey during the majority of the events set forth herein. He is sued in his individual and official capacities. Upon information and belief, Atlantic County Prosecutor James McClain made the decision to initiate criminal charges against the plaintiff and to make application for a warrant for the plaintiff's arrest.

5. Defendant Michael Mattioli ("Sergeant Mattioli" or "Detective Mattioli") is a member of the Atlantic County Prosecutor's Office and was a sergeant in the Major Crimes Unit. Sergeant Mattioli was employed by ACPO as a detective pursuant to N.J.S.A. 2A:157-2. Sergeant Mattioli was the lead detective in the investigation of the alleged homicide of an individual named John Kingsbury, Deceased. He is sued in his individual and official capacities.

6. Defendant John Maher, Esq. is a Chief Assistant Prosecutor and employee of ACPO. Chief Assistant Prosecutor John Maher, Esq. was assigned to the Major Crimes Unit and presented an indictment against the plaintiff before a grand jury. He is sued in his individual and official capacities.

7. Defendant James Rauch ("Detective Rauch") is an employee and member of ACPO and was assigned to the Major Crimes Unit. Detective Rauch assisted in the investigation of the alleged homicide of John Kingsbury. He is sued in his individual and official capacities.

8. Defendant Bruce DeShields ("Captain DeShields") was a member and employee of ACPO and was, during the time of the events described herein, assigned as a Lieutenant of the Major Crimes Unit, with supervisory responsibility over its investigations and Sergeant Mattioli. He is sued in his individual and official capacities.

9. Defendant Darren Dooley ("Chief Dooley") was a member and employee of ACPO and was, during the time of the events described herein, assigned as Chief of County Detectives. Chief Dooley was and remains in command of the Detective Division of the Atlantic County Prosecutor's Office, with supervisory responsibility over investigations by the Major Crimes Unit and Sergeant Mattioli. He is sued in his individual and official capacities.

10. Defendant Mullica Township is a municipal corporation organized and existing under the laws of the State of New Jersey. It has offices located at 4528 White Horse Pike, Hammonton, NJ 08037. Mullica Township owns, operates, manages, directs and controls the Mullica Department of Public Safety and Mullica Township Police Department, which employs Defendant Patrolman Jake O'Hara. Mullica Township has acted through its agents and employees, who were policy makers and supervisors, and through the individually named police officer.

11. Defendant Mullica Department of Public Safety is a governmental department of Mullica Township and includes those divisions of Township government and those functions, including the Department of Police, assigned to it by the Township Committee.

12. Defendant Mullica Police Department is a division of Township government responsible for: preserving the public peace; protecting life and property; preventing crime; protecting and arresting offenders against federal and state statutes and Township ordinances; disbursing any unlawful or dangerous assemblage; and preserving order at all elections, public meetings and public affairs. Members of the Mullica Police Department are charged with performing such other law enforcement duties as shall from time to time be assigned, as permitted or required under the laws of the State of New Jersey.

13. Defendant Jake O'Hara ("Patrolman O'Hara") is a police officer employed by Mullica Township who participated in the investigation of the alleged homicide of John Kingsbury. He is sued in his individual and official capacities

14. Defendant(s) John Does 1-5 are detectives, agents and/or employees of the Atlantic County Prosecutor's Office and/or police officers, agents or employees of Mullica Township, New Jersey, whose identities are as yet unknown, who participated in the conduct set forth in this Complaint or conspired with the named defendants. They are sued in their individual and official capacities.

15. At all times relevant to this Complaint, all defendants acted individually, or in concert and conspiracy, and were jointly and severally responsible for the harms caused to plaintiff.

16. At all times relevant to this Complaint, all defendants acted under color of state law.

PRELIMINARY STATEMENT

17. This is a civil rights action concerning the extraordinary misconduct of Atlantic County prosecutors, police detectives, officers, and supervisors in bringing false murder charges against Plaintiff Michael Castro.

18. Defendants improperly focused their investigation exclusively on plaintiff in the immediate aftermath of the shooting death of John Kingsbury. In so doing, defendants blatantly ignored evidence pointing to other suspects.

19. Rather than pursue other credible investigative leads, the defendants acted individually and jointly to fabricate evidence and misrepresent the actual facts adduced through investigation.

20. In rejecting all other credible investigative leads that did not implicate plaintiff, the defendants failed to obtain and preserve critical evidence, including evidence that likely would have exculpated the plaintiff and exposed third parties who actually committed or participated in the homicide.

21. The defendants willfully, recklessly, and callously disregarded the plaintiff's rights under federal and state law by misrepresenting the evidence to obtain an arrest warrant for plaintiff and initiate a murder prosecution against him.

22. During the course of the prosecution, defendant officers, detectives and supervisors misrepresented the facts to the prosecutors, and withheld from them critical information that tended to exculpate the plaintiff and implicate others.

23. As a result of the defendants' pervasive unconstitutional conduct, plaintiff was incarcerated in the Atlantic County Jail for some 16 months, until the presiding Superior Court judge issued orders dismissing the indictment and releasing plaintiff from custody.

24. Plaintiff now brings this action under 42 U.S.C. § § 1983 and 1985 to seek redress for the violations of his rights, his loss of liberty, and the significant damages he suffered.

JURISDICTION AND VENUE

25. Plaintiff invokes jurisdiction pursuant to 28 U.S.C. §1331 as the claims raise federal questions under 42 U.S.C. § § 1983 and 1985. Plaintiff further invokes the supplemental jurisdiction of this court pursuant to 28 U.S.C. §1367 for claims arising under state law, as these claims form part of the same case and controversy as the federal claims.

26. Venue is appropriately laid in the District of New Jersey pursuant to 28 U.S.C. §1391(b) as it is the judicial district in which the claims asserted herein arose and because all parties reside or have their principal offices in this district.

STATEMENT OF FACTS

Initiation of the Investigation

27. The investigation of the alleged homicide of John Kingsbury was conducted by the Major Crimes Unit of the Atlantic County Prosecutor's Office in conjunction with police officers from Mullica Township, New Jersey.

28. At approximately 3:00 p.m. on February 5, 2012, Glenn Kingsbury arrived at his home located at 2140 Woodland Avenue in Mullica Township, New Jersey.

29. Glenn Kingsbury told detectives with the ACPO that upon entering the house he found his father, John Kingsbury, age 77, in the foyer/kitchen area of the residence on the floor, lying face up with a pool of blood emanating from his head.

30. Glenn Kingsbury called 911 emergency services at 3:09 p.m.

31. Mullica Township police officers arrived at the scene at approximately 3:14 p.m.

32. Upon his arrival, Mullica Township police officer Patrolman Keeping observed that John Kingsbury was struggling to breathe and was aspirating blood and coarse vomit on his face. He cleared John Kingsbury's airway from vomit, blood and dentures, and began assisting him with breathing using a bag valve mask.

33. Mullica Township police officer Patrolman Sarraf also observed that John Kingsbury had a large amount of bloody vomit on his face.

34. Emergency services personnel (EMS) from AtlantiCare arrived at the scene at 3:22 p.m. and began assessing and treating John Kingsbury. A second ambulance arrived at 3:32 p.m. EMS personnel noted that John Kingsbury had a strong, regular pulse at 3:38 p.m.

35. When assessed by paramedics, John Kingsbury was breathing with sonorous respirations with an estimated blood loss of 100–500 ml.

36. Susan (Wainwright) Danson, who is Glenn Kingsbury's ex-wife and shared custody of their children, received a telephone call or text from Glenn Kingsbury. She arrived at the Kingsbury residence at Glenn's request to pick up the children, who were at a neighbor's house.

37. Susan Danson arrived and saw John Kingsbury on a stretcher. He was being attended to by paramedics. She later reported that John Kingsbury was conscious at this time.

38. Susan Danson offered to stay at the residence and clean up so that Glenn could go to the hospital with his father, but Glenn declined, saying that he would clean up the blood.

39. The Mullica Township police officers and paramedics failed to discover that John Kingsbury had suffered two gunshot wounds to his head.

40. John Kingsbury was transported by ambulance at 3:50 p.m. en route to Mainland Hospital.

41. Karen Drew, Glenn Kingsbury's girlfriend and business partner, arrived at the scene while John Kingsbury was being loaded in the ambulance.

42. Glenn Kingsbury and Karen Drew did not follow the ambulance to the hospital. Instead, they remained together at the scene.

43. Patrolman Keeping and Patrolman Sarraf went back into the residence and looked over the scene for evidence of foul play, but did not notice anything out of the ordinary.

44. Mullica Township police cleared the scene at 3:58 p.m., leaving Glenn Kingsbury and Karen Drew alone in the residence.

45. During transport, paramedics noted that John Kingsbury's right eye became increasingly swollen. John Kingsbury reportedly became unconscious while in the ambulance and went into cardiac arrest at about 4:19 p.m. while en route to the hospital.

46. Mullica Township police officers returned to the scene at 4:24 p.m. after Glenn Kingsbury reportedly called police and told them that while cleaning up the blood, he and Karen Drew found what appeared to be two empty shell casings lying on the floor in the foyer/kitchen area of the residence.

47. AtlantiCare Regional Medical Center Records for John Kingsbury indicate that upon arrival to the hospital he was unresponsive, in pulseless electrical activity (PEA) and was pronounced dead at 5:00 p.m.

48. The autopsy report documents the cause of death as gunshot wounds of head and the manner of death as homicide.

Autopsy and Timing of Injuries

49. At autopsy, two gunshot wounds were documented: one labeled "A" was a close-range wound of the right eyebrow. The track fractured the right eyebrow ridge, disrupted the

right globe, penetrated the musculature of the right side of the face, and lodged in the right neck. The gunshot wound labeled "B" entered at the scalp, behind and above the left ear canal. The bullet path crossed the left parietal lobe, right parietal and temporal lobe, struck the right parietal bone, and traveled to the anterior midline.

50. Charles Siebert, M.D. performed the autopsy and confirmed that the bullet trajectory went through the basal ganglia (deep gray matter of the brain).

51. In a telephonic interview with forensic pathologist, Judy Melinek, M.D., Dr. Siebert stated that in his opinion the injury occurred within minutes of Mr. Kingsbury being found and that it is highly unlikely that he had been shot an hour before and was still alive with a strong pulse when reportedly discovered by his son at around 3:09 p.m.

52. Dr. Melinek issued a letter opinion in which she similarly concluded that without medical intervention the gunshot wounds would have likely caused death on the order of minutes after impact from both hemorrhage and brain swelling.

Forensic Evidence

53. Sergeant Ian Finnimore of ACPO arrived at the scene at around 6:20 p.m. and met Sergeant Mattioli. They discussed the fact that the crime scene had been cleaned and not protected under police control for a period of time.

54. Sergeant Finnimore noted that there were no signs of forced entry.

55. Sergeant Finnimore detected the strong odor of cleaning products and observed a slight white haze on the tiled floor of the entryway. This was consistent with the reports that Glenn Kingsbury and Karen Drew had cleaned up all of the blood on the floor.

56. Sergeant Finnimore also noted that a safe was located in the master bedroom and that it did not appear disturbed.

57. Nothing within the residence was reported as stolen, missing or damaged.

58. No latent fingerprints, blood, hair, fibers, DNA or other forensic evidence collected from the scene implicated the plaintiff.

VMAX Digital Video Recorder

59. While conducting a walkthrough of the residence, Sergeant Finnimore noted in the laundry area what appeared to be a security system with some of the equipment missing and/or moved.

60. Sergeant Mattioli advised Sergeant Finnimore that Glenn Kingsbury had disconnected and pulled the digital video recorder (DVR) from the closet and “attempted to view it.”

61. On February 6, 2012, ACPO Detective Christopher Hallett used the search feature of the DVR and discovered that the DVR did not have any recorded video on the system or its hard drive.

62. The VMAX DVR seized from the residence was not examined again until the defense made a request to conduct a forensic examination of the DVR video surveillance system.

63. Following that request, Detective Hallett performed a forensic examination on January 22-27, 2014. No video footage or files were found on the system’s hard drive. Through forensic examination, however, Detective Hallett was able to recover log files on the DVR hard drive and noted the contents in a report dated February 18, 2014.

64. On February 6-8, 2012, Glenn Kingsbury’s girlfriend and business partner, Karen Drew, exchanged several text messages with her brother, Kevin Drew, John Ryker and others indicating that she believed the video surveillance system was working and might yield evidence of the crime.

65. On April 26, 2014, Michael Mancuso, a forensic expert, issued a report concerning an examination he conducted upon a VMAX Digital Video Recorder identical to that taken from the Kingsbury residence. The examination was conducted to determine the operation and specific functions of the device. Mr. Mancuso also reviewed the report of Detective Hallett dated February 18, 2014, in which Hallett indicated that on January 22, 2014, he examined the VMAX Digital Video Recorder that was removed from the crime scene.

66. Based on the log files recovered during Detective Hallett's forensic examination, along with the results of the laboratory testing of an identical VMAX Model DW-VMAX8 Digital Video Recorder, Mr. Mancuso determined that the internal hard drive on the VMAX Digital Video Recorder that was removed from the crime scene had been formatted at some point during the time period from November 24, 2010 up to, and including, February 5, 2012.

67. Taken together with the evidence that Glenn Kingsbury disconnected and manipulated the DVR on the day of the homicide, this evidence created a strong inference that Glenn Kingsbury formatted the DVR hard drive in an attempt to erase evidence of or relating to the crime.

68. On March 29, 2014, Defense Investigator Greg W. Crescenzo conducted an interview and took the sworn statement (in question and answer form) of Susan Wainwright Danson concerning her knowledge of the events of February 5, 2012 and information she had relating to the homicide of John Kingsbury.

69. Susan Danson stated that she knew that Glenn Kingsbury had a video security system at his residence. She stated that she "saw the system on several times in the year 2011 and perhaps in the year 2012."

70. On several occasions during this time, Susan Danson “saw the surveillance video on the kitchen television monitor.” She said there were several blocks of video on the same screen. She recalled seeing a video image of her car on the kitchen TV screen when it was parked outside in front of the house. Susan Danson also recalled seeing video images of other rooms within the house on the kitchen television monitor.

71. Susan Danson said that she and her husband Craig asked Glenn Kingsbury several times if the video recorder showed anyone in the house on the day of the homicide. Susan Danson stated that Glenn Kingsbury “always gave us confused, non-committal answers and made excuses that the system ‘couldn’t be accessed.’” Susan said that she and Craig “found Glenn’s answers to be misleading, and troubling, since we knew the video surveillance system was working.”

72. Susan Danson said that about one week after the homicide, Sergeant Mattioli and a detective from the Mullica Township Police Department came to her house in Hammonton, New Jersey and interviewed her, Craig Danson, Austin Kingsbury and Megan Kingsbury.

73. Susan Danson said that Sergeant Mattioli and the Mullica Police detective were taking notes during the interview, and that she was present when the detectives interviewed Austin and Megan.

74. Susan Danson stated that she “definitely” told Sergeant Mattioli that the video surveillance system in the Kingsbury residence was working when she was there in 2011 and 2012.

Willful Brady Violation

75. ACPO did not produce a single document to the defense containing any reference to Sergeant Mattioli’s interview of Susan Wainwright Danson until June 3, 2014.

76. Other than Sergeant Mattioli's report of June 3, 2014, no police report mentioned the interviews, and no detective notes were provided from the interviews of Susan Danson, or her husband and children.

77. Sergeant Mattioli's undated principal investigative report makes no mention of the interview and his several affidavits in the case were similarly bereft of any such reference.

78. On July 22, 2013, the defense made a comprehensive written discovery demand upon ACPO under New Jersey Court Rule 3:13-3 which included a request for (1) the names, addresses and birthdates of all persons who had relevant evidence or information, (2) all police reports, and (3) all *Brady* material.

79. On August 15, 2013, the defense made an additional written discovery demand requesting, among other things, that the prosecution "Set forth names and addresses of all persons who have knowledge pertaining to this cause, or who have been interviewed by any governmental agents in connection with this cause."

80. That same discovery demand requested that ACPO "Submit the written, recorded or summarized statements of all persons who have knowledge pertaining to the case or who have been interviewed by governmental agents in connection with this cause." A detailed demand was made for all favorable evidence, negative evidence, evidence of lack of criminal intent or knowledge, impeachment evidence and exonerative evidence.

81. Additionally, the August 15, 2013 defense discovery demand made specific requests for material related to this case. Among those requests, the defense asked for "13. A copy or recording of any interview of Susan Wainwright by law enforcement in connection with this matter and/or a copy of any written statement or other communication by her to law

enforcement, along with a copy of any document, thing or other evidence provided to law enforcement or the government by her.”

82. On August 20, 2013, Defendant Chief Assistant Prosecutor John Maher sent a response to defense counsel indicating that with respect to the defense request #13 set forth in the preceding paragraph concerning Susan Wainwright, “I am unaware that [Susan Wainwright] was ever interviewed, however, when Sgt. Mattioli returns I will check.”

83. On August 28, 2013 Chief Assistant Prosecutor John Maher sent a second response to defense counsel concerning the defense discovery requests. Mr. Maher’s letter began, “Yesterday I spent several hours with Det. Sgt. Mattioli as well as Det. Rauch going over our case file.” With respect to Item #13 of the defense specific discovery requests pertaining to Susan Wainwright, Mr. Maher wrote, “Items 8, 9, 10, 11, and 13. (Interviews of Moriano, Gray, et al): Sgt Mattioli advises that none of these people were interviewed.”

Interview of Glenn Kingsbury on February 5, 2012

84. ACPO detectives interviewed Glenn Kingsbury and Karen Drew on the evening of February 5, 2012. Although the interviews were reportedly conducted in the prosecutor’s office interview rooms, neither interview was taped or recorded, and no supplemental investigative report was produced to the defense pertaining to either interview.

85. Glenn Kingsbury told ACPO detectives that his father, John Kingsbury, had been living with him at the 2140 Woodland Avenue address since the end of October, 2011.

86. Glenn Kingsbury is the adopted son of John Kingsbury and has no brothers or sisters.

87. John Kingsbury's wife predeceased him, but, upon information and belief, he was survived by several blood relatives. Glenn Kingsbury did not disclose the existence or identity of these relatives to the detectives.

88. Glenn Kingsbury said that he was the owner of "Cheer Tech," a business involved in organizing cheerleading competitions across the country. The business also made and sold t-shirts in connection with the competitions and other events. Glenn said that the events generate a large amount of cash, and that he had dozens of employees and business associates who were aware of the volume of cash his business generates.

89. Glenn Kingsbury failed to inform ACPO detectives that his father, John Kingsbury, was the owner of three separate companies associated with the cheerleading competition and event business, to wit: AXMA, LLC, Complete Competition, LLC, and Mid Atlantic Cheer, LLC.

90. John Kingsbury was retired from RCA Corporation and had no knowledge or personal involvement with cheerleading or tumbling.

91. John Kingsbury also owned a home on Long Beach Island with a tax assessed value of \$1,564,500.00 and drove an orange Porsche Boxster.

92. However, Glenn Kingsbury described his father as "broke" and claimed that he lent his father \$100,000.00 in May.

93. Glenn Kingsbury did tell Sergeant Mattioli that his father had about \$40,000.00 in an account with Chase Bank. This information was not confirmed during the investigation and no document concerning the alleged loan or John Kingsbury's bank account was provided to the defense.

94. Glenn Kingsbury also initially failed to disclose to ACPO detectives that he purchased a home in Key West Florida on June 30, 2011.

95. Glenn Kingsbury never disclosed that, in connection with the purchase of his home in Key West, Florida, he incurred a \$240,000.00 construction loan secured by a mortgage from two individuals, Joseph J. O'Connell, Jr. and Walter S. Crumbley, Jr.

96. Glenn Kingsbury's loan was to be paid in full on or before June 30, 2012. One of the persons who made this loan in his individual capacity, Joseph J. O'Connell, Jr. was reportedly convicted of aggravated battery of a pregnant woman in the year 2008.

97. Glenn Kingsbury told ACPO detectives that on February 5, 2012 he was playing paintball with his children, Austin and Megan Kingsbury, his friend Jonathan Ryker and Mr. Ryker's three sons at a paintball facility near the intersection of Route 73 and Route 561 in Winslow, New Jersey.

98. Glenn Kingsbury told the detectives he left his residence at about 8:45 a.m. and remained at the paintball facility until 2:15 p.m., when he left and stopped at the Power Athletics facility located on the White Horse Pike in Hammonton, New Jersey. There, he saw and spoke with Michael Castro and Cheer Tech employee Kurt DiGiovanni before travelling home to his residence.

99. Glenn described his relationship with Michael Castro as friendly. He said they occasionally socialized together. Michael Castro had been to the residence at 2140 Woodland Avenue on five or six occasions, and was aware that John Kingsbury lived there.

100. Glenn Kingsbury noted that on February 5, 2012, Michael Castro and his fiancée, Megan Bailey, were invited along with other couples and friends to attend a Super Bowl party at the Kingsbury residence.

101. Glenn said that he was introduced to Michael Castro through a mutual friend, Michael Maiorano, a few years before. Glenn Kingsbury explained that sometime in 2011 his son Austin failed to make the local soccer team. Michael Castro agreed to teach Austin martial arts to keep him physically active and build his confidence. Over the next several months, Michael Castro became something of a mentor to Austin.

Sergeant Mattioli Interview of Karen Drew

102. Karen Drew told Sergeant Mattioli she had been in a relationship with Glenn Kingsbury for about 7 years, and that she was also his business partner.

103. Karen Drew told Sergeant Mattioli that she had returned from a two-day Cheer Tech event in Alabama on the evening of February 4, 2012. She said that Glenn Kingsbury also ran a Cheer Tech event in Philadelphia the previous day.

104. Karen Drew told Sergeant Mattioli that she woke up Sunday morning as Glenn and the kids were leaving to go play paintball, just after 9:00 a.m. She said she did a few things around the house, spoke with John Kingsbury, and prepared to start her errands, which included making deposits at TD Bank from the proceeds of both Cheer Tech events and stopping at her home in Somerdale, New Jersey.

105. Karen Drew claimed she was at the Kingsbury residence with John Kingsbury on February 5, 2012 until she left the residence at about 1:00 p.m.

106. Security footage from a camera located at Nesco Liquor, located less than one mile from the scene, shows a Chevrolet Suburban driving away from the residence at about 1:12 p.m. Karen Drew claimed she was driving this vehicle on the day of the homicide.

107. On February 25, 2014, Chief Assistant Prosecutor Cary Shill provided a written discovery response that read in part, "As to your request for a description of the vehicle driven

by Karen Drew, Ms. Drew was driving a white Chevy Suburban. It is the State's position that this vehicle can be seen on the video at Nesco Liquors at 13:17:09. As per our discussion at the last court hearing, I am attaching a report previously supplied by Detective Hallett in which he documents the discrepancy between the actual time and the time displayed on the DVR."

108. Detective Hallett's report dated February 15, 2012 details that he downloaded the Nesco Liquor surveillance video for February 5, 2012 from 11:52 a.m. to 3:30 p.m. Detective Hallett's report indicated that the time displayed on the Nesco Liquor surveillance video was five minutes fast.

109. Detective notes indicate that Glenn Kingsbury told ACPO detectives that, on February 5, 2012, Ben Park, a Cheer Tech employee, dropped the white Chevrolet Suburban off at the Kingsbury residence in Mullica Township, New Jersey at 12:30 p.m.

110. However, on April 30, 2014, Ben Park made a statement to the defense investigator denying that he ever drove the Kingsbury's Chevrolet Suburban on February 5, 2012 (Super Bowl Sunday), or the previous day.

111. On or about January 22, 2014, as a result of a request by the defense, ACPO requested a Communications Data Warrant (CDW) to obtain the AT&T Call Detail Records for the mobile phone carried by Karen Drew on February 5, 2012 (609-330-8413).

112. The Call Detail Records obtained from AT&T were provided to the defense on or about February 6, 2014, two years after the homicide of John Kingsbury.

113. On March 22, 2014, defense forensic expert in modern cellular telephone tracking and related technologies, Roger L. Boyell, PE, issued a report showing that Karen Drew's cell phone accessed a cellsite located in Vincentown/Chatsworth area at about 11:54 a.m. This cellsite is located approximately 12 miles (straight-line distance) from the Kingsbury residence.

114. The Call Detail Records also show a pattern of travel for Karen Drew on the day of the homicide during the time she claimed to be alone with John Kingsbury at the residence. Her cellphone accessed at site located about 10 miles north of the intersection of Route 206 and Route 30 in Shamong Township, New Jersey at about 12:21 p.m. From there, the records indicate that Karen Drew traveled back South on Route 206 towards Hammonton, New Jersey between 12:21 p.m. and 12:28 p.m., and then West to the Berlin, New Jersey area, where she accessed a cellsite in that area at 12:41 p.m. for 19 minutes and one second.

115. These records clearly contradict Karen Drew's several statements to police about her whereabouts on the date of the homicide.

116. No police report, detective note, or other document provided by ACPO indicates that Karen Drew was ever confronted with this information.

117. While traveling to the prosecutor's office with Sergeant Mattioli, Karen Drew deflected suspicion onto Michael Castro. She said that Glenn Kingsbury owned and operated a business in Hammonton, New Jersey known as Power Athletics, located at 40 A North White Horse Pike (Route 30), Hammonton, New Jersey. Karen Drew said that she and Glenn taught gymnastics and tumbling there, and shared the rent through an informal agreement with Michael Castro, who taught martial arts classes there.

118. Karen Drew told detectives that she was suspicious of Michael Castro because (1) he owed Glenn Kingsbury several months of past due rent for use of the Power Athletics facility, (2) he "bounced" multiple checks totaling about \$8,000, (3) Glenn bought workout mats and various equipment for Michael Castro totaling \$12,000, (4) she believed communications between Michael Castro and Glenn's son, Austin, were suspicious in that it appeared that Michael Castro was attempting to find out who was going to play paintball that day, and (5) she

believed various communications via text and telephone calls between Michael Castro and her on February 5, 2012 were suspicious.

119. Karen Drew claimed that Michael Castro asked her one or more questions about a t-shirt order to which she believed he should have known the answer. Karen Drew also reportedly claimed that Michael Castro asked her when she was leaving Glenn Kingsbury's house that day.

120. The Facebook communications between Michael Castro and Austin Kingsbury were, in fact, benign. Michael Castro was invited to go play paintball with the Kingsbury's on the morning of February 5, 2012, and was invited to attend a Super Bowl party at their residence that evening.

121. The text message communications between Michael Castro and Karen Drew do not show any attempt to learn if or when she might be leaving the residence.

122. During Karen Drew's interview with Sergeant Mattioli, she said that earlier in the week, on January 31, 2012, at approximately 9:00 p.m., she and Glenn Kingsbury arrived at the residence at 2140 Woodland Avenue in Mullica. Karen Drew stated that a piece of her luggage that was in the foyer near the front door appeared to have been rummaged through.

123. Karen Drew told John Kingsbury about her suspicion that someone had been inside the house. Karen said that John Kingsbury expressed concern and claimed that he was home alone in the house all day.

124. John Kingsbury had the locks to the house changed the following day. Police were never contacted.

125. When asked, Glenn Kingsbury could not identify the name of the company that allegedly changed the locks at the Kingsbury residence.

126. No follow-up investigation was done to identify the company or confirm that the locks at the residence were changed four days before the homicide.

127. Of note, the Kingsbury residence was also protected with a motion detection security alarm system that was monitored by an alarm company.

Neighborhood Canvas

128. On February 6, 2012, ACPO detectives and Mullica police conducted a neighborhood canvass. Francesco Randazzo, who lives next door, told ACPO Detective Micheletti that, on February 5, 2012, he was outside his residence riding a scooter up and down Woodland Avenue with his then 14-year-old step-son, Joseph Perez.

129. Mr. Randazzo said that he noticed an unfamiliar male who had just parked his car at the end of the block. Mr. Randazzo described the color of the car as metallic blue, “. . . a color that Dodge puts out.” Mr. Randazzo said the vehicle was a four-door, compact car. He said he was “pretty savvy” when it came to automobiles and believed the vehicle he saw was a Dodge Avenger.

130. Mr. Randazzo said that he did not observe any personalized accessories or any markings on the car.

131. Mr. Randazzo said that he noticed the unfamiliar male walking in the direction of Nesco Road. He was dressed in a sky-blue hooded sweatshirt with the hood pulled over his head and matching sky-blue sweatpants; he was wearing gold colored sunglasses with reflective lenses and wearing a black ball cap.

132. Mr. Randazzo stated that he met the man at the end of his driveway, and estimated that he was about 10-15 feet away. Mr. Randazzo said “hello” to the man, and he said

140. Mr. Randazzo did not make an identification of Michael Castro.

141. Following the presentation of the photographic lineup, Mr. Randazzo explained to Sergeant Mattioli that it was difficult to identify the man he saw because the male he observed wore sunglasses and a hat.

142. On February 10, 2012, ACPO Detective Paul Micheletti interviewed neighbor Josh Vodopija, who stated that he observed an unfamiliar male walking on Woodland Avenue on February 5, 2012 around 1:30 p.m.

143. Mr. Vodopija described the male's skin color as "Just darker skin, like tanner." He described the male's race as "Like Hispanic or Oriental."

144. On February 10, 2012, ACPO Detective Micheletti interviewed neighbor Robert Longo, who stated that on February 5, 2012 at around 1:15 p.m., he observed a metallic blue compact car parked near the neighborhood. He described the color as "light, um bright." Mr. Longo stated that the male was wearing a grey or light blue hooded sweatshirt. Mr. Longo described the individual he observed at various times as a "white male," with a "tan," "dark," or "brownish complexion."

145. Detective Micheletti also interviewed a Ms. Therese Ramp on February 10, 2012. Ms. Ramp stated that she lives on Moores Avenue in Mullica Township. She stated that she had previously called police on the evening of January 31, 2012 about an unfamiliar vehicle parked on Moores Avenue.

146. Ms. Ramp said that the vehicle was parked there for about 20 minutes without any occupant. Ms. Ramp reportedly called Mullica Township police at 7:00 p.m. She estimated that the vehicle was parked in the area for about 20 minutes, between about 6:40 p.m. and 7:00 p.m.

147. She described the color as “blue very pretty midnight blue, like um, very dark, dark blue, nothing near black, metallic,” and “But it was a like um I guess I want to say midnight blue, It wasn’t dark, dark. It wasn’t nowhere near black.”

148. Ms. Ramp stated that she drove up behind the vehicle at least twice. She did not report any identifying marks on the car. Mullica Township Police Officers arrived at the area at 7:08 p.m. and no such vehicle was found.

Interviews of Kurt DiGiovanni

149. On February 8, 2012, Sergeant Mattioli and ACPO Detective Paul Micheletti interviewed Kurt DiGiovanni at the Winslow Township Police Department. The interview was reportedly not recorded. Sergeant Mattioli issued an undated investigative report about this interview sometime after Michael Castro’s arrest and indictment.

150. DiGiovanni explained that he has known Glenn Kingsbury since 1992 when they met while attending Rowan University.

151. Kurt DiGiovanni said that he was an employee of Cheer Tech and printed t-shirts for the cheer competitions.

152. Kurt DiGiovanni said that he arrived at Power Athletics gym in Hammonton, New Jersey on February 5, 2012 at 10:30 a.m. He said that Michael Castro arrived at the gym at about 12:00 p.m.

153. Kurt DiGiovanni told the detectives that Michael Castro began looking at a written t-shirt order, and called Karen Drew after a few minutes. Kurt DiGiovanni said that he overheard Michael Castro ask Karen Drew several questions about the t-shirt order. Sergeant Mattioli did not report that Kurt DiGiovanni found any of the questions to be unusual in any way.

154. Kurt DiGiovanni said that Michael Castro then received a telephone call, and that following the call, Michael Castro told him that his girlfriend needed him to pick up her prescription and he had to go. Kurt DiGiovanni said that Michael Castro was at the gym for approximately 10-15 minutes.

155. Kurt DiGiovanni said that Michael Castro came back to the gym a second time about two hours later. He said that within about five minutes of Michael Castro's return, Glenn Kingsbury arrived at the gym. Kurt DiGiovanni said that Glenn Kingsbury and Michael Castro were at the gym together for 15 – 20 minutes before leaving.

156. Kurt DiGiovanni's time estimate for when Michael Castro first arrived at the gym is contradicted by objective evidence. ACPO obtained surveillance video from Wawa located at 214 N. White Horse Pike, Hammonton, New Jersey that shows Michael Castro present at that location between about 11:43 a.m. and 11:45 a.m.

157. The Wawa surveillance video from February 5, 2012 also shows that Michael Castro was completely clean-shaven.

158. Michael Castro's Call Detail Records indicate that he was at his home in Winslow Township (Ancora) by approximately 12:00 p.m.

159. Moreover, Karen Drew's cell phone records indicate that Michael Castro called her on only two occasions on February 5, 2012, at 11:09 a.m. and 11:17 a.m.

160. Thus, the telephone call that Kurt DiGiovanni said he overheard between Karen Drew and Michael Castro occurred approximately 45 minutes prior to the time Kurt DiGiovanni said Michael Castro arrived at the gym.

161. Additionally, the investigation revealed that Megan Bailey sent Michael Castro text messages (not a telephone call) beginning at 2:39 p.m. about picking up her prescription.

162. Kurt DiGiovanni erroneously recalled this event as occurring during the first time he remembered Michael Castro visiting the gym. This recollection is also contradicted by business records obtained from Rite Aid that show that the prescription was picked up from its Hammonton store location on the White Horse Pike at 3:14 p.m.

163. ACPO Detective Joseph Rauch and Chief Assistant Prosecutor Cary Shill re-interviewed Kurt DiGiovanni on January 15, 2014 at the Winslow Township Police Department. Nearly one month later, Detective Rauch issued a supplemental investigative report dated February 13, 2014 about the interview, which was reportedly not recorded.

164. During his re-interview, which occurred almost two years after the homicide, Kurt DiGiovanni was not confronted with any of the discrepancies between his statements to Sergeant Mattioli and the objective evidence.

165. This time, he said that he arrived at Power Athletics gym in Hammonton, New Jersey on February 5, 2012 at 10:15 a.m. Kurt DiGiovanni claimed that Michael Castro came into the Power Athletics gym on February 5, 2012, but was “only there for a few minutes before he said he had to take care of something and left.”

166. There was no explanation given as to why Kurt DiGiovanni told Sergeant Mattioli on February 8, 2012 that Michael Castro was at the gym for 10-15 minutes the first time he saw Castro there.

167. Kurt DiGiovanni now claimed that he thought Michael Castro’s presence at the gym was “odd” because no one told him that anyone was coming to help him with the t-shirts, and Michael Castro never helped out on the weekends (Of note, the Power Athletics gym had only been open for four months). He did say that Michael Castro had previously helped with the t-shirt orders.

[REDACTED]

168. Kurt DiGiovanni said that he overheard a part of a telephone conversation between Michael Castro and Karen Drew, but did not understand the purpose of the call and did not hear details of their conversation.

169. Kurt DiGiovanni repeated that he believed Michael Castro returned to the gym about two hours after he left. He also said that Glenn Kingsbury arrived at the gym that afternoon dressed in "paintball gear" and that he believed his children were with him.

170. Kurt DiGiovanni said that he was invited to a Super Bowl party at Glenn Kingsbury's house later that night. He planned to attend with his wife.

171. Kurt DiGiovanni told the detectives that he planned to go early to help setup for the party. "but prior to leaving [D] received a telephone call from Glenn Kingsbury saying "from

that he then went to the Power Athletics Gym in Hammonton, New Jersey, where he saw Cheer Tech employee Kurt DiGiovanni, who was working on a t-shirt order.

177. Michael Castro offered to assist and called Karen Drew to ask about a list describing the number of t-shirts to be sent and shipping locations for a cheerleading group called "Fame" that had three different locations in Virginia.

178. Michael Castro also said that he had called Karen Drew earlier that day to ask if she wanted him and Megan to bring anything for the Super Bowl party later that day.

179. Michael Castro stated that he left Power Athletics and went to Wawa, located at 214 N. White Horse Pike, Hammonton, New Jersey, and bought eggs.

180. Review of video surveillance tapes from February 5, 2012 secured by ACPO detectives show Michael Castro at the Wawa from about 11:43 a.m. to 11:45 a.m.

181. Michael Castro stated that he then went back to his residence and stayed with Megan Bailey for about 1 to 1½ hours.

182. Michael Castro then told the detectives that he returned to Power Athletics Gym for five or ten minutes and then went next door to Family Dollar before returning to the gym.

183. Michael Castro stated that while he was at the gym, Glenn Kingsbury and his

Michael Castro said that after receiving the text message, he went to Rite Aid in Hammonton, New Jersey, picked up Megan's prescription, and then returned home.

186. On February 10, 2012, Detectives Richard Johannessen and Natasha Alvarado went to the Rite Aid in Hammonton and extracted video from their surveillance system, but only requested video on February 5, 2012 from 10:00 a.m. to 2:30 p.m., 9 minutes prior to the text message from Megan Bailey to Michael Castro that was shown to Sergeant Mattioli.

187. Review of the surveillance video that was preserved does not show Michael Castro present inside Rite Aid prior to 2:30 p.m. on February 5, 2012.

188. Business records produced by the Rite Aid Corporation show that Megan Bailey's prescription was picked up (signed for and paid for) at 3:14 p.m.

189. Megan Bailey also spoke with the detectives on February 9, 2012 and told them that on Sunday, February 5, 2012, Michael Castro left their residence in the morning to go to Shop Rite and run errands.

190. Megan Bailey said that Michael Castro brought back eggs he had purchased to their residence and stayed there with her for about one hour. Megan Bailey said that Michael Castro then told her that he was headed back to the gym.

191. Megan Bailey also confirmed that she sent Michael Castro the text message at about 2:39 p.m. asking him to pick up a prescription for her.

192. During his interview with Sergeant Mattioli on February 9, 2012, Michael Castro freely volunteered that he owed Glenn Kingsbury money for rent and equipment, and disclosed that Lauren Kohl, a Camden County Sheriff's Officer, had a small share in his martial arts business. He also provided the detectives with Lauren Kohl's telephone number.

193. Michael Castro explained that he recently changed his cellular telephone number, and provided the detectives with both numbers, adding that the change in numbers occurred within the same plan.

194. In response to questioning, Michael Castro told Sergeant Mattioli that his dark blue, 2-door Kia Forte was parked outside and asked the detectives if they wanted him to point it out for them.

195. When asked if his car had "tint or something else that may stick out," Michael Castro described two big circular stickers that were on the back window, a "Castro Martial Arts" sticker and a "Power Athletics" sticker.

196. Additionally, Michael Castro told the detectives about his prior contacts with the decedent, John Kingsbury, indicating that he knew that John Kingsbury lived with his son, Glenn Kingsbury, at his Mullica Township residence.

197. Finally, Michael Castro expressed his concern about the homicide and the potential negative effect it could have on his business, which involved teaching children. He told Sergeant Mattioli that he was looking for places to relocate.

198. In addition to asking questions, Sergeant Mattioli made a number of statements during the February 9, 2012 interview. Sergeant Mattioli said, "The first night we talked to [Glenn Kingsbury], I was like questioning whether he might have had something to do with this." Sergeant Mattioli said that Glenn was "clearly . . . doing the shell game with money constantly . . ."

199. Sergeant Mattioli explained how Glenn Kingsbury was deceptive with him when asked about his banking deposits, and would only answer precisely worded questions, without volunteering the full truth.

200. Sergeant Mattioli said that when talking with Glenn Kingsbury, "I'm like, dude, I'm not the IRS. I don't give a fuck what you're doing. I don't care where you're hiding money."

201. Of note, on or before February 6, 2012 the total sum of \$121,434.80 was deposited in the Cheer Tech account with TD Bank.

202. Sergeant Mattioli continued in his commentary about Glenn Kingsbury's finances, saying that he believed Glenn was hiding money in "tangible assets" that his ex-wife could not "go after."

203. Referencing Glenn Kingsbury, Sergeant Mattioli said, "You're hiding your shit and, hide your money, and whether you buried money in the fucking back yard . . ."

204. Sergeant Mattioli also spoke at length about how Glenn Kingsbury could "launder money" and concluded, "So and then now that money is clean . . . but again this has nothing to do with that. This really doesn't, you know, as far as these people need to tell me. So, you know, there may be something else we're not looking at."

205. Sergeant Mattioli said of Glenn Kingsbury, "He's certainly doing illegal money shit."

206. Michael Maiorano and Brody Gray, Cheer Tech employees and friends of Glenn Kingsbury, stopped by the gym during Sergeant Mattioli's interview with Michael Castro on February 9, 2012. Sergeant Mattioli said to them, "One of the first things when I encountered Glenn – He says, he's like, and he really didn't know what had happened at that point, um, he didn't know how bad his dad was – He says, he's just shaking his head and he's like, 'They were coming for me.'"

207. Sergeant Mattioli continued, "Listen to those words, 'They were coming for me,' like somebody came to hurt him and he wasn't there, so they hurt his dad instead . . ."

208. Sergeant Mattioli also opined, " . . . Don't think we didn't think that he's [Glenn Kingsbury] got shit in the dad's name and if dad wasn't in the picture then . . . he stands to inherit it all . . . I'm like, I'm not ruling anything out."

Michael Castro Cellular Telephone Call Detail Records

209. On February 15, 2012, Sergeant Mattioli reportedly received Michael Castro's Call Detail Records from AT&T, pursuant to a Communications Data Warrant.

210. On January 22, 2014, Mr. Roger L. Boyell, a licensed professional engineer with experience in electronic communications and an expert in the area of mobile telephone tracking, issued a report containing his evaluation of the Call Detail Records for Michael Castro's cellphone.

211. Mr. Boyell concluded that the data was consistent with Michael Castro's statements that he was at his residence in the morning, went to several stores along the White Horse Pike in Hammonton, including Power Athletics, ShopRite and Wawa, and returned to his residence about noon.

212. The data is further consistent with Michael Castro's statement that in the afternoon he went to several places along the White Horse Pike in Hammonton, including Power Athletics, Family Dollar and Rite Aid, before returning to his residence.

213. Mr. Boyell included as an exhibit a Cellsite Coverage Map that shows the location of the cellular telephone towers and the general direction of the antennas to which Michael Castro's cellular telephone was connected at various times on February 5, 2012.

214. Mr. Boyell's coverage map and report indicated that the coverage area for three of the cellular telephone towers (those designated "B," "C," and "D") overlap in the area of the stores in Hammonton, New Jersey, including Power Athletics, Family Dollar, Rite Aid and Wal-Mart.

215. Mr. Boyell also concluded that Michael Castro's approximate location around 2:03 p.m. to 2:05 p.m. can be determined since his phone accessed site B and site D during this short timeframe and shows that he was in the overlap coverage area, which does not include the crime scene.

216. Ben Levitan, ACPO's expert in historical cell phone record analysis, issued a report in this matter concluding in part that "Phone records exclude Mr. Castro's phone from being at the crime scene . . . after 2:04 PM."

Camden Sheriff's Officer Lauren Kohl

217. Lauren Kohl is an Officer with the Camden County Sheriff's Office, and is assigned to the Superior Court in Camden County, New Jersey.

218. Officer Kohl had three legally registered handguns, a Taurus .40 caliber semiautomatic pistol, a Kahr .40 caliber semiautomatic pistol, and a Ruger .380 caliber semiautomatic pistol.

219. In addition to these privately owned "off duty" weapons, Officer Kohl carries a firearm in the execution of her duties as a Camden County Sheriff's Officer.

220. Investigation revealed that Officer Kohl owned and possessed a Ruger .380 handgun (37201647) that was reported to be a ballistics match with the same weapon that fired two spent .380 caliber shell casings reportedly found at the homicide scene on February 5, 2012 by Glenn Kingsbury and Karen Drew.

221. On February 16, 2012, Sergeant Mattioli reportedly called Lauren Kohl on her cellular phone and left a voice mail message with his name and contact information. Officer Kohl returned Detective Mattioli's call on the same date. Detective Mattioli explained that his office was investigating a homicide and that investigators were speaking to persons associated with Glenn Kingsbury, the alleged victim's son.

222. Lauren Kohl regularly trained and exercised in the "Power Athletics" gym in Hammonton, New Jersey, where Glenn Kingsbury and the defendant shared space. Officer Kohl was also a minor "partner" in the defendant's martial arts business, for which she performed basic bookwork and banking responsibilities.

223. Detective Mattioli reportedly told Officer Kohl that he could speak with her at any time, and that she did not need to come to the Atlantic County Prosecutor's Office.

224. Officer Kohl did not respond with any available times to meet, adding that she was busy. Detective Mattioli suggested that Officer Kohl check her schedule and return his call as soon as she could. Officer Kohl reportedly promised to get back to Detective Mattioli. Detective Mattioli made Officer Kohl aware of the fact that he knew she was a police officer.

225. Officer Kohl did not contact Detective Mattioli between February 16, 2012 and February 24, 2012, the date that ACPO executed a no-knock search warrant at Officer Kohl's residence in Sicklerville, New Jersey.

226. Officer Kohl reported her weapons as missing to Captain Curcio of the Camden County Sheriff's Office on February 17, 2012, who advised her to search her home again and advise him of the outcome.

227. On February 19, 2012, Officer Kohl contacted Captain Curcio, who then advised her to contact Internal Affairs. Internal Affairs then reportedly advised Officer Kohl to make a report to the Winslow Police Department.

228. On February 19, 2012, Officer Kohl contacted the Winslow Township Police Department (PD) to report two firearms missing from her residence, a Kahr .40 caliber handgun and a Ruger .380 handgun (37201647).

229. When Patrolman Haines of the Winslow Township PD arrived at Officer Kohl's residence, Officer Kohl met him outside, and did not allow Patrolman Haines access to her residence.

230. Officer Kohl told Patrolman Haines that she last carried her Ruger .380 handgun on December 24, 2011 in the city of Philadelphia and that when she returned home she "thinks she placed the gun back in her safe, but was not sure."

231. Officer Kohl told Patrolman Haines that she was on vacation in Florida between January 1, 2012 and January 15, 2012, during which time no one was to be at her residence.

232. Officer Kohl told Patrolman Haines that she was scheduled for range qualification with the Sheriff's Office on February 13, 2012, and first noticed the weapons missing on that date (8 days after the alleged homicide of John Kingsbury).

233. Officer Kohl claimed she could not find her missing firearms, but could not remember where they were either.

234. Officer Kohl told Patrolman Haines that that on February 15, 2012, she first noticed that a rear sliding door to her residence was unlocked, but not open. Officer Kohl said that this was odd because she never uses this door. Officer Kohl stated that the door could have been unlocked "for some time" because she never uses that door.

235. Officer Kohl claimed to have searched her residence for her missing firearms on February 14 - 16, 2012 without result. Officer Kohl reportedly called out of work on February 16, 2012 because she was "upset about the weapons being missing."

236. Officer Kohl did not tell Patrolman Haines that she was contacted by Detective Mattioli on February 16, 2012 about a homicide investigation.

237. When asked where her guns were specifically located within the residence, Officer Kohl told Patrolman Haines that she was not sure. She said that the weapons were in "the safe" at one point, but were removed because her mother wanted to look at jewelry in the safe and is afraid of guns. Officer Kohl said that the guns were placed under her night stand at that point.

238. Officer Kohl told Patrolman Haines that the reason it took her so long to report her missing firearms was that she keeps guns in several places throughout her residence.

239. Officer Kohl lived alone. When asked about the possibility of a burglary, Officer Kohl told Patrolman Haines that someone could have entered her residence through the unlocked rear sliding door and removed the two missing guns.

240. When asked, Officer Kohl said that she did not have any suspects in mind that would have entered her residence and removed two of her guns.

241. Officer Kohl told Patrolman Haines that the missing firearms were "most likely" in her bedroom and that nothing else, including either of her two other firearms, was missing.

242. She said that she has a dog that barks at anyone who walks by the house, that she did not observe any signs of forced entry, and did not believe there was a burglary at her residence.

off duty weapons.” Detective Mattioli further explained, “In my 15 years as a law enforcement officer, I know that officers that qualify with off duty weapons carry an off duty weapon.”

250. Detective Mattioli asserted that Officer Kohl’s claim that she did not see her off duty weapon since December 24, 2011 “clearly flies in the face of reason.”

251. Detective Mattioli continued, “As a law enforcement officer, Kohl demonstrated reckless disregard in reference to her knowledge of the locations of her personal handguns. Also, Kohl’s clear disregard of NJS 2C:58-19, which requires the legal owner of a firearm to report the loss or theft of said firearm within 36 hours upon discovery.”

252. Finally, Detective Mattioli noted in his affidavit that as a sworn law enforcement officer, Officer Kohl should not have had to be directed by her agency to report the firearms stolen.

253. On February 24, 2012, Detectives James Rosiello and Caroline Burton of the ACPO executed a no-knock search warrant on Officer Kohl’s residence. Items seized from the attic included the white box for the Ruger .380 handgun (37201647) reportedly containing an expended shell casing provided by the manufacturer, and two smoking pipes that appear to be drug paraphernalia found with filters, rolling papers and matches.

254. ACPO Detectives also photographed a .40 caliber Taurus handgun that was found in a small (moveable) firebox located under a chair in the bedroom.

255. Also on February 24, 2012, Detective Mattioli conducted a recorded interview with Officer Kohl.

256. Officer Kohl was given *Miranda* warnings as a criminal suspect.

257. Officer Kohl told Detective Mattioli that she had no knowledge of any involvement of Michael Castro in the alleged homicide, but said that during part of the time

period her guns went missing she was in Florida for two weeks, and Michael Castro was in her house to pick up a business checkbook.

258. Officer Kohl said that her .380 Ruger handgun was always kept in a pocket holster in her bedroom closet safe. A Taurus firearm was normally kept in her foyer. The Kahr .40 caliber handgun was ordinarily kept in a cabinet drawer in the living room.

259. Officer Kohl claimed during the interview that she put all the firearms in her bedroom closet safe when she went away on vacation. She indicated that there were two safes in her bedroom – a firebox kept under a chair in the bedroom and a stand-up gun safe kept in her bedroom closet. Officer Kohl said that she “usually” puts her guns in her bedroom closet safe when she goes on vacation.

260. Officer Kohl indicated later in the interview that when she left on vacation her duty weapon was in her bedroom closet, but couldn’t recollect where she left the .380 Ruger handgun. Officer Kohl said that it “could’ve been in her closet” and “could’ve been under her nightstand.”

261. Officer Kohl also told Detective Mattioli that while she was on vacation, she left a key to her residence outside for a woman who was supposed to drop off one of the dogs that she (Kohl) was fostering.

262. Officer Kohl said she put her guns “away” because she knew this woman would be in her house and did not know her very well.

263. Officer Kohl also indicated that another person came to her residence each day while she was on vacation to care for Kohl’s dog. Officer Kohl did not identify either of these persons by name.

264. During the course of the interview, Detective Mattioli told Officer Kohl that she was “falling further down into the hole” and “not giving a reasonable explanation” as to the whereabouts of her firearms.

265. Officer Kohl’s cellular telephone was seized by ACPO and the data was extracted. A report of the data on Officer Kohl’s telephone indicates that she sent several text messages indicating that she didn’t know if the weapons were lost, stolen or misplaced somewhere.

266. Critically, Officer Kohl sent a text message that read, “*Came home and i really think that jan 22nd i had the ruger while working cooper 6-midnight! But i am not 100% on that.*”

267. Officer Kohl actually communicated via text message that although she had no idea what actually became of her weapons, she was just going to “*go with a theft and if they turn up that way good and if i happen to find them first even better!*”

268. On March 9, 2012 the New Jersey State Police, Special Investigations Section, Forensic Investigations Bureau issued a laboratory report concluding that Officer Kohl’s Ruger .380 handgun (37201647) was a ballistics match with the same weapon that fired two spent .380 caliber shell casings reportedly found at the homicide scene on February 5, 2012.

269. No member of the ACPO or any other law enforcement personnel ever conducted an interview with Officer Kohl subsequent to the issuance of the ballistics report and report concerning data extracted from her cellular telephone.

270. Detective Rauch issued for the first time a Communications Data Warrant (CDW) for data (including location data) associated with Lauren Kohl’s cellular telephone number on November 19, 2013.

Interview of Chris Ricca

271. On February 24, 2012, Sergeant Mattioli and a Hammonton police sergeant interviewed Chris Ricca at the Hammonton Police Department.

272. Chris Ricca was born in November, 1995 and was 16-years-old at the time of the homicide and his subsequent interview. The interview was recorded on audio and video and both of Chris Ricca's parents were present during the interview.

273. Chris Ricca was given *Miranda* warnings as a criminal suspect.

274. Sergeant Mattioli interviewed Chris Ricca at length and he denied any participation or knowledge about the homicide. Chris Ricca was repeatedly urged by Sergeant Mattioli to implicate Michael Castro, but each time, Chris Ricca indicated that he had no knowledge or information that suggested that Michael Castro was involved in the homicide of John Kingsbury.

275. In the months preceding the homicide, Chris Ricca was present at the Power Athletics gym in Hammonton on nearly a daily basis.

276. Chris Ricca was an employee of Chcer Tech.

277. Chris Ricca admitted that he was familiar with the Kingsbury residence and had been inside. He volunteered, "I know the whole area there."

278. In denying that he was present at the Kingsbury residence on February 5, 2012, Chris Ricca, perhaps tellingly, said, "I didn't know the murder was going to happen . . ."

279. When asked directly and forcefully whether he was there on Super Bowl Sunday, Chris Ricca said, "No." After a pause, he said, "I don't believe I was."

280. In describing when he was present at the Kingsbury residence, Chris Ricca said, "Well maybe it was twice . . . twice, but they were both at night. Well, all I remember is just that one . . . when we were going to Richmond."

281. Chris Ricca could not account for his whereabouts on the afternoon of February 5, 2012.

282. Chris Ricca's mother stated, "I know you were home for the game, and I know you were home a couple hours before the game, because I was cooking." Chris Ricca responded, "I don't remember where I came from Super Bowl Sunday."

283. Chris Ricca did say that he knew who went with the Kingsbury's to play paintball that day, stating, "No. I wasn't there, but Austin posted it up on Facebook who was with him."

284. During the interview, Sergeant Mattioli confronted Chris Ricca with the possibility that witnesses would identify him. Sergeant Mattioli said that he was ". . . very confident that if shown a photo lineup [Francesco Randazzo] would be more than able to pick the person out . . . He gave very distinctive description about the persons jaw, about spotting facial hair, about some . . . marks on his face . . ."

285. Sergeant Mattioli said that Chris Ricca fit the description given by Francesco Randazzo of the unfamiliar male seen walking on Woodland Avenue on February 5, 2012.

286. Sergeant Mattioli stated that the description matched Chris Ricca, and not Michael Castro. "You know right now I have a very detailed description his face structure. You have a rather unique facial structure. You have a rather pronounced jaw line. You have pock marks. You have a spotty beard, just like a 16-year-old kid can grow. And when I talked to Castro (and that information came in prior to us going to talk to Mike), when I went there and looked at him, I was like, he ain't the guy he's talking about."

287. On June 3, 2014, Sergeant Mattioli testified that the quoted language in the preceding paragraph was not an investigative technique, but rather his honestly held belief that the witness descriptions of the unfamiliar male observed in the neighborhood where the alleged homicide occurred on February 5, 2012 was "more consistent" with Chris Ricca.

288. When confronted with the possibility that witnesses might identify him as the person present at the homicide scene on February 5, 2012, Chris Ricca said, "In the world, everybody has their twin somewhere out there, I mean."

289. Later, Chris Ricca said, "Well then if he takes my picture and if two people just pick me out, they're gonna go against . . . they're gonna go with their words, and not mine."

290. While discussing the description given by witnesses, Chris Ricca offered, "But if he gives me the description of the ball cap, maybe, coz you know I have a lot of hats."

291. Sergeant Mattioli made a number of comments about Chris Ricca's body language and demeanor, indicating that he believed that Chris Ricca was not being truthful. Sergeant Mattioli commented, "I've been watching you since I sat down here and as much as I've been talking I haven't taken my eyes off you. So I can have earplugs in right now and you've already admitted to being out there on Super Bowl Sunday."

292. Sergeant Mattioli said that Chris Ricca's untruthfulness was ". . . written all over [his] face."

293. Sergeant Mattioli stated, "You might as well have told me you were out there already, because you already demonstrated every time I get close to that day, I get the head shakes, I get the fidgets." "The guilt is written all over your face."

294. At another point in the interview, Sergeant Mattioli stated, "And again Chris the fact that you're bringing up other days just makes me think you're lying to me."

295. When asked what was bothering him, Chris Ricca stated, "Like when I spend time in . . . if I spend time in jail . . ."

296. Toward the end of the interview, Sergeant Mattioli said, "I have a strong belief that you went out there . . ."

297. During the interview, Sergeant Mattioli made the observation that ". . . nobody suggests, any of those neighbors, that the male that walks up and down the street actually goes into that house okay?" "At no point did I say . . . that you were inside that house, nor is any one of those people who see this individual in a blue sweatshirt walking up and down the street, say that they ever went in the Kingsbury driveway direction, or close to it."

298. Sergeant Mattioli also told Chris Ricca that ACPO would obtain his cell phone records, which would indicate whether he was present at the scene of the homicide on February 5, 2012.

299. Sergeant Mattioli stated, "I kind of feel bad right now because, I can't, I don't have your cell phone records in my hand, and I don't have something in my hand to, like, confront you with. But . . . I don't have proof." Later, Sergeant Mattioli repeated, "I'm gonna get [Chris Ricca's] phone records and his cell site, um and again, and, it's not a . . . secret. I'm not trying to hide that from anybody. Um, that I have full intentions of doing that." "I'm gonna know, I'm gonna know where his phone is."

300. No Communication Data Warrant was sought or issued by ACPO for the Call Detail Records of Chris Ricca's cellular telephone until 10 January 2014, nearly two years after the homicide.

301. When the CDW was served upon T-Mobile, the company indicated that the records were no longer available since T-Mobile only retains cell site data for a period of six months.

302. T-Mobile did provide the cellular telephone bill for Chris Ricca's account, which showed six text messages between Chris Ricca and a cell phone connected with an individual named David Bonanata.

303. A criminal history search revealed that David Bonanata plead guilty to burglary and possession of heroin (offense date was 10/06/12) and was sentenced on December 6, 2013 to incarceration for four years.

304. Sergeant Mattioli also told Chris Ricca that ACPO would obtain records from Facebook that may show the locations of various persons of interest. "I mean we'll end up getting all the historicals on everybody's face page because some of them you can . . . it actually shows where you were when you posted it." This was never attempted or accomplished.

305. Similarly, ACPO failed to request Chris Ricca's consent to provide his Droid smartphone for data extraction, and failed to seek a judicial warrant to seize it.

306. Chris Ricca had a Droid cellular telephone on his person during his interview with Sergeant Mattioli, and, on one occasion, showed the phone to Sergeant Mattioli.

307. Instead, Sergeant Mattioli revealed his singular focus on Michael Castro since the date of his interview on February 9, 2012, to the exclusion of all other possibilities and evidence. ". . . [S]ince then I've done nothing but gather information about Mike Castro. I could tell you things about him that probably no one knows. And they're not bad, he's, I like the guy. When I talked to him, he was a nice guy and that's where I come up with my own opinion about what occurred. It's not his history to do something like this."

308. Sergeant Mattioli described Michael Castro during the interview as “calm, cool and collected.”

309. On February 29, 2013, Detective Hagerty of the Hammonton Police Department reportedly presented (separately) to Francesco Randazzo and Joseph Perez a photographic array containing a photograph of Chris Ricca. Neither was able to make an identification.

310. Sergeant Mattioli failed to document the creation of the photographic array containing a photograph of Chris Ricca, in violation of ACPO rules and regulations.

311. Hammonton Detective Haggerty did not submit any police report about showing the photographic array containing a photograph of Chris Ricca to any witnesses. Thus, the only information indicating that this actually occurred is Sergeant Mattioli’s unsupported statement.

Sergeant Mattioli’s Grand Jury Testimony

312. On July 3, 2013, Chief Assistant Prosecutor John Maher presented Indictment #13-07-1875-INV-E to the grand jury assembled in the Atlantic County Superior Court, Mays Landing, New Jersey.

313. Despite the fact that nearly all of the witnesses that were interviewed in connection with the investigation were local, Sergeant Mattioli was the only witness called.

314. Nearly the entirety of Sergeant Mattioli’s testimony was hearsay.

315. Sergeant Mattioli deceived the grand jury by giving false and misleading testimony.

316. ACPO also presented its evidence in a way that was tantamount to telling the grand jury “half-truths.”

317. In describing the vehicle allegedly in the area of the homicide on January 31, 2012 and February 5, 2012 and seen by several of the neighbors, Sergeant Mattioli testified, “So

there were more than a few neighbors that describe seeing a strange car in the area and they all characterize it as being a unique blue, bright blue, a metallic blue, a unique blue, and that they all had it kind of in the same spot . . .” [TR at 23:11 – 16].

318. The grand jury was shown a photograph of a cobalt blue 2010 KIA Forte downloaded from the internet, about which Sergeant Mattioli testified, “They said a sporty car, and this particular vehicle is a sports model KIA, two door.” [TR at 26:1 – 2].

319. Sergeant Mattioli then testified that Michael Castro drove a 2-door 2010 KIA Forte and indicated that it was “consistent with” the witnesses’ descriptions.

320. This testimony was misleading in several ways. There was no basis in fact for describing metallic blue as a “unique” color, nor were the color descriptions from the various neighbors uniform, as set forth above.

321. The grand jury was not informed that Francesco Randazzo, the only neighbor to describe the number of doors on the vehicle, clearly said he saw a 4-door car.

322. The grand jury was not told that Randazzo believed the vehicle was a Dodge Avenger, or that another witness said it might have been a Volkswagen Jetta.

323. The grand jury was not told that Michael Castro’s car had two large stickers on the back window (a Power Athletics sticker and a Castro Marital Arts sticker) and that no witness reported seeing such identifying marks.

324. Instead, Sergeant Mattioli tailored his hearsay summary of the witnesses’ statements to unfairly implicate the defendant.

325. Similarly, Sergeant Mattioli was asked if the neighbors gave an estimated height and weight of the unfamiliar male seen walking in the neighborhood on the afternoon of February 5, 2012. Sergeant Mattioli answered, “They did. In fact, the one resident who was

very specific about it, said possibly Asian, 5'8" to . . . 5'9", 200 pounds, round face." [TR 24:15-19].

326. Sergeant Mattioli testified that this was "consistent with" Michael Castro's description from DMV records.

327. Later, Sergeant Mattioli answered, "Correct," when asked, "residents describe . . . an Asian male being in the area . . . consistent with Castro's appearance . . ." [TR 49:4-10].

328. The actual evidence was much different than that presented. When asked about his race, Mr. Randazzo said he thought the man was "mixed." "I mean he was white skinned and he was pretty fair – I mean he was pale white but his facial features weren't Caucasian per say."

329. When asked to guess, Mr. Randazzo said, "He was either, you know, white Asian or white Spanish."

330. Mr. Randazzo described the male as having visible "puck marks" on his face. He also said the man had sparse facial hair – a mustache and a "little bit of hair over here [indicating]."

331. Mr. Randazzo also said that his son saw the man's facial hair too and they believed the man had a slight beard.

332. Sergeant Mattioli had access to the Wawa surveillance video from February 5, 2012, which shows that Michael Castro was entirely clean-shaven, but the members of the grand jury were never told.

333. Indeed, there was no mention of Chris Ricca, or that Sergeant Mattioli had expressed during his interview that the neighbors' descriptions matched Chris Ricca, and not Michael Castro.

334. Instead, phrases like “white” and “possibly Hispanic” were dropped from the witnesses’ statements in favor of “Asian.”

335. Sergeant Mattioli testified that Michael Castro “. . . knew that the large amounts of cash were kept at the Kingsbury residence . . .” [TR 48:14 – 18]. However, there was no information contained within the investigation to support this assertion.

336. Sergeant Mattioli also provided “expert” testimony regarding Michael Castro’s purported locations on February 5, 2012, based upon his review of the Call Detail Records of Michael Castro’s cell phone and Sergeant Mattioli’s use of Google Earth.

337. A compact disk (CD) was shown to the grand jury containing the locations of two cell sites and the crime scene. [TR 6:9 - 13]. The CD contained a Google Earth map of the area with colored graphic lines drawn from the towers to the area of the crime scene. Next to these depictions were typed specific times associated with communications from Michael Castro’s cellular telephone.

338. Sergeant Mattioli testified, “When you make a call it bounces off of – not necessarily the first tower. If you’re in a really congested area it may bounce off not the closest one because that is congested, one that’s in geographical location to where you are --” [TR 43:9 – 13].

339. Asked if the records give a “relative direction of where the cell phone was,” Sergeant Mattioli answered, “Yes. This particular provider, which is AT&T, . . . gives you what’s called an azimuth which is just the direction, or a degree off north.” He said, “So you’re able to plot the quadrant in which the call was routed, the direction in which the person was who made the call, so in essence, this particular call at 11:31, it . . . bounced off this tower and he was

geographically in pie piece, somewhere within like a 30 degree pie piece from that tower.” [TR 43:14 – 44:6].

340. Sergeant Mattioli continued, “Within seven minutes of these two calls [11:31 a.m. and 11:38 a.m.] he is, again, a pie piece from this one would extend down and be somewhere in that area. Cell towers you’re going to get, the limit that the providers tell us is four miles at best from the tower. If you’re further than that you’re going to bounce off a different tower.” [TR 45:12 – 17]. “At 11:31 he’s out there for sure.” [TR 47:3]. “I don’t have all of them plotted in here for this purpose. But certainly [he] was already out at the scene.” [TR 47:7 – 10].

341. Chief Assistant Prosecutor John Maher then asked, “Okay. All right. I guess, but I guess the main point is that, well, the one point is it does put him in the proximity to the scene by irrefutable, I guess, scientific evidence and it contradicts what he specifically said as to where he was, correct?” Sergeant Mattioli answered, “Correct.” [TR 47:16 – 21].

342. Later, Sergeant Mattioli testified that “The reason that I had the ones, the locations that I had earlier, we believe the homicide occurred between, obviously, after Karen leaves, between 1:00 and 2:00, but clearly Castro was in the area casing the house to see who was there, and he’s calling her to find out when she leaves.” [TR 62:21 – 63:1].

343. This testimony was pure speculation, proffered to the grand jury as facts.

344. In addition to lacking the qualifications to give testimony about cell phone tracking, it is clear that neither of ACPO’s representatives at this proceeding had a command of the actual data, and neither, quite frankly, knew what he was talking about.

345. Their ignorance, however, did not stop ACPO from misleading the grand jury to believe that “irrefutable scientific evidence” established both that Michael Castro was at the crime scene, and lying about his whereabouts. The evidence demonstrated neither point.

346. The next linchpin to the prosecution’s case was Michael Castro’s alleged access to the murder weapon. Sergeant Mattioli told the members of the grand jury, “So shortly after seeing those weapons last she [Officer Kohl] goes to Florida for the first two weeks of January, and she says during that time period she had a Power Athletic checkbook, the business account checkbook that Castro needed, and she had left the key outside the residence for him to access her residence to get the checkbook, *and he was the only one who had accessed her residence while she was gone.*” (italics added) [TR 41:18 – 25].

347. This testimony was false. Sergeant Mattioli repeated this falsehood, stating, “. . . she lives by herself, no one else had access to her house.” [TR 76:23 – 77:1].

348. Officer Kohl also told Detective Mattioli on February 24, 2012 that while she was on vacation, she left a key to her residence outside for a woman who was supposed to drop off one of the dogs that she (Kohl) was fostering.

349. Officer Kohl said she put her guns “away” because she knew this woman would be in her house and did not know her very well. Officer Kohl also indicated that another person came to her residence each day while she was on vacation to care for Kohl’s dog. Officer Kohl did not identify either of these persons by name, and ACPO did not identify or speak with either of them.

350. Officer Kohl also said that a co-worker at the Sheriff’s Office had a key to her residence, but did not provide the person’s name.

351. Thus, Sergeant Mattioli clearly knew that others had accessed Officer Kohl's house while she was gone, and he clearly understood the importance of those facts.

352. ACPO also withheld the fact that Officer Kohl said that she "thinks she placed the gun back in her safe [while on vacation], but was not sure."

353. Nor was the grand jury told about the unlocked rear sliding door to Kohl's residence.

354. None of the suspicions of Patrolman Haines or Detective Mattioli about the implausibility of Officer Kohl's story were communicated.

355. Additionally, the data extracted from Officer Kohl's cellular telephone was withheld.

356. A report of the data on Officer Kohl's telephone indicates that she sent several text messages indicating that she didn't know if the weapons were lost, stolen or misplaced somewhere.

357. Critically, Officer Kohl sent a text message that read, "*Came home and i really think that jan 22nd i had the ruger while working cooper 6-midnight! But i am not 100% on that.*"

358. Officer Kohl actually communicated via text message that although she had no idea what actually became of her weapons, she was just going to "*go with a theft and if they turn up that way good and if i happen to find them first even better!*"

359. Thus, the actual evidence presented a much different picture than that painted for the grand jury.

360. Officer Kohl told several conflicting and implausible stories about the whereabouts of her weapon, and there is no reason to believe it was actually “stolen,” let alone during the time she was on vacation.

361. Sergeant Mattioli’s testimony left the grand jury with the false impression that it was known with certainty that the weapon was stolen while Officer Kohl was on vacation, and that Michael Castro was the only person who could have “accessed” Officer Kohl’s house.

362. In response to a question by a juror about Officer Kohl’s whereabouts on the date of the homicide, Sergeant Mattioli testified, “Oh, we have her whereabouts that day. I don’t have it before me. We verified her whereabouts via her cellular records as well.” [TR 74:3 – 7]. This testimony was false.

363. Sergeant Mattioli was asked, “And all the phone records that you went through corroborated everything she [Officer Kohl] had to say? And there was no way, based on the phone records, she could have done this, if she was with her phone? Sergeant Mattioli answered, “Correct. We believe that she had at least some information or --” [TR 77:23 – 78:3]. This testimony was also false.

364. Officer Kohl’s Call Detail Records were first obtained from AT&T on or about November 28, 2013, some five months later.

365. That this false testimony was given in answer to a question by a juror showed an intent to deceive and obfuscate, and thereby cut short further inquiry and truth-seeking by the grand jury.

366. Sergeant Mattioli also testified before the grand jury, “. . . so the fact that Castro is the only one had access to that gun, and certainly Lauren Kohl didn’t kill -- Lauren Kohl had

no knowledge of the amount of money that Kingsbury had or where it was. Lauren Kohl had never been to that house in Mullica.” [TR 81:3 – 7]. This testimony was false.

367. In addition to improperly personally vouching for his fellow officer, Sergeant Mattioli had no information to suggest Officer Kohl’s ignorance about the revenue generated from Cheer Tech events or where it was kept.

368. Indeed, Sergeant Mattioli had no information that would distinguish Officer Kohl’s general knowledge of these things from Mr. Castro’s.

369. Sergeant Mattioli then falsely swore that “Lauren Kohl had never been to that house in Mullica.” He knew otherwise.

370. During her interview on February 24, 2012, Officer Kohl specifically told Sergeant Mattioli that she had been to Glenn Kingsbury’s residence in Mullica Township, New Jersey.

371. Sergeant Mattioli also testified, “And his [Michael Castro’s] girlfriend [Megan Bailey] who he claims to be with for an hour-and-a-half says he never comes home.” [TR 50:3 – 4]. “[Megan Bailey] says that sometime, she was not real clear on time, she said sometime before 12, she said approximately between 11:00 and 12:00 Castro’s going to go out to the gym. Well she also confirms that he was going to go to Shop Rite to get something to make for the Super Bowl party but that he was going to the gym to help Kurt do t-shirts. She said that occurs, he leaves sometime before 12:00, between 11:00 and 12:00, she does not see him again till after 3:00.” [TR 33:7 – 15]. This testimony was intentionally misleading.

372. On February 9, 2012, four days after the homicide occurred, and while her memory was fresh, Megan Bailey specifically told Sergeant Mattioli that on February 5, 2012 Michael Castro left their residence in the morning to go to Shop Rite and run errands. She said

that Michael Castro brought back eggs he had purchased to their residence and stayed there with her for about one hour. Megan Bailey said that Michael Castro then told her that he was headed back to the gym.

373. Indeed, Michael Castro's return to his residence was supported by the same Call Detail Records that Sergeant Mattioli misrepresented throughout the hearing.

374. Sergeant Mattioli also testified that on February 5, 2012, Karen Drew "... was going up to check on her house and make the business deposit at the TD Bank, which we verified that she did." [TR 17:24 – 18:1]. This testimony was false.

375. No such verification was accomplished by ACPO. Sergeant Mattioli was asked, "And there is confirmation that all of that money, approximately \$80,000 in cash and checks, was deposited by [Karen Drew] at the TD Bank on that date, correct?" Sergeant Mattioli answered, "Up in Somerdale, or in that area, that's correct." This too was false. The only records provided to the defense by ACPO indicated that the deposits were made on February 6, 2012.

376. Likewise, Sergeant Mattioli mischaracterized the text messages between Karen Drew and Michael Castro, despite the fact that he had been provided with the actual text communications on February 17, 2012. See [TR at page 20].

Re-interview of Glenn Kingsbury

377. On November 7, 2013, Detective Rauch along with Chief Assistant Prosecutor Cary Shill interviewed Glenn Kingsbury at the Atlantic County Prosecutor's Office in Mays Landing, New Jersey. The interview was not recorded. Detective Rauch issued a supplemental investigation report dated December 18, 2013 concerning the re-interview.

378. Glenn Kingsbury told Detective Rauch that Cheer Tech runs between twenty-two and twenty-six cheerleading events or competitions each season, and that each event generates about \$10,000.00 in cash and up to \$15,000.00 in checks and credit card transactions, depending on the location, venue, merchandise sales, etc.

379. When asked to describe his relationship with Michael Castro, Glenn Kingsbury said they were "friendly," and that they were in business together and occasionally they socialized together.

380. According to Glenn Kingsbury, it was John Ryker's idea for their families to play paintball on the morning of Sunday, February 5, 2012.

381. Glenn Kingsbury said his experiences with Michael Castro were, for social events, "hit or miss"; he would either show up late or not at all. Glenn Kingsbury stated that for business events, however, Michael Castro was pretty punctual.

382. Glenn Kingsbury told Detective Rauch that Michael Castro had been to him home in Mullica Township, New Jersey approximately five or six times.

383. When asked if anyone other than himself, Karen Drew and John Kingsbury knew the code to the security alarm system at the house, Glenn Kingsbury said Michael Castro may have had the alarm code to the house, but he wasn't sure.

384. Detective Rauch's report provides no context for Glenn Kingsbury's odd and self-serving claim (made for the first time some 22 months after the homicide) that Michael Castro may have had the security alarm code to his residence.

385. Glenn Kingsbury did not tell Detective Rauch that either Mike Maiorano or Brody Gray had the security alarm code to the home.

386. Further, Glenn Kingsbury told Detective Rauch that the security alarm system was monitored by Guardian Protection Services, Inc. ("Guardian").

387. Subsequently, ACPO issued a subpoena duces tecum to Guardian that resulted in records being provided on or about January 24, 2014 indicating that Glenn Kingsbury called Guardian on February 15, 2012, 10 days after the homicide, and asked to have his existing security alarm system relocated from his old address at 35 Fairmont Avenue, Laurel Springs, New Jersey to his new address at 2140 Woodland Avenue, Mullica Township, New Jersey.

388. The records indicated that the relocation was completed on February 22, 2012, and, for that reason, Guardian did not have an event history associated with the monitoring of the alarm system prior to that date.

389. Glenn Kingsbury never disclosed to ACPO this switching of alarm systems shortly after the homicide.

390. However, the information from Guardian was confirmed by Brody Gray during his interview of February 5, 2014.

391. Brody Gray stated that he had the alarm code for the security alarm code at Glenn Kingsbury's residence in Mullica Township, New Jersey prior to the homicide of John Kingsbury on February 5, 2012, and that afterward, Glenn Kingsbury had a new alarm system installed and he [Brody Gray] received a new alarm code.

392. During his re-interview on November 7, 2013, Glenn Kingsbury told Detective Rauch that Lauren Kohl had been to his house in Mullica Township, New Jersey on one occasion.

393. Glenn said that he was outside his residence with Michael Castro when Lauren Kohl pulled up on a motorcycle. Glenn Kingsbury said that Lauren Kohl stopped to talk to them for a few minutes and then left without entering the house.

394. Glenn Kingsbury stated that he would typically be at Power Athletics gym a few times a week, for two or three hours each time. Glenn Kingsbury said that he was typically at the Power Athletics gym between about 5:00 p.m. and 7:30 p.m.

395. Glenn Kingsbury told Detective Rauch that on the day of the homicide Karen Drew had the proceeds from both Cheer Tech events (Philadelphia and Alabama), and that she made a bank deposit that day for approximately \$40,000.00 in cash and checks.

396. Glenn Kingsbury said that his father was diagnosed with COPD and had recently moved in with him. He said that his father was retired from RCA Corporation and was savvy with computers and electronics.

397. Glenn Kingsbury said that John Kingsbury spent his days watching television, surfing the internet on his laptop and looking for different ways to meet people his own age with similar interests.

398. Glenn Kingsbury stated that his father would occasionally go out shopping locally, and he frequented the Atlantic City, New Jersey casinos.

399. Glenn Kingsbury said that when John Kingsbury went out, he would drive himself in an orange color Porsche.

Affidavit of Glenn Kingsbury

400. On or about December 31, 2013, Glenn Kingsbury, individually and in his capacity as Executor of the Estate of John Kingsbury, filed a civil action in the United States

District Court for the District of New Jersey against Camden County, The Camden County Sheriff's Department, Lauren Kohl, Michael Castro and John Does 1-5.

401. In connection with that lawsuit, Glenn Kingsbury filed an Affidavit dated January 29, 2014 in which he indicated that "In the days and weeks following my father's death, I had several meetings and interviews with Detective Michael Mattioli from the ACPO. We discussed possible suspects. I had a sense that Detective Mattioli had identified a few possible suspects, but no arrests were being made."

402. None of these alleged meetings or interviews between Glenn Kingsbury and Sergeant Mattioli was documented in any investigative report and the defense was not provided with any detective notes from these meetings/interviews.

403. In his sworn affidavit, Glenn Kingsbury also stated, "I am acquainted with Lauren Kohl."

Data Extracted from Karen Drew's Cellular Telephone

404. Text messages extracted from Karen Drew's cellular telephone make reference to undocumented in person meetings/interviews and telephone calls between Karen Drew and Sergeant Mattioli.

405. Data extracted from Karen Drew's cellular telephone also show hundreds of text and instant message communications between Karen Drew and Sergeant Mattioli, none of which were reported or documented in the investigation.

406. Several of these communications strongly suggest that Sergeant Mattioli improperly intervened with the Hammonton Municipal Prosecutor to have a traffic citation that was issued to Glenn Kingsbury on May 21, 2012 dismissed.

407. Certified Hammonton Municipal Court records and transcripts show that the traffic citation was dismissed on July 10, 2012.

408. The Hammonton Municipal Court Judge commented on the record, "Mr. Kingsbury, I'm being told that the Prosecutor has spoken to the police officer and that the State is willing to dismiss this charge against you."

409. By arranging for Glenn Kingsbury's traffic ticket to be dismissed, Sergeant Mattioli conferred a benefit upon Glenn Kingsbury and Karen Drew, persons who should have been considered suspects and were expected to testify as witnesses in any criminal trial.

410. Sergeant Mattioli failed to document his role in conferring this benefit and this information was not provided to the defense.

Re-interview of Karen Drew

411. On November 22, 2013, Detective Rauch along with Chief Assistant Prosecutor Cary Shill interviewed Karen Drew at the Atlantic County Prosecutor's Office in Mays Landing, New Jersey. The interview was reportedly not recorded.

412. Detective Rauch issued a supplemental investigation report dated December 16, 2013 concerning the re-interview.

413. Karen Drew told Detective Rauch that John Kingsbury moved into Glenn Kingsbury's residence in Mullica Township, New Jersey in October, 2011. She said that Glenn redecorated the master bedroom and gave it to his father and moved his own bed into the small recreation room down the hall.

414. Karen drew stated that John Kingsbury spent most of his time in the bedroom watching television or on his laptop computer searching for places to go, things to do and ways for him to meet new people. John Kingsbury would often go out shopping locally and frequent

the Atlantic City casinos. When he went out, John Kingsbury would drive himself in the orange Porsche.

415. Karen Drew said that on the weekend of the homicide she was away at a Cheer Tech event in Alabama with Mike Maiorano, Brody Gray and some other Cheer Tech employees while Glenn Kingsbury was at a Cheer Tech event in Philadelphia with Michael Castro and some of the other Cheer Tech employees.

416. Karen Drew stated that she returned from Alabama on Saturday evening, February 4, 2012, and came directly from the Philadelphia Airport to Glenn Kingsbury's home in Mullica Township, New Jersey.

417. Karen Drew said that she had the cash and checks from the Alabama Cheer Tech event in her backpack.

418. Karen Drew told Detective Rauch that when she arrived at Glenn Kingsbury's residence, she placed the money and checks from the Alabama Cheer Tech event in the safe. She said the total amount of cash and checks was \$39,650.00.

419. Karen Drew said that on the morning of February 5, 2012, Glenn Kingsbury left early with his children to play paintball, while she remained in bed.

420. Drew stated that John Kingsbury was the only other person in the house after Glenn and the children left.

421. Karen Drew said that she had coffee and talked with John Kingsbury before she went into the living room to watch television, complete paperwork from both weekend events and prepare the bank deposit.

422. Karen Drew stated that she received a telephone call from Michael Castro at about 11:00 a.m. He said he was going into work at Power Athletics to work on a t-shirt order

and asked her if Kurt DiGiovanni was there yet. Karen Drew stated that Michael Castro also asked what he could bring to the Super Bowl party, and she told him to bring a dessert.

423. Karen Drew said that at about 11:17, she received a second call from Michael Castro asking her about a t-shirt order. Karen Drew claimed that she thought the question was somehow odd, because Michael Castro should have known the answer, or been able to get the answer from Kurt DiGiovanni.

424. Karen Drew also stated that during one of their telephone conversations that morning, Michael Castro asked her about who went paintballing that morning. She also told Detective Rauch that she recalled that Michael Castro asked her what she was doing.

425. Karen Drew stated that she told Michael Castro she was going to her house in Somerdale, New Jersey to get clothes and then she was going shopping to get food for the Super Bowl party.

426. Significantly, Karen Drew did not say that Michael Castro asked her, in either telephone conversation, when she was leaving Glenn Kingsbury's residence.

427. Karen Drew told Detective Rauch that Michael Castro later sent her a text message saying, "Don't go to Shop Rite."

428. The actual text message communications between Karen Drew and Michael Castro on February 5, 2012 were extracted from Karen Drew's cellular telephone, which was examined for the first time in December, 2013, following a specific request from the defense.

429. The data from Karen Drew's cellular telephone, matched against her Call Detail Records, establish that the following are the only text message communications between Drew and Castro on February 5, 2012.

<u>Date</u>	<u>Time</u>	<u>From</u>	<u>To</u>	<u>Text</u>
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2/5/12	11:22A	Castro	Drew	"Individual boxes??"
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2/5/12	11:38A	Drew	Castro	"Um...For some. All star ones stuff can all go together"
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2/5/12	11:38A	Drew	Castro	"Keep all games different going to 1 of 5 places"
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2/5/12	11:40A	Castro	Drew	"Ok"
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2/5/12	11:59A	Castro	Drew	"Um p.s. stay the hell away from shop rite. It's a mad house."
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2/5/12	12:28P	Drew	Castro	"Strange!!! It ain't the eagles in the Super Bowl"
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2/5/12	2:19P	Castro	Drew	"My bad i thought Kurt was done screening. We will sort tomorrow. We're gonna finish up these shirts."
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2/5/12	2:19P	Drew	Castro	"Oh ok"
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430. In Sergeant Mattioli's principal, undated investigative report related to this homicide, he stated that Karen Drew said that following their two telephone calls, "Castro texted her several times for (in her opinion) no real reason other than to find out if she had left the house."

431. This opinion, purportedly expressed by Karen Drew on February 5, 2012, is unsupported by the data.

432. On February 17, 2012, Karen Drew sent Sergeant Mattioli screenshots of the actual text messages set forth in the preceding paragraphs.

433. Even after he received the screenshots of the actual text messages, Sergeant Mattioli continued to falsely represent their contents in reports and affidavits.

434. During her re-interview on November 22, 2013, Karen Drew told Detective Rauch that she got dressed, ate lunch with John Kingsbury and then left the residence.

435. Karen Drew said that she did not recall John Kingsbury saying that he intended to go out for any reason. Karen Drew stated that when she left the residence, John Kingsbury was alone in the house with the dog.

436. Karen Drew said that she drove from the residence directly to the TD Bank branch in Hi Nella, New Jersey, where she made a deposit into the Cheer Tech account in the amount of \$39,650.00.

437. Karen Drew said that she then drove to her own house in Somerdale, New Jersey to change clothes.

438. Karen Drew stated that she then drove from her house to the TD Bank branch in Stratford, deposited coins into her own bank account, and then returned to her house in Somerdale, New Jersey.

439. Karen Drew told Detective Rauch that while she was at her house, she received a telephone call from Glenn Kingsbury telling her that John Kingsbury had an accident and that she had to come back to the house right away.

440. Karen Drew stated that when she arrived back at the Kingsbury residence, John Kingsbury was already in the ambulance.

441. Karen Drew told Detective Rauch that after the ambulance left, she and Glenn Kingsbury went inside the house and began cleaning up the blood on the floor.

442. Karen Drew claimed that while cleaning, they found a spent shell casing lying on the floor and a second spent shell casing lying on the floor next to the wall.

443. Karen Drew said that later that night both she and Glenn Kingsbury were transported to the Atlantic County Prosecutor's Office, Major Crimes Unit, and questioned extensively by Sergeant Mattioli.

444. Karen Drew stated that after the homicide she and Glenn Kingsbury took the children out of town for a period of time because of the media presence around the residence and left Michael Castro to manage the Power Athletics gym while they were away.

445. When asked if Michael Castro knew the money was kept in a safe inside the house, Karen Drew replied, "No."

446. Karen Drew stated that Michael Castro was never told the money was kept in a safe or that the safe was located in the master bedroom.

447. When asked if anyone other than herself and the Kingsbury family knew about the DVR video surveillance system inside the residence, Karen Drew replied, "No. Nobody knows about that."

Interview of Michael Maiorano

448. On January 21, 2014, ACPO Detective Joseph Rauch and Chief Assistant Prosecutor Cary Shill interviewed Michael Maiorano at the Atlantic County Prosecutor's Office in Mays Landing, New Jersey. The interview was reportedly not recorded.

449. A supplemental investigation report of this interview was issued by Detective Rauch on February 6, 2014.

450. This was the first time that any law enforcement officer spoke with Michael Maiorano about this homicide; the interview took place almost two years after the homicide.

451. Maiorano stated that he has known Glenn Kingsbury for about 15 years, and first met when Maiorano joined his high school cheer team and Glenn Kingsbury worked as a cheer coach.

452. Maiorano began working for Cheer Tech in December, 2009 in a sales/marketing position. He also assisted with the cheer competitions.

453. Maiorano said he became friendly with Michael Castro after he came to Power Athletics and started working for Glenn Kingsbury, but had known him previously.

454. Maiorano said that he knew Glenn's father, John Kingsbury, and met him several times while John Kingsbury was living at Glenn's house.

455. Maiorano told the detectives that John Kingsbury recently moved in with Glenn for health reasons, and that Glenn paid to have his father's mobile home and belongings transported from California to New Jersey.

456. Maiorano said that Brody Gray, another Cheer Tech employee, made the transport arrangements.

457. On February 5, 2012, Maiorano said that he was at home with Brody Gray, getting ready to watch the Super Bowl on television. Maiorano disclosed that he and Brody Gray live together in a residence owned by Glenn Kingsbury that is located in Mount Laurel, New Jersey.

458. Maiorano said that he was not aware that Glenn Kingsbury was having a Super Bowl party at his house, and that neither he nor Brody Gray had been invited.

459. Maiorano told Detective Rauch that he and Brody Gray had planned a small get-together with friends at their residence in Mount Laurel.

460. Maiorano said that Michael Castro and Megan Bailey arrived at their Mount Laurel residence sometime between 5:00 p.m. and 6:00 p.m. He recalled they were sitting on the living room couch in the presence of other guests when Maiorano received a telephone call from "the Ryker's," who told him that "something happened at Kingsbury's house and the police were there."

461. Maiorano told Detective Rauch that he then left his party and arrived at Glenn Kingsbury's residence between 6:30 p.m. and 7:30 p.m.

462. Maiorano said that he spoke to Glenn, who told him that he and Karen Drew found his father lying on the floor in a pool of blood. Glenn Kingsbury did not tell Michael Maiorano that his father had been shot.

463. Maiorano said that he only learned that John Kingsbury had been shot the following day when detectives came to the gym to question the employees.

464. When asked about the video surveillance system at the Kingsbury residence, Maiorano said that Glenn Kingsbury told him about having the system installed at the house only a few months prior to the homicide.

465. Maiorano indicated that Glenn Kingsbury lacks discretion and talks about his wealth and lifestyle frequently.

466. Maiorano also said that he and Brody Gray drive "the truck" for Cheer Tech, transporting equipment all over the country to various events and competitions. He recalled that he and Brody Gray took turns and drove, straight through, from the Cheer Tech competition in Alabama and arrived home in New Jersey sometime late Saturday night (February 4, 2012) or early Sunday morning (February 5, 2012).

467. No description of "the truck" that Maiorano and Gray reportedly drove was included in Detective Rauch's supplemental investigation report of February 6, 2014.

Interview of Brody Gray

468. On February 5, 2014, ACPO Detective Joseph Rauch and Chief Assistant Prosecutor Cary Shill interviewed Brody Gray at the Atlantic County Prosecutor's Office in Mays Landing, New Jersey. The interview was reportedly not recorded.

469. A supplemental investigation report of this interview was issued by Detective Rauch on February 12, 2014.

470. This was the first time that any law enforcement officer spoke with Brody Gray about this homicide; the interview took place two years after the homicide.

471. Brody Gray told Detective Rauch that for the past eight years he has been employed as the Events Director at Cheer Tech, and is responsible for the logistics involved with the various Cheer Tech events. He described his relationship with Michael Castro as "friendly" and said they would occasionally socialize together. Brody Gray said that he knew Michael Castro's fiancée, Megan Bailey, prior to them meeting.

472. In February of 2012, Brody Gray was living with Mike Maiorano at Glenn Kingsbury's former residence in Laurel Springs, New Jersey.

473. Brody Gray stated that on Saturday, February 4, 2012, Karen Drew left the Cheer Tech event in Alabama and took a commercial flight home to New Jersey.

474. Brody Gray told Detective Rauch that he, Mike Maiorano and an individual named Joe Girard left the Cheer Tech event in Alabama and drove together, straight through, until they arrived home in New Jersey early Sunday morning on February 5, 2012. Detective Rauch's report does not indicate what vehicle they were driving.

475. Brody Gray said that he and Maiorano had planned a small Super Bowl party at their house for later that day. Shortly after the party started, Mike Maiorano received a telephone call from someone who told him that something happened at Glenn Kingsbury's house. Maiorano tried to call Glenn Kingsbury. Receiving no response, Maiorano abruptly left the party. Michael Castro and Megan Bailey were at the party, and Brody Gray did not recall them acting oddly in any way.

476. When questioned about the decedent John Kingsbury, Brody Gray said that he first met him at Glenn Kingsbury's house, and saw him there a few times.

477. Brody Gray stated that he accompanied Glenn Kingsbury, John Kingsbury and a group of others during a trip to Glenn Kingsbury's house in Key West, Florida.

478. Glenn Kingsbury purchased the house in Key West, Florida on June 30, 2011.

479. Brody Gray told Detective Rauch that he was at the Kingsbury residence in Mullica Township, New Jersey for the Christmas Party in December 2011 and saw John Kingsbury there.

480. Brody Gray recalled that Glenn Kingsbury told him that his father was diagnosed with COPD and that he was in poor health.

481. Brody Gray said that when John Kingsbury moved to New Jersey, he [Brody Gray] arranged for John Kingsbury's mobile home and personal belongings to be transported from California to New Jersey.

482. Brody Gray was questioned about the alarm system and video surveillance system in Glenn Kingsbury's Mullica Township residence. He said that he was aware that Glenn Kingsbury had an alarm system at the house and that he was assigned his own code for the system.

483. Brody Gray stated that Karen Drew and Mike Maiorano also had the code for the alarm system.

484. Brody Gray stated that he had this code prior to the homicide of John Kingsbury on February 5, 2012, and that afterward, Glenn Kingsbury had a new alarm system installed and he received a new alarm code.

Security Alarm System at 2140 Woodland Avenue

485. Crime scene photographs taken by ACPO of the Kingsbury residence show what is believed to be a Honeywell security alarm system keypad mounted on a wall inside the residence.

486. In response to defense requests for information pertaining to the security alarm system in place at the Kingsbury residence in Mullica Township, New Jersey on February 5, 2012, Detective Rauch contacted Glenn Kingsbury.

487. In response, he received an email from Glenn Kingsbury containing contact information for Maximum Security, L.L.C.

488. Glenn Kingsbury identified Maximum Security as the business that maintained and monitored the alarm system and "Tom" as the person who installed both the original alarm system and video surveillance system at his residence.

489. This information is contained in a supplemental investigation report by Detective Rauch dated March 12, 2014, more than two years after the homicide.

490. Upon further investigation, Detective Rauch determined that Maximum Security has since ceased its business operation and closed.

491. ACPO failed to preserve this evidence, which existed at the time of the homicide, and likely would have shown whether the alarm system recorded a break-in or disturbance on the date of the homicide.

492. Information pertaining to the security alarm system also could have shown if a person entered the alarm security code on the date of the alleged homicide. This information could have been critically important, since there were no signs of forced entry.

493. Additionally, since there was other evidence tending to show that John Kingsbury left the residence sometime after 1:30 p.m., information from the security alarm system could have shown when he returned.

494. On March 20, 2014, Detective Rauch identified and located for the first time "Tom," the person who installed and serviced the alarm system for Maximum Security at the Kingsbury residence.

495. Detective Rauch, along with Chief Assistant Prosecutor Cary Shill, interviewed Thomas Maahs on March 28, 2014. Thomas Maahs told Detective Rauch that he recalled installing both the security alarm system and video surveillance system at the Kingsbury residence in Mullica Township, New Jersey in 2011.

496. Maahs stated that Glenn Kingsbury initially purchased the alarm system, and later purchased the video surveillance system.

497. Thomas Maahs said that to the best of his recollection he installed a Honeywell brand VIST 20 basic alarm system that was monitored by either COPS or ADT. He remembered alarming various access points of the residence, which included the front door, back door, pool doors, etc. He did not remember alarming any windows. However, Thomas Maahs said that he also installed motion detectors in the main area of the house, the pool area, the family room and the master bedroom.

498. Thomas Maahs told Detective Rauch that sometime later he installed a Watchdog brand video surveillance system at the Kingsbury residence. He described it as a basic DVR video surveillance system equipped with a hard drive, dome mounted perimeter cameras and covert motion sensor cameras disguised as alarm system motion sensors.

499. Thomas Maahs said that he installed the actual system hardware for the system on a shelf in a small utility room located between the kitchen and pool area inside the residence.

500. Thomas Maahs stated that the system was set to record only when motion was detected, which was by design to conserve space on the hard drive. Once the hard drive was full, it was set to record over itself, beginning with the earliest recorded video.

501. Thomas Maahs stated that the video surveillance system he installed at the Kingsbury residence was an independent, "closed system," meaning that it was not connected to the internet, telephone or a network system, and could not be remotely accessed, controlled or viewed.

Defense Interview of Susan Wainwright Danson

502. On March 29, 2014, Defense Investigator Greg W. Crescenzo conducted an interview and took the sworn statement (in question and answer form) of Susan Wainwright Danson concerning her knowledge of the events of February 5, 2012 and information she had relating to the homicide of John Kingsbury.

503. Susan (Wainwright) Danson, who is Glenn Kingsbury's ex-wife and shared custody of their children, received a telephone call or text from Glenn Kingsbury around 3:15 p.m. to 3:30 p.m. on February 5, 2012. Glenn Kingsbury said she had to come and pick up the "kids" [Austin and Megan Kingsbury] and that "Dad was down."

504. She arrived ten minutes later at the Kingsbury residence to pick up the children, who were at the Randazzo house next door.

505. Susan Danson arrived and saw John Kingsbury on a stretcher. He was being attended to by paramedics. She reported that John Kingsbury was conscious.

506. Susan Danson spoke to Glenn Kingsbury. She offered to stay at the residence and clean up so that Glenn could go to the hospital with his father, but Glenn declined, saying that he would clean up the blood.

507. Susan Danson stated that the following morning at about 4:30 a.m. to 5:00 a.m., Glenn Kingsbury showed up unannounced at her house in Hammonton, New Jersey and told her that John Kingsbury had been murdered. Glenn Kingsbury wanted to talk to the children and tell them what happened. Glenn Kingsbury also wanted to take Austin and Megan to his beach house in Long Beach Island to "avoid the press and media."

508. Susan Danson stated that she knew that Glenn Kingsbury had a video security system at his residence. She stated that she "saw the system on several times in the year 2011 and perhaps in the year 2012."

509. On several occasions during this time, Susan Danson "saw the surveillance video on the kitchen television monitor." She said there were several blocks of video on the same screen. She recalled seeing a video image of her car on the kitchen TV screen when it was parked outside in front of the house. Susan Danson also recalled seeing video images of other rooms within the house on the kitchen television monitor.

510. Susan Danson said that she and her husband Craig asked Glenn Kingsbury several times if the video recorder showed anyone in the house on the day of the homicide. Susan Danson stated that Glenn Kingsbury "always gave us confused, non-committal answers and made excuses that the system "couldn't be accessed." Susan said that she and Craig "found Glenn's answers to be misleading, and troubling, since we knew the video surveillance system was working."

511. Susan Danson said that about one week after the homicide, Sergeant Mattioli and a detective from the Mullica Township Police Department came to her house in Hammonton, New Jersey and interviewed her, Craig, Austin and Megan.

512. Susan Danson said that Sergeant Mattioli and the Mullica Police detective were taking notes during the interview, and that she was present when the detectives interviewed Austin and Megan.

513. Susan Danson stated that she “definitely” told Sergeant Mattioli that the video surveillance system in the Kingsbury residence was working when she was there in 2011 and 2012.

514. Susan Danson also told Mr. Crescenzo that she had never known Glenn Kingsbury to play paintball before February 5, 2012.

Failure to Secure and Preserve Critical Evidence

515. The investigation by ACPO was woefully incomplete, and incompetently conducted.

516. Although it took ACPO some 14 months to arrest the defendant, it failed, in that time, to collect and preserve critical evidence that, taken together, was necessary to ensure due process and a fair trial.

517. On February 9, 2012, Sergeant Mattioli and Mullica Township Detective Jake O’Hara went to the Power Athletics gymnasium in Hammonton. They spoke with Michael Castro, surreptitiously recording the interview.

518. Michael Castro summarized his activities on February 5, 2012. He said that he left his residence in the morning and went to the Shop Rite in Hammonton, New Jersey, but did not go inside because it was crowded. Michael Castro said that he then went to the Power

Athletics Gym where he saw Kurt DiGiovanni. Michael Castro stated that he left Power Athletics and went to Wawa, before returning to his residence where he remained with Megan Bailey for some time.

519. Michael Castro then told the detectives that he returned to Power Athletics Gym for five or ten minutes, and then went next door to Family Dollar before returning to the gym.

520. Defense investigation revealed that the Family Dollar store in Hammonton, New Jersey was (and remains) equipped with a video surveillance system that recorded video footage of the interior spaces of the store for security purposes, and stored that data for some period of time.

521. The security footage almost certainly would have confirmed Michael Castro's presence in Family Dollar on the afternoon of February 5, 2012, and provided critical, objective evidence of his whereabouts at a time critical to ACPO's theory of the case.

522. Similarly, the ShopRite shopping center was equipped with nine separate video surveillance cameras with a view of the parking areas.

523. ACPO reported no attempt to recover and preserve this video evidence, which is now likely lost and unrecoverable.

524. ACPO also failed to secure and preserve "event reports" and other documents from the security alarm monitoring company responsible for administering the security alarm system at the Kingsbury residence on February 5, 2012.

525. This evidence was of obvious import in light of the fact that (1) there were no signs of forced entry into the Kingsbury residence, (2) Glenn Kingsbury and Karen Drew claimed that someone entered the residence on January 31, 2012, and rummaged through Karen Drew's luggage, (3) following January 31, 2012, John Kingsbury had an unnamed locksmith

come to residence and change the locks, and (4) there was evidence tending to show that John Kingsbury's car was found parked in a different spot from where it had been earlier that morning – tending to show that he left the residence sometime during the afternoon of February 5, 2012. See transcripts of grand jury proceeding at [TR 63:6 – 25].

526. As set forth above, the first attempt to identify the company responsible for installing or monitoring the security alarm system at the Kingsbury residence, and to retrieve relevant documents therefrom, was made by Detective Rauch when he forwarded a subpoena duces tecum to Guardian Protection Services on or about January 16, 2014. This was nearly two years after the homicide.

527. On or about January 22, 2014, it was learned that ten days after the homicide, Glenn Kingsbury called Guardian and asked to have his existing security alarm system relocated from his old address in Laurel Springs to his residence in Mullica Township.

528. Guardian Protection Services further noted, "Also, we attempted to retrieve a panel log from Mr. Kingsbury's system but we were unable to connect to the panel. Given the amount of time that has passed since the system was installed [on February 22, 2012] it is unlikely that the log would have shown any events from February of 2012."

529. On or about February 24, 2014, Detective Rauch first identified Maximum Security, L.L.C. as the company who installed the security alarm system, but learned that it had since ceased its business operation and closed.

530. While a former employee, Thomas Maahs, was eventually located and interviewed, he was unable to specify the alarm monitoring company, saying that it was "monitored by either COPS or ADT."

531. Thomas Maahs did say that the security alarm system was equipped with motion detectors in the main area of the house, the pool area, the family room and the master bedroom.

532. Despite repeated requests, no further information was provided to the defense concerning the security alarm system.

533. No Communication Data Warrant was sought or issued for the Call Detail Records of Chris Ricca's cellular telephone until 10 January 2014, nearly two years after the homicide.

534. When the CDW was served upon T-Mobile, the company indicated that the records were no longer available since T-Mobile only retains cell site data for a period of six months.

535. Sergeant Mattioli also told Chris Ricca that ACPO would obtain records from Facebook that may show the locations of various persons of interest. "I mean we'll end up getting all the historicals on everybody's face page because some of them you can . . . it actually shows where you were when you posted it." This was never attempted or accomplished.

536. Similarly, ACPO failed to request Chris Ricca's consent to provide his Droid smartphone for data extraction, and failed to seek a judicial warrant to seize it.

537. Chris Ricca had a Droid cellular telephone on his person during his interview with Sergeant Mattioli, and, on one occasion, showed the phone to Sergeant Mattioli.

538. On March 21, 2014, Chief Assistant Prosecutor Cary Shill contacted Detective Rauch regarding a defense request to examine the cellular telephone used by Glenn Kingsbury at the time of the homicide.

539. Although not recorded in any police report or detective note, Mr. Shill told Detective Rauch that Glenn Kingsbury and Karen Drew previously reported that Glenn Kingsbury's cellular telephone was broken and replaced after the homicide.

540. ACPO did not indicate when Glenn Kingsbury and Karen Drew first reported that the phone had been broken and replaced.

541. On April 2, 2014, Detective Rauch contacted Glenn Kingsbury and Karen Drew via telephone. Both Glenn Kingsbury and Karen Drew claimed that Glenn Kingsbury's cellular telephone, an Apple brand iPhone, was working on the date and time of the homicide, February 5, 2012.

542. Glenn Kingsbury claimed that approximately one week after the homicide of John Kingsbury, his iPhone became damaged and was replaced. No details were provided as to how Glenn Kingsbury's iPhone "became damaged."

543. Both Glenn Kingsbury and Karen Drew stated that they do not know where the iPhone is, or what happened to it.

544. Neither Glenn Kingsbury nor Karen Drew disclosed the existence of any other cellular telephone possessed or used by either of them at the time of the homicide.

545. On April 8, 2014, defense counsel sent a discovery demand to Chief Assistant Prosecutor Cary Shill requesting documentation of Glenn Kingsbury's purchase of his current cellular telephone in the form of a receipt, service provider contract and service provider billing statement.

546. Additionally, since users typically transfer the contents and data of their old cellular telephones (even those that may be "damaged") when purchasing or upgrading to new

smartphones, defense counsel requested that ACPO take steps to preserve this evidence by downloading the contents and data of Glenn Kingsbury's current cellular telephone.

547. Defense counsel requested that all necessary steps be taken to preserve this evidence by obtaining and conducting forensic examination of any computer or other device that Glenn Kingsbury may have used to "back-up" the contents or data of either the "old" or "new" phones.

548. On February 9, 2012, Sergeant Mattioli went to the Power Athletics gymnasium in Hammonton and spoke with Michael Castro, surreptitiously recording the interview. In response to questioning, Michael Castro told Sergeant Mattioli that his dark blue, 2-door Kia Forte was parked outside and asked the detectives if they wanted him to point it out for them.

549. When asked if his car had "tint or something else that may stick out," Michael Castro described two big circular stickers that were on the back window, a "Castro Martial Arts" sticker and a "Power Athletics" sticker.

550. Despite written demands for tangible evidence, no photograph of Michael Castro's Kia Forte was ever provided to the defense during discovery in this matter.

551. During the presentation by ACPO, the grand jury was shown a photograph of a cobalt blue 2010 KIA Forte that Sergeant Mattioli downloaded from the internet.

552. Sergeant Mattioli testified, "They said a sporty car, and this particular vehicle is a sports model KIA, two door." [TR at 26:1 – 2]. Sergeant Mattioli then testified that Michael Castro drove a 2-door 2010 KIA Forte and indicated that it was "consistent with" the witnesses' descriptions.

553. The grand jury was not informed that Francesco Randazzo, the only neighbor to describe the number of doors on the vehicle, clearly said he saw a 4-door car.

554. The grand jury was not told that Randazzo believed the vehicle was a Dodge Avenger, or that another witness said it might have been a Volkswagen Jetta.

555. Critically, the grand jury was not told that Michael Castro's car had two large stickers on the back window (a Power Athletics sticker and a Castro Marital Arts sticker) and that no witness reported seeing such identifying marks.

556. The failure to secure and preserve a photograph of Michael Castro's vehicle was either due to incomprehensible investigative sloth, or a desire to obscure from the eventual trier of fact that no one reported seeing two large, personally identifying stickers on any car seen in or near the neighborhood at any relevant time.

557. ACPO also failed to secure and preserve video evidence from Rite Aid during the relevant time period on February 5, 2012.

558. On February 9, 2012, Michael Castro told Sergeant Mattioli that he received a text message from Megan Bailey asking him to pick up a prescription for her at Rite Aid. In response to a request by Sergeant Mattioli, Michael Castro actually showed him his cell phone and the text message from Megan that was sent on Sunday, February 5, 2012 at 2:39 p.m. Michael Castro said that after receiving the text message, he went to Rite Aid in Hammonton, New Jersey, picked up Megan's prescription, and then returned home.

559. On February 10, 2012, Detectives Richard Johannessen and Natasha Alvarado went to the Rite Aid in Hammonton and extracted video from their surveillance system, but only requested video on February 5, 2012 from 10:00 a.m. to 2:30 p.m., 9 minutes prior to the text message from Megan Bailey to Michael Castro that was shown to Sergeant Mattioli.

560. Review of the surveillance video that was preserved does not show Michael Castro present inside Rite Aid prior to 2:30 p.m. on February 5, 2012.

561. Business records produced by the Rite Aid Corporation, however, show that Megan Bailey's prescription was picked up (signed for and paid for) at 3:14 p.m.

562. The missing video evidence almost certainly would have provided further confirmation of Michael Castro's reported whereabouts on February 5, 2012. It also would have shown the clothes that he wearing, which then could have been compared with the Wawa surveillance video taken between 11:43 a.m. and 11:45 a.m.

563. Further, the surveillance video footage from Rite Aid could have been used to further demonstrate that Michael Castro was completely clean-shaven on February 5, 2012.

564. Because it was not timely collected and preserved, this missing evidence is no longer available.

Sergeant Mattioli's report of June 3, 2014

565. In May, 2014, counsel for Michael Castro filed a motion with the Superior Court of New Jersey, Atlantic County seeking dismissal of the indictment.

566. A major focus of the motion to dismiss was the failure by ACPO to provide in discovery the exculpatory statements made by Susan Danson to Sergeant Mattioli and the false denial by ACPO that her interview ever took place.

567. Hearings on the motion to dismiss were held on June 3, 2014 and June 5, 2014.

568. On the morning of June 3, 2014, Sergeant Mattioli produced for the first time an investigative report dated June 3, 2014 concerning his interviews and contacts with Susan Danson, Austin Kingsbury and Megan Kingsbury.

569. The report was written almost 2 ½ years after the interviews were conducted.

570. Sergeant Mattioli's investigative report dated June 3, 2014 was not reviewed by any supervisor at ACPO.

571. Sergeant Mattioli testified at the motion hearing that his investigative report of June 3, 2014 was written from his memory.

572. In his investigative report of June 3, 2014, Sergeant Mattioli claimed that he interviewed Austin and Megan Kingsbury about two weeks after the alleged homicide of John Kingsbury.

573. Despite defense discovery demands for all detectives' notes relating to the investigation, no such notes by Sergeant Mattioli were provided to the defense relating to the interviews of Susan Danson or the Kingsbury children.

574. Sergeant Mattioli's investigative report dated June 3, 2014 indicates that Mullica Detective Jake O'Hara was present during the interviews.

575. Mullica Detective Jake O'Hara did not write any police report about the interviews of Susan Danson, Megan Kingsbury or Austin Kingsbury.

576. Mullica Detective Jake O'Hara took notes during the interviews of Susan Danson, Megan Kingsbury or Austin Kingsbury.

577. Despite specific defense discovery demands, the interview notes of Mullica Detective Jake O'Hara regarding the interviews of Susan Danson, Megan Kingsbury and Austin Kingsbury were not provided to the defense.

578. In his June 3, 2014 investigative report, Sergeant Mattioli indicated that Austin Kingsbury provided information about John Kingsbury's car being parked in a different place when he [Austin] returned to the home that afternoon.

579. Sgt Mattioli had testified before the grand jury about John Kingsbury's Porsche being moved and the logical inference that John Kingsbury may have left the home sometime between 1:00 PM and 3:00 PM.

580. In his June 3, 2014 investigative report, Sergeant Mattioli indicated that he reviewed Susan Danson's sworn statement taken by Atlantic Investigations.

581. Sergeant Mattioli did not dispute any statement of fact in Susan Danson's sworn statement, writing, "Prior to preparing this report I read an interview conducted by Atlantic Investigations in which Susan Danson was asked about a video surveillance system located in Glen Kingsbury's house. During the interview, Danson stated that she told Det. O'harra [sic] and I about the surveillance system in Kingsbury's house and that it was working in late 2011 and early 2012. I don't recall Danson telling us that, but if she had, it was something I had already been aware of because the video company had already reviewed the system and advised us that the system had been operating until November 2011.)"

582. Sergeant Mattioli's statement quoted in the preceding paragraph is false.

583. Sergeant Mattioli deliberately filed a false police report in an attempt to explain why he had suppressed Susan Danson's interview and statements about the video surveillance system.

584. Sergeant Mattioli's explanation is self-contradictory, in that Susan Danson reportedly said she believed the system was working in 2012. Thus, this would not have been information of which he was "already aware." Instead, the information is in conflict with Sergeant Mattioli's false statement that he was aware the system had only been operating until November, 2011.

585. More significantly, prior to Sergeant Mattioli's interview of Susan Danson, there was no contact by ACPO or any member of law enforcement with the unnamed "video company" described in Sergeant Mattioli's investigative report of June 3, 2014.

586. There is no investigative report concerning any contacts by any law enforcement personnel with the "video company" in the weeks following the alleged homicide.

587. The person who installed the video surveillance system, Thomas Maahs, could not be located by ACPO until on or about March 20, 2014.

588. When he was finally located and interviewed by ACPO, Thomas Maahs stated that the video surveillance system he installed at the Kingsbury residence was an independent, "closed system," meaning that it was not connected to the internet, telephone or a network system, and could not be remotely accessed, controlled or viewed.

589. Thus, there was no "video company" that was monitoring the video surveillance system, which was seized and placed into evidence on February 5, 2012.

590. No one advised Sergeant Mattioli at any time prior to his interview of Susan Danson that the system was operating until November, 2011.

591. Detective Christopher Hallett submitted an investigative report dated February 14, 2012 that indicated that the video surveillance system was disconnected by the homeowner on the date of the homicide.

592. Detective Hallett placed the digital video recorder (DVR) into an evidence bag and transported it to the Atlantic County Prosecutor's Office.

593. On February 6, 2012, Sergeant Mattioli provided Detective Hallett with the password for the DVR. Detective Hallett powered on the DVR and entered the password.

594. Detective Hallett searched the DVR and noted that, "The DVR did not have any video for the year of 2011 nor 2012."

595. No forensic examination or test was performed on the video surveillance system taken from the Kingsbury home on the date of the homicide until 2014.

596. The forensic examination of the DVR noted in the February 14, 2014 report was conducted because the defense had requested access to the device for the purpose of conducting its own examination.

597. Detective Hallett produced an investigative analysis report dated February 14, 2014 regarding his examination of the video surveillance system taken from the Kingsbury home on the date of the homicide.

598. Detective Hallett also submitted an investigative report dated February 18, 2014 regarding his examination of the DVR. The report contains the following statement, "On January 23, 2014, I met with Michael Mancuso, a licensed private investigator for the defense attorney. I again powered up the DVR, so Mr. Mancuso could view any video or logs on the DVR. We were unable to locate either video or logs."

599. Detective Hallett's report of February 18, 2014 also stated, "On January 27, 2014, I began to examine the data of the hard drive from the DVR. I noticed that the DVR data is in ext3 Linux file system. Ext3 uses the file system journal for the volume, which contains log files that maintain changes to the volume. It provides easy recovery for an abruptly halted system caused by power failures. I was able to locate the log file on the DVR and bookmarked it. The bookmark was included in my FTK Report. The log file shows the following:

- The first log was 7/12/2010.
- The next log was 9/24/10 and the log continues until 10/21/2010.
- There are logs from 10/25/10 to 10/29/10.
- Then there were logs from 11/15/10 to 11/24/10
- The last log was on 11/24/10 until 2/5/12.
- Then there wasn't a log until 2/5/12 at 10:46 PM, when I attempted to access the DVR, but did not have the password for the DVR.

- Then there were two logs for 2/6/12 and 2/8/12, when the DVR was searched for video related to the crime.
- The log also shows events for 1/22/14 and 1/23/14. This is when the DVR was accessed to look for logs and for the defense investigator.

600. Detective Hallett did not locate the log files on the video surveillance system DVR taken from the Kingsbury home until January, 2014.

601. The log files that Detective Hallett recovered were from forensic examination and were not visible through the DVR menu search functions.

602. The log files do not indicate that the DVR system stopped working in November, 2011.

603. The log files on the DVR show that the DVR was not powered on or searched between February 8, 2012 and January 22, 2014.

604. Thus, no person "reviewed the system and advised us that the system had been operating until November 2011," as Sergeant Mattioli falsely claimed occurred prior to his interview of Susan Danson.

605. During his testimony on June 3, 2014, Sergeant Mattioli was twice asked directly whether he took notes during his interview of Susan Danson and the Kingsbury Children. Sergeant Mattioli deliberately avoided answering this question.

606. On or about October 10, 2014, ACPO served Sergeant Mattioli with a Preliminary Notice of Disciplinary Action alleging that he committed infractions of various rules and regulations of the Agency.

607. A disciplinary hearing for Sergeant Mattioli was held on December 22-23, 2014 before hearing officer Richard J. Williams.

608. Captain Joseph Pepe had responsibility for overseeing the Special Investigation Units, including Internal Affairs, for ACPO and conducted the internal affairs investigation of Sergeant Mattioli.

609. During the course of the internal affairs investigation, Sergeant Mattioli provided to Captain Pepe copies of two pages of handwritten notes from his notebook that Sergeant Mattioli wrote regarding his interview and contact with Austin Kingsbury and Megan Kingsbury.

610. Sergeant Mattioli testified at his disciplinary hearing that he wrote these notes when he spoke to Austin Kingsbury and Megan Kingsbury.

611. Sergeant Mattioli's handwritten notes were marked as Exhibit P-24 in the disciplinary hearing and were accepted into evidence. These notes were never provided to the defense by ACPO in Mr. Castro's criminal proceeding, even after the defense filed a motion to dismiss the indictment alleging *Brady* violations for failure to disclose evidence about these very interviews.

612. On January 6, 2015, a Final Notice of Disciplinary Action was served by ACPO upon Sergeant Mattioli finding that certain allegations, including neglect of duty in the conduct of the investigation of the alleged homicide of John Kingsbury, were sustained.

ACPO's Failure to Supervise

613. Defendants Atlantic County Prosecutor James McClain, Esq., Chief Assistant Prosecutor John Maher, Captain Bruce DeShields, and Chief Darren Dooley were among those persons employed by Defendant Atlantic County and the ACPO who had supervisory responsibility over Sergeant Mattioli and the Kingsbury homicide investigation.

614. ACPO failed to adequately train and supervise Sergeant Mattioli in the conduct of the Kingsbury homicide investigation.

615. Many of Sergeant Mattioli's investigative reports were not signed or dated, and were not reviewed by anyone at ACPO in the course of the investigation.

616. Sergeant Mattioli's investigative report of February 8, 2012 was signed by Sergeant Mattioli, but had no date for his signature. No person from ACPO signed the report in the block that would indicate it was reviewed by a supervisor.

617. Sergeant Mattioli's investigative report of March 13, 2012 was not signed by him. No person from ACPO signed the report in the block that would indicate it was reviewed by a supervisor.

618. Sergeant Mattioli's investigative report of February 5, 2012 was not signed by him and there was no date for his signature. No person from ACPO signed the report in the block that would indicate it was reviewed by a supervisor.

619. Chief Dooley ordered Sergeant Mattioli to write the investigative report of June 3, 2014. However, no person from ACPO signed the report in the block that would indicate it was reviewed by a supervisor.

620. Sergeant Mattioli's investigative report of February 6, 2012 was not signed by him and there was no date for his signature. No person from ACPO signed the report in the block that would indicate it was reviewed by a supervisor.

621. During the course of his Internal Affairs investigation, Sergeant Mattioli stated that he never created investigative reports outside of ACPO's Infoshare system.

622. Sergeant Mattioli's investigative report of February 6, 2012 was uploaded by him to Infoshare on December 11, 2013. Thus, Sergeant Mattioli did not write this report until December 11, 2013, nearly two years after the alleged homicide.

623. Sergeant Mattioli had to be ordered by his superiors to write his investigative report of February 20, 2012, which detailed his contacts with the Camden County Prosecutor's Office regarding Officer Lauren Kohl.

624. Captain Pepe indicated in his testimony at Sergeant Mattioli's disciplinary hearing that ACPO could not locate any of Sergeant Mattioli's original investigative reports pertaining to the Kingsbury homicide.

625. Chief Assistant Prosecutor John Maher was disciplined by ACPO for his conduct in connection with the investigation of the Kingsbury homicide and/or prosecution of Michael Castro.

626. Captain Bruce DeShields was Sergeant Mattioli's direct supervisor.

627. Captain DeShields indicated in his testimony at Sergeant Mattioli's disciplinary hearing that he was not aware of any ACPO policy that a detective would be disciplined for failure to write investigative reports.

628. Captain DeShields indicated in his testimony at Sergeant Mattioli's disciplinary hearing that the office was extremely busy, and that retirements, promotions and reassignments within the office left it understaffed.

629. Captain DeShields indicated in his testimony at Sergeant Mattioli's disciplinary hearing that Sergeant Mattioli was being "driven" in the 2012 and 2013 timeframe and that he provided specific direction and instruction to Sergeant Mattioli to "get out on the street."

630. Captain DeShields indicated in his testimony at Sergeant Mattioli's disciplinary hearing that during the timeframe of the Kingsbury homicide investigation, Sergeant Mattioli was given "quite a few high-profile jobs," including assignment as lead detective in the Kaufman homicide investigation.

631. Captain DeShields testified that the Kaufman investigation was a very serious and time-consuming investigation and that it was the major focus of Sergeant Mattioli's work beginning in May, 2012.

632. Captain DeShields indicated in his testimony at Sergeant Mattioli's disciplinary hearing that sometimes investigators tend to get focused in a particular way, and need direction from supervisors and prosecutors.

633. Captain DeShields indicated in his testimony at Sergeant Mattioli's disciplinary hearing that he never took any issue with Sergeant Mattioli's investigation of the Kingsbury homicide.

634. Captain DeShields indicated in his testimony at Sergeant Mattioli's disciplinary hearing that he was aware that Sergeant Mattioli was behind on some of his reports.

635. Captain DeShields indicated in his testimony at Sergeant Mattioli's disciplinary hearing that the 2012/2013 time period was an anomaly, both in terms of the high volume of cases being investigated by the Major Crimes Unit and the rotation and availability of personnel within the office. Captain DeShields said the office was running at "full throttle" and that "we were really asking, you know, a lot from the people that we had."

636. Sergeant Mattioli was transferred out of the Major Crimes Unit to the Grand Jury Unit in June, 2013.

637. Sergeant Mattioli testified at his disciplinary hearing that he viewed this transfer as punishment.

638. Sergeant Mattioli testified at his disciplinary hearing that the motion for a probable cause hearing filed by the defense shortly after Mr. Castro's arrest, "hurried this to grand jury completely outside the scope of typically a case from charging to grand jury."

639. As a sergeant within the Major Crimes Unit, Sergeant Mattioli was himself a supervisor and leader.

640. Based upon the extreme misconduct and incompetent investigation conducted by defendants Sergeant Mattioli, Patrolman Jake O'Hara, Chief Assistant Prosecutor John Maher, Detective James Rauch, Captain Bruce DeShields and Chief Darren Dooley, upon information and belief, defendants Atlantic County, ACPO, Mullica Township, Mullica Department of Public Safety and Mullica Police Department have failed to properly train, supervise and/or discipline these defendants with regard to proper police practices.

641. All defendants with supervisory responsibility over the investigation and prosecution of this matter acted, or failed to act, in a way that amounted to callous, reckless and/or deliberate indifference to the Constitutional rights of plaintiff.

False Arrest, Imprisonment and Malicious Prosecution

642. Defendants caused a criminal complaint to be issued against plaintiff falsely and maliciously claiming that he caused the death of John Kingsbury, thus instituting prosecution against plaintiff.

643. On April 5, 2013, some fourteen months after the alleged homicide, a warrant was issued for the arrest of plaintiff in connection with the homicide of John Kingsbury.

644. No written affidavit in support of Mr. Castro's arrest was prepared or presented to any judicial officer.

645. The arrest warrant was issued based upon materially false representations by ACPO of the actual facts adduced through the investigation, thus depriving the judicial officer of a fair opportunity to exercise an informed, independent judgment.

646. ACPO detectives also wrongfully withheld exculpatory evidence in the application for the arrest warrant, thus depriving the judicial officer from of a fair opportunity to exercise an informed, independent judgment.

647. Sergeant Mattioli, who was initially assigned primary responsibility for the investigation, narrowly and improperly focused his investigation solely on plaintiff, ignoring or rejecting evidence of plaintiff's innocence, and evidence tending to show that others may have been responsible for the alleged homicide.

648. Sergeant Mattioli's investigation of the alleged homicide was grossly incompetent.

649. ACPO failed to preserve critically important evidence.

650. Upon information and belief, disciplinary charges against Sergeant Mattioli were sustained against him for neglect of duty as the result of his conduct in this investigation.

651. On April 9, 2013, Michael Castro was arrested without incident in Florida and he subsequently waived extradition to New Jersey.

652. The arrest was falsely made without probable cause and was unlawful.

653. On or about July 3, 2013, Sergeant Mattioli provided false and misleading testimony to the grand jury who considered the charges against plaintiff.

654. In May, 2014, counsel for Michael Castro filed a motion with the Superior Court of New Jersey, Atlantic County seeking dismissal of the indictment.

655. On June 17, 2014, the Superior Court issued a letter opinion rendered in response to the defense Motion to Dismiss the Indictment. In its opinion, the Court indicated its finding that "... the Grand Jury was deprived of its constitutionally mandated fact-finding and accusatory function." The Court noted, "The Court cannot confidently find that the Grand Jury

had an entirely accurate presentation of the evidence in order to determine whether there was reason to believe that the crimes alleged were committed by the Defendant.”

656. On June 30, 2014, the Superior Court issued and entered an Order Dismissing Indictment. The Order granted ACPO leave to re-present the case to the Grand Jury, mindful of its obligation to present full and accurate information consistent with the Court’s Letter Opinion of June 17, 2014. Additionally, the Order provided that “. . . pursuant to Rule 3:10-7, the defendant will be held in custody in default of bail previously set in the case for a period of forty-five (45) days from June 17, 2014, pending the filing of a new indictment. If a new indictment is not returned upon the expiration of such time period, the defendant shall be released from custody.”

657. On August 4, 2014, counsel for Michael Castro filed a Motion to Discharge Bail seeking the defendant’s full release from custody because ACPO had not re-presented the case to the Grand Jury in the 45-day period set by the Court. ACPO did not oppose the motion, filing a one-page letter stating that it “. . . does not take a position on the Defendant’s Motion to Discharge Bail.”

658. On August 8, 2014, the Superior Court issued an Order discharging the bail and releasing Plaintiff Michael Castro from custody. The Court ruled that “. . . there shall be no further conditions or restrictions upon his liberty.” Thus, the criminal proceedings were terminated favorably to plaintiff.

659. At no time did plaintiff commit any of the charged offenses.

660. There are no longer any existing charges against Mr. Castro, who fully and consistently maintained his innocence throughout this arduous process.

661. There was no legal cause to justify the detention or arrest of the plaintiff or the institution of criminal charges against him.

662. At all times relevant to this Complaint, the conduct of the defendants was in willful, reckless, and callous disregard of the plaintiff's rights under federal and state law.

663. Plaintiff spent sixteen months in custody, the vast majority of that time at the Atlantic County Jail.

664. As a direct and proximate result of the conduct of all defendants, plaintiff suffered and continues to suffer extraordinary damages, prolonged loss of liberty, physical and psychological harm, pain and suffering, some or all of which may be permanent, and financial losses.

FIRST COUNT
DEPRIVATION OF FEDERALLY PROTECTED RIGHTS

665. The preceding paragraphs are incorporated by reference as if set forth at length herein.

666. The actions of the defendants violated plaintiff's rights under the Fourth and Fourteenth Amendments to the United States Constitution to be free from unlawful arrest and detention, false imprisonment and malicious prosecution without probable cause.

667. Defendants, acting independently or jointly and in concert and conspiracy, and with malice caused the unlawful arrest, detention, imprisonment and the institution of false charges against plaintiff, thereby subjecting plaintiff to false arrest, false imprisonment and malicious prosecution in violation of plaintiff's rights under the Fourth and Fourteenth Amendments to the United States Constitution.

668. Defendants failed to disclose exculpatory information to the prosecution as required under *Brady v. Maryland* and its progeny thereby violating plaintiff's rights to due process of law under the Fourteenth Amendment to the United States Constitution.

669. Defendants subjected plaintiff to the loss of liberty and the denial of his rights to due process of law under the Fourteenth Amendments to the United States Constitution by fabricating evidence, withholding and suppressing exculpatory evidence, purposefully ignoring exonerative evidence, failing to obtain and preserve exculpatory evidence, and failing to investigate exculpatory leads. These acts and omissions by defendants also violated plaintiff's rights under the Fourth Amendment to the United States Constitution.

670. The fabrication and use of false evidence, and the withholding and suppression of exculpatory evidence by the defendants against the plaintiff deprived the plaintiff of his substantive due process rights under the Fourteenth Amendment to the United States Constitution regardless of whether there was probable cause to arrest, imprison and/or prosecute the plaintiff, and such acts constitute a separate cause of action under *Halsey v. Pfeiffer*, 750 F.3d 273 (3d Cir. 2014).

671. As a direct and proximate result of the conduct of all defendants, plaintiff suffered and continues to suffer extraordinary damages, prolonged loss of liberty, physical and psychological harm, pain and suffering, some or all of which may be permanent, and financial losses.

672. By reason of the aforesaid violations of plaintiff's rights, plaintiff is entitled to relief and damages under 42 U.S.C. § § 1983 and 1985.

SECOND COUNT
DEPRIVATION OF FEDERALLY PROTECTED RIGHTS

673. The preceding paragraphs are incorporated by reference as if set forth at length herein.

674. The actions and omissions of the supervisors, Defendants Atlantic County Prosecutor James McClain, Chief Assistant Prosecutor John Maher, Captain Bruce DeShields and Chief Darren Dooley, violated plaintiff's rights under the Fourth and Fourteenth Amendments to the United States Constitution to be free from unlawful arrest and detention, false imprisonment and malicious prosecution.

675. The actions and omissions of the supervisors, Defendants Atlantic County Prosecutor James McClain, Chief Assistant Prosecutor John Maher, Captain Bruce DeShields and Chief Darren Dooley, violated plaintiff's substantive due process rights under the Fourteenth Amendments to the United States Constitution to be free from the fabrication and use of false evidence, and the withholding and suppression of exculpatory evidence.

676. Defendants Prosecutor James McClain, Chief Assistant Prosecutor John Maher, Captain Bruce DeShields and Chief Darren Dooley had a duty to train, supervise and provide direction to Sergeant Mattioli and the other detectives and police officers who participated in the investigation of the homicide of John Kingsbury.

677. Defendants Prosecutor James McClain, Chief Assistant Prosecutor John Maher, Captain Bruce DeShields and Chief Darren Dooley had a duty to guard against and prevent the fabrication and use of false evidence, and the withholding and suppression of exculpatory evidence.

678. By their acts and omissions and failure to train and properly supervise the conduct of the investigation of the homicide and the prosecution of the plaintiff, these defendants demonstrated a callous, reckless or deliberate indifference to the constitutional rights of plaintiff.

679. By their acts and omissions and failure to train and properly supervise the conduct of the investigation of the homicide and the prosecution of the plaintiff, these defendants failed to correct the unconstitutional practices by the detectives and police officers under their supervision.

680. Upon information and belief, Defendants Atlantic County Prosecutor James McClain and Chief Assistant Prosecutor John Maher provided advice and direction to Sergeant Mattioli and other detectives and police officers in the investigatory stage and failed to correct their unconstitutional practices and conduct, in circumstances where they knew or should have known that such acts or omissions would violate plaintiff's clearly established constitutional rights.

681. As a direct and proximate result of the conduct of all defendants, plaintiff suffered and continues to suffer extraordinary damages, prolonged loss of liberty, physical and psychological harm, pain and suffering, some or all of which may be permanent, and financial losses.

682. By reason of the aforesaid violations of plaintiff's rights, plaintiff is entitled to relief and damages under 42 U.S.C. § § 1983 and 1985.

THIRD COUNT
DEPRIVATION OF FEDERALLY PROTECTED RIGHTS

683. The preceding paragraphs are incorporated by reference as if set forth at length herein.

684. The violations of plaintiff's constitutional rights under the Fourth and Fourteenth Amendments to the United States Constitution, plaintiff's damages, and/or the conduct of the individual defendants were directly and proximately caused by the actions and/or inactions of the policy-makers, defendants Atlantic County, Atlantic County Prosecutor's Office, Mullica Township, Mullica Department of Public Safety and Mullica Police Department, which have encouraged, tolerated, ratified and have been deliberately indifferent to the following policies, patterns, practices and customs and to the need for more or different training, supervision, investigation or discipline in the areas of:

- a. Legal cause to stop, detain, and/or arrest a citizen;
- b. Duties and responsibilities of police officers and detectives to engage in proper investigative techniques;
- c. The proper exercise of police powers, including but not limited to the making of an arrest and the bringing of criminal charges;
- d. Duties and responsibilities of police officers and detectives to disclose to the prosecution exculpatory information;
- e. The failure to identify and take appropriate remedial or disciplinary action against police officers and detectives who committed misconduct and/or were the subject of prior civilian or internal complaints of misconduct;
- f. Police officers and detectives using their status as law enforcement officers to achieve ends not reasonably related to their police duties;

g. The failure of police officers and detectives to follow established policies, procedures, directives, and instructions regarding investigations, arrests and the institution of criminal charges under the circumstances presented in this Complaint;

h. The practice of the Atlantic County Prosecutor's Office to avoid answering or conducting a hearing on a motion challenging the probable cause to arrest a defendant by rushing the case prematurely to grand jury for indictment;

i. The practice of the Atlantic County Prosecutor's Office to allow its prosecutors to present a case to the grand jury without being personally familiar with the facts and investigation;

j. The hiring and retention of police officers, detectives, and supervisors who are unqualified for their employment position, or failing to properly execute their assigned duties and responsibilities;

k. The failure to properly sanction or discipline police officers, detectives and supervisors who become aware of and conceal and/or aid and abet violations of constitutional rights of citizens by other police officers or detectives.

l. The failure to properly sanction or discipline police officers, detectives and supervisors who become aware of and conceal and/or aid and abet the fabrication of evidence against a citizen.

m. The failure to supervise the conduct of active homicide investigations by, among other things, failing to require police officers and detectives to write, sign and date, and file detailed and accurate investigative reports, and failing to require supervisors to review and sign the investigative reports.

685. Defendant Atlantic County, ACPO, Mullica Township, Mullica Department of Public Safety and Mullica Township Police Department created an unreasonable risk of harm to the plaintiff by failing to adequately train, supervise, control or otherwise monitor the actions of its officers, detectives, prosecutors, agents and employees.

686. Defendant Atlantic County, ACPO, Mullica Township, Mullica Department of Public Safety and Mullica Township Police Department have acted callously, recklessly and/or with deliberate indifference to the rights of plaintiff and those similarly situated, and have failed and neglected to establish and implement policies, practices and procedures designed to assure that plaintiff and persons similarly situated are not detained, arrested, charged, imprisoned and/or prosecuted without probable cause, and these defendants have adopted or acquiesced to policies, practices, customs and procedures that defendants knew, or reasonably should have known, would lead to the violation of rights secured to the plaintiff and others by the Constitution of the United States.

687. The actions and/or omissions of Defendants Atlantic County, ACPO, Mullica Township, Mullica Department of Public Safety and Mullica Township Police Department were committed under color of law and pursuant to policies, customs, practices, rules, regulations, ordinances, statutes and/or usages of the State of New Jersey.

688. As a direct and proximate result of the conduct of all defendants, plaintiff suffered and continues to suffer extraordinary damages, prolonged loss of liberty, physical and psychological harm, pain and suffering, some or all of which may be permanent, and financial losses.

689. By reason of the aforesaid violations of plaintiff's rights, plaintiff is entitled to damages under 42 U.S.C. § § 1983 and 1985.

FOURTH COUNT
STATE LAW CLAIMS

690. The preceding paragraphs are incorporated by reference as if set forth at length herein.

691. The actions of the defendants constitute the common law torts of false arrest, false imprisonment, malicious prosecution and civil conspiracy under the laws of the State of New Jersey.

692. As a direct and proximate result of the conduct of all defendants, plaintiff suffered and continues to suffer extraordinary damages, prolonged loss of liberty, physical and psychological harm, pain and suffering, some or all of which may be permanent, and financial losses.

FIFTH COUNT
VIOLATION OF NEW JERSEY'S CIVIL RIGHTS ACT

693. The preceding paragraphs are incorporated by reference as if set forth at length herein.

694. This cause of action arises under the New Jersey Civil Rights Act, N.J.S.A. § 10:6-1. Supplemental jurisdiction is established pursuant to 28 U.S.C. § 1367 as the claims form part of the same case or controversy as those brought and described under the preceding Counts of this Complaint.

695. The actions of the defendants, acting under color of law, deprived the plaintiff of his substantive due process rights, privileges or immunities secured by the Constitution and/or laws of the United States and the Constitution and/or laws of the State of New Jersey.

696. The aforesaid acts and/or omissions of the defendants constitute violations of the plaintiff's rights secured by the United States Constitution, as alleged above, and further violations of the plaintiff's rights established under N.J. Const. art. I, ¶¶ 1, 7, 8.

697. As a direct and proximate result of the conduct of all defendants, plaintiff suffered and continues to suffer extraordinary damages, prolonged loss of liberty, physical and psychological harm, pain and suffering, some or all of which may be permanent, and financial losses.

698. By reason of the aforesaid violation of plaintiff's rights, plaintiff is entitled to damages and relief under N.J.S.A. § 10:6-1.

SIXTH COUNT
NEGLIGENCE

699. The preceding paragraphs are incorporated by reference as if set forth at length herein.

700. Defendants, by their acts and omissions, were negligent, and breached their duty to plaintiff by acting with a lack of cautious regard for plaintiff's right to be free from unlawful arrest and detention, false imprisonment and malicious prosecution.

701. The defendants acted with a lack of cautious disregard for the plaintiff's rights, privileges, and immunities, including his substantive due process rights, under the United States Constitution and the Constitution of the State of New Jersey.

702. As a direct and proximate result of the conduct of all defendants, plaintiff suffered and continues to suffer extraordinary damages, prolonged loss of liberty, physical and psychological harm, pain and suffering, some or all of which may be permanent, and financial losses.

SEVENTH COUNT
NEGLIGENT/INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

703. The preceding paragraphs are incorporated by reference as if set forth at length herein.

704. The unlawful actions and omissions of the defendants as set forth above were intentional, reckless and/or negligent, constituting extreme and outrageous conduct which caused plaintiff to suffer severe and foreseeable emotional, psychological and physical injuries.

WHEREFORE, the Plaintiff demands judgment against the Defendants for:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorneys' fees and costs of suit; and
- d. Such other and further relief deemed just and proper.

THE CODY LAW FIRM
Attorneys for Plaintiff,
Michael Castro

Dated: 03/20/2015

/s/ Douglas L. Cody
Douglas L. Cody, Esq.

JURY TRIAL DEMANDED

A jury trial is demanded as to all issues so triable.

THE CODY LAW FIRM
Attorneys for Plaintiff,
Michael Castro

Dated: 03/20/2015

/s/ Douglas L. Cody
Douglas L. Cody, Esq.

CERTIFICATION PURSUANT TO L. Civ. R. 11.2

The matter in controversy is related to the matter of *Kingsbury v. Camden County, et. al* filed on December 31, 2013 in the United States District Court for the District of New Jersey under Docket Number 1:13-cv-07912-NLH-JS. The parties to that action include Plaintiff, Glenn Kingsbury, individually and in his capacity as Executor of the Estate of John Kingsbury, deceased, and Defendants Camden County Sheriff's Department, Camden County, Lauren Kohl and Michael Castro. Other than the matter described herein, the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

THE CODY LAW FIRM
Attorneys for Plaintiff,
Michael Castro

Dated: 03/20/2015

/s/ Douglas L. Cody
Douglas L. Cody, Esq.

DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE that the undersigned, Douglas L. Cody, Esquire, is hereby designated as trial counsel in this action.

THE CODY LAW FIRM
Attorneys for Plaintiff,
Michael Castro

Dated: 03/20/2015

/s/ Douglas L. Cody
Douglas L. Cody, Esq.

PROOF OF E-FILING

On March 20, 2015, I, the undersigned, electronically filed the within Complaint and Jury Demand.

THE CODY LAW FIRM
Attorneys for Plaintiff,
Michael Castro

Dated: 03/20/2015

/s/ Douglas L. Cody
Douglas L. Cody, Esq.

CERTIFICATION OF SERVICE

I hereby certify that this pleading was served upon all parties in a timely fashion in accordance with the Federal Rules of Civil Procedure.

THE CODY LAW FIRM
Attorneys for Plaintiff,
Michael Castro

Dated: 03/20/2015

/s/ Douglas L. Cody
Douglas L. Cody, Esq.

FORM A
SMALL CLAIMS COMPLAINT (Contract, Security Deposit, Rent, or Tort)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION, SPECIAL CIVIL PART
SMALL CLAIMS SECTION

RECEIVED
SUPERIOR COURT OF NJ
SOMERSET COUNTY
2012 SEP 19 A 10:31

Self
Attorney for Plaintiff (if any)
Address 20 Delar Park Hwy 107
Franklin park, NJ
Telephone No. 732-289-5421

Somerset County
Docket No. SC-72712
(to be provided by the court)

From Plaintiff

Susan Channel
Name
Address 20 Delar Parkway 107
Franklin park, NJ
Telephone No. 732-289-5421

MULLICA Twp. police
CIVIL ACTION
COMPLAINT
South Brunswick police

To Defendant

Franklin Twp. police Dept
Name
Address 1571 Saidet Sq Dr.
Telephone No. 856-694-1414

Check One - See Instruction A for Form A

- ☐ Contract
☐ Security Deposit
☐ Rent Franklin Twp. 08823
☐ Personal Injury or Property Damage (other than motor vehicle)
other - complaint police

COMPLAINT (See instruction B for form A)

Demand: \$ 450 - 22 plus costs.

Type or print the reasons you, the Plaintiff(s), are suing the Defendant(s): Attach additional sheets if necessary.

I was driving on Hwy 27 going South. I was in Bumper to Bumper Traffic. A police car from behind had lights flashing. There was no reason to believe it was me. I kept following the traffic bumper to bumper. When the police car got an available lane rolled down his window & said to me "Your Registration. I have an up to date registration. I do not know why he followed me. He took me to police station in Somerset & first he handcuffed me from behind. Finger, printed me. Went on computer & finger printed me."

IMPORTANT: Plaintiffs and defendants must bring all witnesses, photos, and documents, and other evidence to the hearing. Subpoena forms are available at the Clerk's office to require the attendance of witnesses.

At the trial Plaintiff will require:

An interpreter

☐ Yes ☒ No

Indicate Language:

An accommodation for disability

☐ Yes ☒ No

Indicate Disability:

I certify that the matter in controversy is not the subject of any other court action or arbitration proceeding, now pending or contemplated, and that no other parties should be joined in this action.

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

9-18-2012
Date

Susan Channel
Your Signature
Susan Channel
Your Name Typed or Printed

FORM B
SMALL CLAIMS SUMMONS AND RETURN OF SERVICE

Plaintiff or Plaintiff's Attorney Information:

Name: Self-Susan channel
Address: 20 Dehar parkway #107
Franklin park, NJ 08823
Phone: 732-289-5421

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION, SPECIAL CIVIL PART

_____ COUNTY

Susan channel

versus

Plaintiff(s)

Docket Number: SC-727-12

(to be provided by the court) 08823

Franklin Twp. police Dept. De Mott L. H. S. Del. Sec. Dr.

Defendant(s)

SUMMONS Mullica Twp.

Defendant Information:

Name: X Mullica police Dept. Rt. 206
Address: South Brunswick police Kingston Lake + Mahanah
Dept.
Phone: 856-694-1414

(Check one): Contract Tort
Demand Amount: \$ 250
Filing Fee: \$ 22
Service Fee: \$ _____
Attorney's Fees: \$ _____
TOTAL: \$ 272 0.00

YOU MUST APPEAR IN COURT ON THIS DATE 10-15-12 AND TIME: 8:45 at ☒ a.m. ☐ p.m.,
OR THE COURT MAY RULE AGAINST YOU.

REPORT TO: Judge Kumpf, 4th Floor, courtroom #4
20 N. Bridge Street, Somerville, NJ 08876

RETURN OF SERVICE (For Court Use Only)

COURT OFFICER'S RETURN OF SERVICE

IF SERVED BY COURT OFFICER

Docket Number: _____
Date: _____ Time: _____ WM _____ WF _____ BM _____ BF _____ OTHER _____
HT _____ WT _____ AGE _____ HAIR _____ MUSTACHE _____ BEARD _____ GLASSES _____
NAME: _____ RELATIONSHIP: _____
Description of Premises: _____

I hereby certify the above to be true and accurate:

Court Officer

IF SERVED BY MAIL:

I, _____, hereby certify that on _____, I mailed a copy
of the within summons and complaint by regular and certified mail-return receipt requested.

Employee Signature

Patricia Ann Falkinburg Colon
58 East Greenbush Road
New Gretna, New Jersey 08087
(609)289-4664
pattycolon328@gmail.com
Pro Se Plaintiff

RECEIVED and
FILED

JAN 29 2020

ATLANTIC COUNTY
LAW DIVISION

PATRICIA ANN FALKINBURG COLON,

Plaintiff,

v.

SUPERIOR COURT OF NEW JERSEY
ATLANTIC COUNTY
LAW DIVISION

Docket No. ATL-L- **329-20**

UNITED STATES OF AMERICA
DEPARTMENT OF JUSTICE
✓ FEDERAL BUREAU OF INVESTIGATIONS,
Its agents, servants and employees; DANIEL
✓ GARRABRANT, MICHAEL ELTON,
ED GALLANT; STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC
SAFETY – OFFICE OF THE ATTORNEY
GENERAL, its agents, servants and
Employees; ATTORNEY GENERAL
GURBIR GREWAL; NEW JERSEY STATE
POLICE, its agents, servants and employees;
ATLANTIC COUNTY PROSECUTOR'S
OFFICE, its agents, servants and employees;
DAMON G. TYNER, RYAN RIPLEY,
SETH LEVY, JAMES SCOPPA, JOSEPH
PEPE, JAMES KIRSCHNER; NEW JERSEY
OFFICE OF THE PUBLIC DEFENDER,
Its agents, servants and employees; SCOTT
SHERWOOD, MARY LINEHAN, OMAR
AGUILLAR; MULLICA TOWNSHIP
POLICE DEPARTMENT, its agents,
Servants and employees; JOHN THOMPSON,
BRIAN ZECK, CHRIS SILVA, JAKE
O'HARA, MICHAEL CUMMINGS; EGG
HARBOR CITY POLICE DEPARTMENT,
its agents, servants and employees, DYLAN
HUTTON, MARCELLA ALWYN,
KEITH ARMOUR, RICH BROWN;
HAMMONTON BOARD OF EDUCATION,
Its agents, servants and employees, ROBIN
DiCHIECO, MAXIMILLO RUIZ; GREATER

Civil Action

COMPLAINT and JURY DEMAND

EGG HARBOR REGIONAL SCHOOL
DISTRICT, its agents, servants and employees,
JOHN KEENAN; JOHN DOES 1-100 (fictitious persons)
Jointly, severally and in the alternative,

Defendants.

Plaintiff, Patricia Ann Falkinburg Colon, by way of Complaint against the
Defendants, says:

PARTIES

1. At all times relevant hereto, the Plaintiff, Patricia Ann Falkinburg Colon, resided in the Township of Mullica, County of Atlantic and State of New Jersey.
2. At all times relevant hereto, Defendant, United States of America Department of Justice – Federal Bureau of Investigations, its agents, servants and employees, (“FBI”) is a governmental agency with offices located at 1601 New Road, Northfield, New Jersey.
3. At all times relevant hereto, Defendants, Daniel Garrabrant, Michael Elton and Ed Gallant (“Garrabrant”, “Elton” and “Gallant”), were Agents employed by Defendant FBI.
4. At all times relevant hereto, Defendant, State of New Jersey Department of Law and Public Safety – Office of the Attorney General, its agents, servants and employees (“OAG”) is a governmental agency with offices located at 25 Market Street, Trenton, New Jersey.

5. At all times relevant hereto, Defendant, Attorney General Gurbir Grewal (“Grewal”) was employed by Defendant OAG.

6. At all times relevant hereto, Defendant, New Jersey State Police, its agents, servants and employees (“NJSP”) is a governmental agency with offices located at 25 Market Street, Trenton, New Jersey.

7. At all times relevant hereto, Defendant, Atlantic County Prosecutor’s Office, its agents, servants and employees (“ACPO”) is a governmental agency with offices located at 4997 Unami Boulevard, Mays Landing, New Jersey.

8. At all times relevant hereto, Defendants, Damon G. Tyner, Ryan Ripley, Seth Levy, James Scoppa, Joseph Pepe and James Kirschner (“Tyner”, “Ripley”, “Levy”, “Scoppa”, “Pepe” and “Kirschner”) were employed by Defendant ACPO.

9. At all times relevant hereto, Defendant, New Jersey Office of the Public Defender, its agents, servants and employees (“OPD”) is a governmental agency with offices located at 5914 Main Street, #201, Mays Landing, New Jersey.

10. At all times relevant hereto, Defendants, Scott Sherwood, Mary Linehan and Omar Aguillar (“Sherwood”, “Linehan” and “Aguillar”) were employed by Defendant OPD.

11. At all times relevant hereto, Defendant, Mullica Township Police Department, its agents, servants and employees (“MTPD”) is a governmental agency with offices located at 4528 White Horse Pike, Elwood, New Jersey.

12. At all times relevant hereto, Defendants, John Thompson, Brian Zeck, Chris Silva, Jake O'Hara and Michael Cummings ("Thompson", "Zeck", "Silva", "O'Hara" and "Cummings") were employed by Defendant MTPD.

13. At all times relevant hereto, Defendant, Egg Harbor City Police Department, its agents, servants and employees ("EHCPD") is a governmental agency with offices located at 500 London Avenue, Egg Harbor City, New Jersey.

14. At all times relevant hereto, Defendants, Dylan Hutton, Marcella Alwyn, Keith Armour and Rich Brown ("Hutton", "Alwyn", "Armour" and "Brown") were employed by Defendant EHCPD.

15. At all times relevant hereto, Defendant, Hammonton Board of Education, its agents, servants and employees, ("Hammonton BOE") is a public entity with offices located at 566 Old Forks Road, Hammonton, New Jersey.

16. At all times relevant hereto, Defendants, Robin DiChieco and Maximillo Ruiz ("DiChieco" and "Ruiz") were employed by Defendant Hammonton BOE.

17. At all times relevant hereto, Defendant, Greater Egg Harbor Regional Board of Education, its agents, servants and employees, ("GEHRBOE") is a public entity with offices located at 1824 Dr. Dennis Foreman Drive, Mays Landing, New Jersey.

18. At all times relevant hereto, Defendant, John Keenan ("Keenan"), was employed by Defendant Greater Egg Harbor Regional BOE.

19. Defendants John Does 1-100 (fictitious persons) refer to those individuals employed by the above named Defendants who may have had a role in the allegations contained in the within Complaint ("John Does").

COUNT ONE

20. In or around the Summer of 2017, Plaintiff began to seek the assistance of Defendant MTPD in connection with individuals residing in her residence located at 5353 Duerer Street in the Township of Mullica, County of Atlantic and State of New Jersey.

21. During that same time, the occupants of Plaintiff's residence, Yvonne and Keith Montalvo, who are relatives of Plaintiff's husband at the time, Antonio Colon a/k/a Anthony Colon, began to file frivolous Incident Reports about Plaintiff with Defendant MTPD. At no time did Defendants MTPD, Thompson, Zeck, Silva, O'Hara, and other representatives of Defendant MTPD, ever ask the Montalvo's to produce their New Jersey Driver's Licenses to confirm their identity. Plaintiff, however, was asked to produce her license on each occasion she was confronted by the MTPD.

22. It should be noted that at no time was Plaintiff ever charged with a crime due to the frivolous reports given by the Montalvo's to Defendant MTPD nor did Defendants MTPD, Thompson, Zeck, Silva, O'Hara and Cummings ever give the Montalvo's a citation for any reason whatsoever despite the fact that Plaintiff presented to the Mullica Township Police Department on numerous occasions to provide them with information as to the crimes being committed by the Montalvo's.

23. The Montalvo's, along with their children, Keith and Kayla Montalvo, resided in the residence noted above beginning in March of 2014 and remained until the residence was sold at Sheriff's Sale until March of 2018.

24. At all times the Montalvo's resided in said property, the only time they found it convenient to indicate that they lived at said address was when they contacted

Defendant MTPD to complain and make up stories about Plaintiff. The Internal Revenue Service, State of New Jersey Division of Motor Vehicles, Defendant Hammonton BOE and other entities were all led to believe that the Montalvo's resided at 126 Front Street in the Town of Hammonton, County of Atlantic and State of New Jersey during that time due to the fact that they certified to same on all appropriate paperwork filed with said entities. At no time did the Montalvo's reside at 126 Front Street in Hammonton, New Jersey.

25. Of importance is the fact that on November 26, 2010, several members of Defendant MTPD responded to said residence on Duerer Street when Mr. Colon threatened to shoot his wife and daughters and was subsequently arrested and transported to the Atlantic County Justice Facility in Mays Landing, New Jersey. Defendants Thompson, Zeck, Silva and O'Hara were all involved in said incident and the removal and forfeiture of Mr. Colon's weapons.

26. Thereafter, Mr. Colon was charged with violating the Temporary Restraining Order that was entered by the Honorable Henry Broome.

27. In addition, beginning in January of 2018 and continuing through September of 2019, Defendant MTPD was called to respond to domestic disturbances at the primary residence of Plaintiff, where she was forced to cohabitate with Mr. Colon and their one daughter, at 2631 Green Bank Road, Mullica Township, New Jersey.

28. Defendants MTPD, Zeck, Silva and Cummings failed to perform their duties in a manner that would have protected Plaintiff and failed to arrest Mr. Colon on each occasion, causing Plaintiff to endure unnecessary pain and suffering.

29. The last time that Plaintiff dialed "911" for assistance from Defendant MTPD was on September 15, 2019.

30. At all times relevant hereto, Defendant Thompson was the Chief of Police of the Mullica Township Police Department, until he put in for an early retirement in 2019.

31. At all times relevant hereto, Defendant Zeck was the Internal Affairs Officer for the Mullica Township Police Department before being appointed the "Acting Chief" in 2019.

32. As a direct and proximate result of the Defendants' MTPD, Thompson, Zeck, Silva, O'Hara and Cummings actions, Plaintiff was caused to suffer severe emotional pain and mental anguish, nervousness, grief, anxiety, worry, shock, humiliation, indignity, fright, mortification, embarrassment, loss of reputation, physical harm and terror.

33. The damages resulted from the actions of the Defendants which evidence a reckless disregard for the duties imposed by their respective positions.

34. The acts and omissions of the Defendants, as alleged herein, were willful and wanton.

35. The acts and omissions of the Defendants, as alleged herein, were actuated by actual malice.

36. The acts and omissions of the Defendants, as alleged herein, were accompanied by a wanton and willful disregard of persons who foreseeably might be harmed by those acts or omissions.

37. Defendants' actions were all intended to discourage Plaintiff's exercise of her New Jersey Constitutional Rights to freedom of speech on matters of public importance and concern in violation of the New Jersey Civil Rights Act, N.J.S.A. 10:6-2. It is further alleged that Defendants discouraged Plaintiff's exercise of these rights by means of threat, intimidation and coercion.

38. Defendants' actions further deprived the Plaintiff of her federal constitutional rights and New Jersey constitutional rights set forth above all in violation of the New Jersey Civil Rights Act.

WHEREFORE, Plaintiff demands judgment be entered against Defendants MTPD, Thompson, Zeck, Silva, O'Hara and Cummings, for:

- A. Compensatory damages;
- B. Punitive damages;
- C. Filing fees;
- D. Reasonable costs of suit;
- E. Reasonable pre- and post-judgment interest on all monetary awards; and
- F. For such other relief as the Court deems equitable and just.

COUNT TWO

39. Plaintiff repeats the allegations of the preceding Count as if fully set forth at length herein.

40. In September of 2017, Plaintiff was pulled over, detained and consented to a search of her vehicle by members of Defendant EHCPD and Defendant Armour.

41. Plaintiff was pulled over by said police officers due to the fact that Plaintiff had just left the Philadelphia Village Apartments complex in Egg Harbor City. Defendants EHCPD and Defendant Armour had the misconception that Plaintiff was buying or selling drugs in what Defendant Armour referred to as “a high traffic drug area”. No drugs were found on Plaintiff or in her vehicle.

42. Thereafter, during the early evening hours of Thanksgiving, 2017, Defendant Armour and two other EHCPD officers surrounded Plaintiff’s vehicle after she left the train station in Egg Harbor City due to the fact that Plaintiff had a tail light out on her vehicle. Plaintiff knew of the problem with her tail light and had purchased a replacement bulb the day before Thanksgiving at Auto Zone in Egg Harbor City but the gentleman at Auto Zone had given her the wrong bulb and she could not return for the correct bulb until the day after Thanksgiving.

43. Following that excessive stop Plaintiff reported to Defendant EHCPD the following day to speak with someone in Internal Affairs. She was advised by Officer McKenna that nobody would be in until Monday but she could fill out something and leave it with him.

44. On November 27, 2017, Plaintiff again reported to Defendant EHCPD and hand-delivered a letter addressed to Defendant Hutton, who was the “Acting Chief”, and met with the Internal Affairs representative, Defendant Alwyn.

45. During said meeting with Defendant Alwyn Plaintiff was advised that she should complete an OPRA Request for the documents she was requesting in said letter. Despite the fact that the OPRA Request was out-dated and still depicted the ex-Chief of

Police on it, Plaintiff complied with the request and filled out an OPRA Request for Defendant EHCPD.

46. Thereafter, Plaintiff received a "Denial" to her request in the form of an undated document, without letterhead or a signature by the City Clerk, or anyone else from Defendant EHCPD. Plaintiff was advised that the City's Attorney, James Carroll, Esquire, had drafted said document. Mr. Carroll did not draft said document, nor did he know about Plaintiff's initial request when he was contacted that week; probably due to the fact that he was out on disability leave for medical reasons.

47. Plaintiff thereafter appeared in front of Egg Harbor City Council in March of 2018 to present the "Denial" to the Mayor and Egg Harbor City Council and again presented to the City Council Meeting in April of 2018 to discuss the circumstances in Egg Harbor City.

48. Defendants continued to harass the Plaintiff up through and including 2019 and refuse to address Plaintiff's concerns at any level. Plaintiff has also never received most of the documents requested in her initial OPRA Request nor has Defendant Hutton scheduled an in-person meeting with Plaintiff in his office.

49. Plaintiff has had multiple in-person conversations with Defendants Alwyn and Brown to no avail.

50. In August of 2018, after speaking with a representative from Defendant NJSP Tuckerton Barracks, Plaintiff contacted Defendant EHCPD in connection with a burglary that had taken place in New Gretna, New Jersey. Plaintiff was advised to contact Defendant EHCPD due to the fact that the individuals that had committed said

burglary were residents of Egg Harbor City and were selling some of the stolen items in Egg Harbor City. Defendant Brown failed to investigate the matter and subsequently, one of the persons involved in said burglary passed away on March 27, 2019.

51. As a direct and proximate result of the Defendants' EHCPD, Hutton, Alwyn, Armour and Brown's actions, Plaintiff was caused to suffer severe emotional pain and mental anguish, nervousness, grief, anxiety, worry, shock, humiliation, indignity, fright, mortification, embarrassment, loss of reputation, physical harm and terror.

52. The damages resulted from the actions of the Defendants which evidence a reckless disregard for the duties imposed by their respective positions.

53. The acts and omissions of the Defendants, as alleged herein, were willful and wanton.

54. The acts and omissions of the Defendants, as alleged herein, were actuated by actual malice.

55. The acts and omissions of the Defendants, as alleged herein, were accompanied by a wanton and willful disregard of persons who foreseeably might be harmed by those acts or omissions.

56. Defendants' actions were all intended to discourage Plaintiff's exercise of her New Jersey Constitutional Rights to freedom of speech on matters of public importance and concern in violation of the New Jersey Civil Rights Act, N.J.S.A. 10:6-2. It is further alleged that Defendants discouraged Plaintiff's exercise of these rights by means of threat, intimidation and coercion.

57. Defendants' actions further deprived the Plaintiff of her federal constitutional rights and New Jersey constitutional rights set forth above all in violation of the New Jersey Civil Rights Act.

WHEREFORE, Plaintiff demands judgment be entered against Defendants EHCPD, Hutton, Alwyn, Armour and Brown, for:

- A. Compensatory damages;
- B. Punitive damages;
- C. Filing fees;
- D. Reasonable costs of suit;
- E. Reasonable pre- and post-judgment interest on all monetary awards; and
- F. For such other relief as the Court deems equitable and just.

COUNT THREE

58. Plaintiff repeats the allegations of the preceding Counts as if fully set forth at length herein.

59. Following the aforementioned incidents involving Defendants MTPD and EHCPD, Plaintiff presented to Defendant ACPO in the Fall of 2017 for assistance and to discuss the corruption that was going on in Defendants MTPD and EHCPD. Plaintiff originally spoke with Defendant Pepe who was in charge of Defendant ACPO's Corruption Unit to no avail and requested to speak with or meet with Defendant Tyner.

60. After receiving no assistance from Defendant Pepe, Defendant Tyner nor any other employee of Defendant ACPO, and after suffering more abuse, Plaintiff telephoned Defendant FBI on January 2, 2018 and spoke with Employee ID #9170.

61. Immediately thereafter on January 2, 2018, Plaintiff presented to Defendant FBI at their Atlantic City Office in Northfield, New Jersey. Upon arrival, Plaintiff completed a "Fact Sheet" and presented her personal identification to the woman at the window. After amusing the staff that they had a walk-in, the woman made an overhead announcement that an available agent was needed. Defendant Garrabrant was the Agent that answered that announcement and he presented himself to the FBI lobby. At no point in time did Defendant Garrabrant take Plaintiff into an interview room, merely entertaining her in the FBI lobby.

62. After explaining to Defendant Garrabrant that he was "the last stop on the judicial ladder", Defendant Garrabrant advised Plaintiff that he was only involved in Violent Crimes and that he would pass her information onto the men in Corruptions, Plaintiff asked Defendant Garrabrant (please excuse the profanity) ... "Do you want to know about some fucking violent crimes then so you know I know what the fuck I am talking about?" Plaintiff then, for the first time since her untimely death on May 10, 2012, discussed the murder of April Kauffman with a law enforcement agency.

63. On January 7, 2018, Plaintiff presented to Defendant NJSP's Buena Barracks requesting to be put in protective custody. After amusing the Troopers there, Plaintiff went home. At no time was Plaintiff taken into an interview room nor was she

taken by ambulance for a psychiatric evaluation. Had the Plaintiff injured herself or others, Defendant NJSP would have been held liable.

64. On January 9, 2018, eight individuals were arrested in connection with the Kauffman matter.

65. Following the aforementioned arrests, Plaintiff again contacted Defendant FBI and left a message for the Corruptions Department. Plaintiff was contacted by the gentleman in charge of the Corruptions Department at the FBI, Defendant Elton, and thereafter met with Defendant Elton and Defendant Ripley, a Task Force Officer for Defendant ACPO, in Defendant FBI's Northfield office.

66. It should be noted that had the Plaintiff not been persistent, Defendant Elton nor others would have never known that Plaintiff had been to the FBI on January 2, 2018, due to the fact that Defendant Garrabrant disposed of Plaintiff's Fact Sheet and copies of her personal identification, never advised the Corruptions Department of her name, phone number, etc., and tried to make it like Plaintiff was never there.

67. As of this date, Plaintiff's Fact Sheet is still not on file in Defendant FBI.

68. Pursuant to Plaintiff's phone conversation with Defendant Garrabrant when he was at the Borgata in the Summer of 2018, Defendant Garrabrant advised Plaintiff that he had forwarded her information to Defendant ACPO. That was not the case though and the only place you will see Plaintiff's name in the 200+ discs of discovery released by Defendant ACPO in connection with the Kauffman matter is on the last page of April Kauffman's Last Will and Testament.

69. The last time Plaintiff met in person with Defendants Elton and Ripley was on January 25, 2018, the day before James Kauffman was supposedly found dead in his jail cell in the Hudson County Jail. The Plaintiff has had numerous telephone conversations with Defendants Elton and Ripley since that time but has never sat down with them to go over the Kauffman matter in detail, despite the fact that a meeting was supposed to be scheduled.

70. Plaintiff then spoke with Defendant Gallant, who is the supervising Agent at Defendant FBI's Northfield Office and was advised by Mr. Gallant that they could not corroborate any of her information.

71. Following Plaintiff's initial visit to Defendant FBI on January 2, 2018, Plaintiff contacted James Kauffman's legal counsel, Jacobs & Barbone, and met with Louis M. Barbone in person to advise them that she had gone to the FBI and told Defendant Garrabrant about their client and April Kauffman's murder. It should be noted that Plaintiff used to be employed by the law firm of Jacobs & Barbone and thought it was only proper to advise them of what she had done.

72. Following the arrests on January 9, 2018, Plaintiff presented to Defendant OPD and met with the supervising attorney there, Defendant Sherwood. During their first meeting, Defendant Sherwood asked the Plaintiff, "What side are you on?" Plaintiff advised Defendant Sherwood, "I am on the side that is not corrupt!" Defendant Sherwood assured Plaintiff on each occasion that he would pass on the information to the two public defenders assigned to represent Ferdinand Augello, Defendant Linehan and Defendant Aguillar.

73. Plaintiff first spoke with Defendant Linehan on July 23, 2018, at which time she was advised that Defendant Linehan knew nothing about her. Plaintiff reached out to Defendant Linehan on numerous occasions, up through and including the trial of her client, Ferdinand Augello, to no avail. Plaintiff also reached out to Defendant OPD in Newark, New Jersey following Mr. Augello's wrongful conviction concerning his Appeal to no avail.

74. Plaintiff also reached out to Defendant Levy beginning on July 23, 2018, the Assistant Prosecutor assigned to prosecute the Augello matter, along with the matters of Joseph Mulholland, Glenn Seeler, Paul Pagano, Beverly Augello, Cheryl Pizza and Tabitha Chapman.

75. At no time would Defendant Levy entertain Plaintiff either in connection with the above-referenced matters.

76. Defendant Scoppa along with Defendants Tyner and Garrabrant fabricated much of the details concerning April Kauffman's murder in order to advance their careers and Defendant Tyner's future political endeavors.

77. On August 4, 2018, Plaintiff filed a four page Affidavit in connection with the Kauffman matter (Indictment No. 18-04-0517) with Judge DeLury's secretary and provided a copy of same to all counsel in the matter.

78. After numerous conversations with Senator Chris Brown's office and text messages between Plaintiff and the Senator, on August 21, 2018, Senator Chris Brown forwarded a letter to Defendant Tyner confirming a conversation they had that morning at the NJFOP Convention in Atlantic City, stating in part; "Thank you for letting me know

you have been, and will continue to do, everything you can to assist Ms. Patti Colon. In accordance with our conversation, I will let her know if she has any further conversations to speak with Sergeant Pepe in your office.”

79. Plaintiff had communicated with Defendant Pepe to no avail prior to his retirement in March of 2018; and continued the process with Defendant Kirschner after he took over the Corruptions Department in Defendant ACPO up through and including 2019.

80. In addition, prior to Ferdinand Augello’s trial which began in September of 2018, the Atlantic County Sheriff’s Department had a meeting about Plaintiff, which is believed to have been originated in the Sheriff’s Department by Sheriff’s Officer Robert Frey on August 31, 2018. On September 20, 2018, when the Plaintiff first appeared at the Superior Court of New Jersey in Mays Landing for Mr. Augello’s trial at 10:17 a.m., Sheriff’s Officer Jason Plageman put out the radio call that the Plaintiff had arrived at the courthouse and Plaintiff had to have an armed “Officer Escort” at all times while she was in the courthouse. Due to the harassment being inflicted on the Plaintiff, she only went to Mr. Augello’s trial on two occasions.

81. On October 1, 2018, as Mr. Augello’s trial was coming to a close, Defendant NJSP sent two Troopers from their Tuckerton Barracks to the Plaintiff’s residence in Mullica Township and transported Plaintiff to the Psychiatric Ward at Atlanticare in Pomona, New Jersey. Plaintiff underwent the requisite testing, which included a urine sample and blood sample, spoke with several individuals and the psychiatrist in charge, and was released within eight (8) hours of her admission. Plaintiff

was not required to stay as an in-patient for the requisite forty-eight (48) hours for obvious reasons.

82. Following Mr. Augello's trial and wrongful conviction, Plaintiff served a Tort Claims Notice on the Defendants in this matter.

83. Plaintiff has continually tried to meet with multiple Defendants in this matter, including Defendant Gerwal, to no avail. Plaintiff has sent numerous emails to Defendant Gerwal and has had numerous phone conversations with Defendant OAG representatives and has requested in person meetings to discuss the corruption in South Jersey for two years now and has yet to get an in person meeting with anyone. As the "Top Cop" in New Jersey, Defendant Gerwal has a duty to the residents of the State of New Jersey and clearly violated Plaintiff's rights by not meeting with her or having another representative from his Office do so. However, Defendant Gerwal did have a NJSP Trooper contact Plaintiff in 2018 to ascertain if he was "on a hit list".

84. Collectively, Defendants' ACPO, FBI, OAG, Garrabrant, Elton, Gallant, Tyner, Ripley, Levy, Scoppa, Pepe, Kirschner, Gerwal, OPD, Sherwood, Linehan and Auguillar's actions not only deprived the Plaintiff of her New Jersey Constitutional rights, but also the rights of one Ferdinand Augello.

85. As a direct and proximate result of the Defendants' ACPO, FBI, OAG, Garrabrant, Elton, Gallant, Tyner, Ripley, Levy, Scoppa, Pepe, Kirschner, Gerwal, OPD, Sherwood, Linehan and Auguillar's actions, Plaintiff was caused to suffer severe emotional pain and mental anguish, nervousness, grief, anxiety, worry, shock,

humiliation, indignity, fright, mortification, embarrassment, loss of reputation, physical harm and terror.

86. The damages resulted from the actions of the Defendants which evidence a reckless disregard for the duties imposed by their respective positions.

87. The acts and omissions of the Defendants, as alleged herein, were willful and wanton.

88. The acts and omissions of the Defendants, as alleged herein, were actuated by actual malice.

89. The acts and omissions of the Defendants, as alleged herein, were accompanied by a wanton and willful disregard of persons who foreseeably might be harmed by those acts or omissions.

90. Defendants' actions were all intended to discourage Plaintiff's exercise of her New Jersey Constitutional Rights to freedom of speech on matters of public importance and concern in violation of the New Jersey Civil Rights Act, N.J.S.A. 10:6-2. It is further alleged that Defendants discouraged Plaintiff's exercise of these rights by means of threat, intimidation and coercion.

91. Defendants' actions further deprived the Plaintiff of her federal constitutional rights and New Jersey constitutional rights set forth above all in violation of the New Jersey Civil Rights Act.

WHEREFORE, Plaintiff demands judgment be entered against Defendants, ACPO, FBI, OAG, Garrabrant, Elton, Gallant, Tyner, Ripley, Levy, Scoppa, Pepe, Kirschner, Gerwal, OPD, Sherwood, Linehan and Auguillar for:

- A. Compensatory damages;
- B. Punitive damages;
- C. Filing fees;
- D. Reasonable costs of suit;
- E. Reasonable pre- and post-judgment interest on all monetary awards; and
- F. For such other relief as the Court deems equitable and just.

COUNT FOUR

92. Plaintiff repeats the allegations of the preceding Counts as if fully set forth at length herein.

93. Beginning in the Summer of 2017, Plaintiff contacted Defendant HBOE in connection with the Montalvo's lying to Defendant HBOE, the Hammonton High School, and others, about residing at 126 Front Street in Hammonton, New Jersey.

94. Plaintiff had multiple telephone conversations with Defendant DiChieco concerning the illegal activity being committed by the Montalvo's and presented to Defendant HBOE offices located in Hammonton High School in the Fall of 2017 and provided Defendant HBOE proof that the Montalvo family was in fact residing in Mullica Township and had been for years.

95. Plaintiff additionally had numerous telephone conversations with Defendant Ruiz beginning at the same time concerning the Montalvo's. It should be noted that Defendant Ruiz is a retired police officer who at all times relevant hereto is

and was the truancy officer for Defendant HBOE. Plaintiff was advised on multiple occasions by Defendant Ruiz that he was conducting an investigation and doing surveillance on the Montalvo's in connection with their misleading Defendant HBOE that they resided in Hammonton.

96. Despite months of conversations and providing documentation to Defendants, in January of 2018, Defendant DiChieco, on behalf of Defendant HBOE, forwarded correspondence to the Montalvo's at the Duerer Street address in Mullica Township advising that Keith Montalvo would be permitted to finish out his senior year at Hammonton High School and graduate with his class but that the Montalvo's would be required to provide his own transportation. It should be noted that Keith Montalvo began residing in Mullica Township in March of his freshman year of high school and continued residing in Mullica Township through March of his senior year. In addition, his sister, Kayla Montalvo, also attended Hammonton High School while she resided in Mullica Township, beginning in March of her junior year and through her senior year and subsequent high school graduation.

97. Defendant GEHRBOE is the governing school body for students that reside in Mullica Township, Atlantic County, New Jersey.

98. After failed attempts and being misled by Defendants DiChieco and Ruiz, Plaintiff contacted Defendant GEHRBOE and communicated with Defendant Keenan.

99. At no time did Defendant Keenan wish to pursue an investigation into the Montalvo's residing in Mullica Township yet attending Hammonton High School.

100. In fact, when Plaintiff served her Tort Claims Notice on Mr. Keenan, he threatened the Plaintiff that he was going to press charges against her.

101. It is a crime in the State of New Jersey to lie about where one lives in order to send their children to another school outside of the district in which they reside.

102. The damages resulted from the actions of the Defendants which evidence a reckless disregard for the duties imposed by their respective positions.

103. The acts and omissions of the Defendants, as alleged herein, were willful and wanton.

104. The acts and omissions of the Defendants, as alleged herein, were actuated by actual malice.

105. The acts and omissions of the Defendants, as alleged herein, were accompanied by a wanton and willful disregard of persons who foreseeably might be harmed by those acts or omissions.

106. Defendants' actions were all intended to discourage Plaintiff's exercise of her New Jersey Constitutional Rights to freedom of speech on matters of public importance and concern in violation of the New Jersey Civil Rights Act, N.J.S.A. 10:6-2. It is further alleged that Defendants discouraged Plaintiff's exercise of these rights by means of threat, intimidation and coercion.

107. Defendants' actions further deprived the Plaintiff of her federal constitutional rights and New Jersey constitutional rights set forth above all in violation of the New Jersey Civil Rights Act.

WHEREFORE, Plaintiff demands judgment be entered against Defendants, HBOE, DiChieco, Ruiz, GEHRBOE and Keenan, for:

- A. Compensatory damages;
- B. Punitive damages;
- C. Filing fees;
- D. Reasonable costs of suit;
- E. Reasonable pre- and post-judgment interest on all monetary awards; and
- F. For such other relief as the Court deems equitable and just.

COUNT FIVE

108. Plaintiff repeats the allegations of the preceding Counts as if fully set forth at length herein.

109. Defendants John Does 1-100 are fictitious persons whose identities are not known to Plaintiff at the present time that may have had a role in the allegations contained herein in Plaintiff's Complaint and said Complaint will be amended to reflect said individuals when and if their identities become known to Plaintiff.

110. The damages resulted from the actions of the Defendants which evidence a reckless disregard for the duties imposed by their respective positions.

111. The acts and omissions of the Defendants, as alleged herein, were willful and wanton.

112. The acts and omissions of the Defendants, as alleged herein, were actuated by actual malice.

113. The acts and omissions of the Defendants, as alleged herein, were accompanied by a wanton and willful disregard of persons who foreseeably might be harmed by those acts or omissions.

114. Defendants' actions were all intended to discourage Plaintiff's exercise of her New Jersey Constitutional Rights to freedom of speech on matters of public importance and concern in violation of the New Jersey Civil Rights Act, N.J.S.A. 10:6-2. It is further alleged that Defendants discouraged Plaintiff's exercise of these rights by means of threat, intimidation and coercion.

115. Defendants' actions further deprived the Plaintiff of her federal constitutional rights and New Jersey constitutional rights set forth above all in violation of the New Jersey Civil Rights Act.

WHEREFORE, Plaintiff demands judgment be entered against Defendants John Does 1-100 for:

- A. Compensatory damages;
- B. Punitive damages;
- C. Filing fees;
- D. Reasonable costs of suit;
- E. Reasonable pre- and post-judgment interest on all monetary awards; and
- F. For such other relief as the Court deems equitable and just.

COUNT SIX

116. Plaintiff repeats the allegations of the preceding Counts as if fully set forth at length herein.

117. The Defendants each knowingly and willfully conspired among themselves to commit the wrongful, unlawful and tortious acts alleged herein.

118. The Defendants have each committed overt acts or omissions in furtherance of the conspiracy, as alleged herein, and have cooperated with, lent aid and encouragement to, or ratified and adopted the acts of the other Defendants in a manner at this time unknown to Plaintiff, but known to the Defendants and to each of them.

119. The Defendants have each at various times as alleged herein directly ordered, authorized or participated in the wrongful, unlawful and tortious conduct that was directed at Plaintiff.

120. The damages resulted from the actions of the Defendants which evidence a reckless disregard for the duties imposed by their respective positions.

121. The acts and omissions of the Defendants, as alleged herein, were willful and wanton.

122. The acts and omissions of the Defendants, as alleged herein, were actuated by actual malice.

123. The acts and omissions of the Defendants, as alleged herein, were accompanied by a wanton and willful disregard of persons who foreseeably might be harmed by those acts or omissions.

124. Defendants' actions were all intended to discourage Plaintiff's exercise of her New Jersey Constitutional Rights to freedom of speech on matters of public importance and concern in violation of the New Jersey Civil Rights Act, N.J.S.A. 10:6-2. It is further alleged that Defendants discouraged Plaintiff's exercise of these rights by means of threat, intimidation and coercion.

125. Defendants' actions further deprived the Plaintiff of her federal constitutional rights and New Jersey constitutional rights set forth above all in violation of the New Jersey Civil Rights Act.

126. The Defendants each ratified the wrongful acts and omissions as alleged herein. Therefore, all of the Defendants should be liable for the torts committed by the other Defendants.

WHEREFORE, Plaintiff demands judgment be entered against all Defendants for:

- A. Compensatory damages;
- B. Punitive damages;
- C. Filing fees;
- D. Reasonable costs of suit;
- E. Reasonable pre- and post-judgment interest on all monetary awards; and
- F. For such other relief as the Court deems equitable and just.

COUNT SEVEN

127. Plaintiff repeats the allegations of the preceding Counts as if fully set forth at length herein.

128. The acts and omissions of each Defendant contributed as a substantial factor proximately causing the Plaintiff's damages as alleged herein.

129. Therefore, to the extent that the total injury or loss cannot be subdivided, each Defendant should be held jointly and severally liable for the torts committed by the other Defendants.

WHEREFORE, Plaintiff demands that an Order be issued declaring that the Defendants are each jointly and severally liable for the torts committed by the other Defendants, as alleged herein, and that judgment be entered against all Defendants for:

- A. Compensatory damages;
- B. Punitive damages;
- C. Filing fees;
- D. Reasonable costs of suit;
- E. Reasonable pre- and post-judgment interest on all monetary awards; and
- F. For such other relief as the Court deems equitable and just.

JURY DEMAND

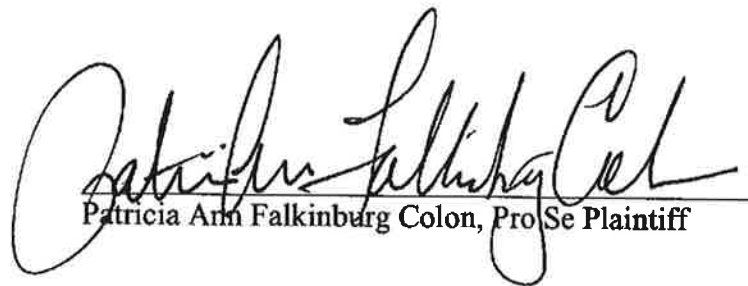
Demand is hereby for a trial by jury as to all issues.

CERTIFICATION

I hereby certify pursuant to R. 4:5-1, that to the best of my knowledge, information and belief that the matter in controversy is not the subject of any other action pending in any other Court nor is it the subject of any pending arbitration proceeding. No such other action or arbitration proceeding is currently contemplated. I further certify at

this time that there are no other known parties who should be joined in this instant action. Nevertheless, there are other matters currently pending in the Superior Court of New Jersey that involve some of the issues involved in this matter, to wit: Diane Ruberton, et als., v. Damon G. Tyner, et als., Docket No. CUM-L-162-19, which cites Brady violations in the Kauffman matter; and State v. Ferdinand Augello, Indictment No. 18-04-0517.

Dated: January 20, 2020



Patricia Ann Falkinburg Colon, Pro Se Plaintiff

LOUIS CHARLES SHAPIRO, P.A.

By: Louis Charles Shapiro, Esquire (New Jersey Bar I.D. No. 028201997)

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Vineland, New Jersey 08360

(856) 691-6800; Fax No. (856) 794-3326

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Attorney for Plaintiffs, Carla Weldon, Troy Sessoms, C.S., C.S.,

D.F.J., D.F.J., D.F.J., and D.F.J.

CARLA WELDON, individually and on
behalf of C.S., C.S., D.F.J., D.F.J., D.F.J.,
and D.F.J.; TROY SESSOMS, individually
and on behalf of C.S., C.S., D.F.J., D.F.J.,
D.F.J., and D.F.J.; C.S., a minor; C.S., a
minor; D.F.J., a minor; D.F.J., a minor;
D.F.J., a minor; and D.F.J., a minor;

Plaintiffs,

vs.

DAMON G. TYNER, in his official capacity;
as ATLANTIC COUNTY PROSECUTOR;
ATLANTIC COUNTY PROSECUTOR'S
OFFICE; ATLANTIC COUNTY
SHERIFF'S OFFICE; JOHN/JANE DOE(S)
LAW ENFORCEMENT OFFICERS
OF THE ATLANTIC COUNTY
PROSECUTOR'S OFFICE 1-20; JOHN/
JANE DOE(S) ATLANTIC COUNTY
SHERIFF'S OFFICERS 1-20;
JOHN/JANE DOE(S) NEW JERSEY
STATE TROOPERS, DETECTIVES AND
LAW ENFORCEMENT OFFICERS 1-20;
JOHN/ JANE DOE(S) LAW
ENFORCEMENT OFFICERS OF THE
CITY OF PLEASANTVILLE POLICE
DEPARTMENT 1-20; JOHN/JANE
DOE(S) LAW ENFORCEMENT
OFFICERS OF THE TOWNSHIP OF
GALLOWAY POLICE DEPARTMENT
1-20; JOHN/JANE DOE(S) LAW
ENFORCEMENT OFFICERS OF THE

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - ATLANTIC COUNTY

CIVIL ACTION

OCEAN COUNTY PROSECUTOR'S :
OFFICE 1-20; JOHN/JANE DOE(S) :
LAW ENFORCEMENT OFFICERS OF :
THE ATLANTIC CITY POLICE :
DEPARTMENT 1-20; JOHN/JANE :
DOE(S) LAW ENFORCEMENT :
OFFICERS OF THE EGG HARBOR :
CITY POLICE DEPARTMENT 1-20; :
JOHN/JANE DOE(S) LAW :
ENFORCEMENT OFFICERS OF THE :
EGG HARBOR TOWNSHIP POLICE :
DEPARTMENT 1-20; JOHN/JANE :
DOE(S) LAW ENFORCEMENT :
OFFICERS OF THE TOWNSHIP OF :
MULLICA POLICE DEPARTMENT 1-20; :
JOHN/JANE DOE(S) LAW :
ENFORCEMENT OFFICERS FROM :
OTHER LAW ENFORCEMENT :
AGENCIES 1-20; and ABC OTHER LAW :
ENFORCEMENT AGENCIES 1-20, :

COMPLAINT AND JURY DEMAND

Defendants.

Plaintiffs, Carla Weldon and Troy Sessoms, individually and on behalf of minor Plaintiffs C.S., C.S., D.F.J., D.F.J., D.F.J., and D.F.J. (collectively, "Plaintiffs"), by way of Complaint against Defendants, Damon G. Tyner, in his official capacity as Atlantic County Prosecutor, the Atlantic County Prosecutor's Office, the Atlantic County Sheriff's Office, John/Jane Doe(s) Law Enforcement Officers of the Atlantic County Prosecutor's Office 1-20; John/Jane Doe(s) Atlantic County Sheriff's Officers 1-20; John/Jane Doe(s) New Jersey State Troopers, Detectives and Law Enforcement Officers 1-20; John/Jane Doe(s) Law Enforcement Officers of the City of Pleasantville Police Department 1-20; John/Jane Doe(s) Law Enforcement Officers of the Township of Galloway Police Department 1-20; John/Jane Doe(s) Law Enforcement Officers of the Ocean County

Prosecutor's Office 1-20; John/Jane Doe(s) Law Enforcement Officers of the Atlantic City Police Department 1-20; John/Jane Doe(s) Law Enforcement Officers of the Egg Harbor City Police Department 1-20; John/Jane Doe(s) Law Enforcement Officers of the Egg Harbor Township Police Department 1-20; John/Jane Doe(s) Law Enforcement Officers of the Township of Mullica Police Department 1-20; John/Jane Doe(s) Law Enforcement Officers from Other Law Enforcement Agencies 1-20; and ABC Other Law Enforcement Agencies 1-20 (collectively, "Defendants"), allege as follows:

FIRST COUNT
Violation of Article I, paragraph 7 of the
New Jersey State Constitution

The Parties

1. Plaintiff, Carla Weldon ("Weldon"), is an adult individual who, at all relevant times, resided at 204 Cincinnati Avenue, Egg Harbor City, Atlantic County, New Jersey 08215. Weldon is the biological mother to minor Plaintiffs C.S. and C.S. and was, at all relevant times, the foster parent of the four minor Plaintiff children whose initials are D.F.J. Weldon brings this action individually and on behalf of the minor children.

2. Plaintiff, Troy Sessoms ("Sessoms"), is an adult individual who, at all relevant times, also resided at 204 Cincinnati Avenue, Egg Harbor City, Atlantic County, New Jersey 08215. Sessoms is the biological father to minor Plaintiffs C.S. and C.S. and was, at all relevant times and upon information and belief, acting as a foster parent and/or in such capacity for the four minor Plaintiff children whose initials are D.F.J. Sessoms brings this action individually and on behalf of the minor children.

3. Plaintiff, C.S., is a female biological child of Plaintiffs Weldon and Sessoms, who was

at the time of the events described herein two years old, and who resided in the Weldon-Sessoms household.

4. Plaintiff, C.S., is a male biological child of Plaintiffs Weldon and Sessoms, who was at the time of the events described herein approximately one year old, and who resided in the Weldon-Sessoms household.

5. Plaintiff, D.F.J., was at all relevant times a female foster child and cousin of the Plaintiff minor C.S. children who lived in the Weldon-Sessoms household, and who was 15 years old at the time of the events described in this Complaint.

6. Plaintiff, D.F.J., was at all relevant times a female foster child and cousin of the Plaintiff C.S. children who lived in the Weldon-Sessoms household, and who was 12 years old at the time of the events described in this Complaint.

7. Plaintiff, D.F.J., was at all relevant times a female foster child and cousin of the Plaintiff C.S. children who lived in the Weldon-Sessoms household, and who was 10 years old at the time of the events described in this Complaint.

8. Plaintiff, D.F.J., was at all relevant times a female foster child and cousin of the Plaintiff C.S. children who lived in the Weldon-Sessoms household, and who was seven years old at the time of the events described in this Complaint.

9. Defendant, Damon G. Tyner ("Tyner"), against whom suit is brought in his official capacity, is and was at all relevant times the appointed Atlantic County Prosecutor, was responsible for the operations of the Atlantic County Prosecutor's Office, and has a business address of 4997 Unami Boulevard, Suite 2, P.O. Box 2002, Mays Landing, Atlantic County, New Jersey 08330.

10. Defendant, Atlantic County Prosecutor's Office ("ACPO"), located at 4997 Unami

Boulevard, Suite 2, P.O. Box 2002, Mays Landing, Atlantic County, New Jersey 08330, is the chief law enforcement agency for Atlantic County and is responsible for, among other things, investigating and prosecuting felony criminal offenses which occur in Atlantic County.

11. Defendant, Atlantic County Sheriff's Office ("ACSO"), is a law enforcement agency with jurisdiction in Atlantic County, and which has a business address of 4997 Unami Boulevard, Mays Landing, Atlantic County, New Jersey 08330.

12. Defendants, John/Jane Doe(s) Law Enforcement Officers of the Atlantic County Prosecutor's Office 1-20 ("ACPO personnel"), are spokespersons, agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed and overseen by Tynar and others at the ACPO, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the ACPO personnel have a business address at 4997 Unami Boulevard, Suite 2, P.O. Box 2002, Mays Landing, Atlantic County, New Jersey 08330.

13. Defendants, John/Jane Doe(s) Atlantic County Sheriff's Officers 1-20 ("Sheriff's Officers"), are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by the ACSO, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the Sheriff's Officers have a business address of 4997 Unami Boulevard, Mays Landing, Atlantic County, New Jersey 08330.

14. Defendants, John/Jane Doe(s) New Jersey State Troopers, Detectives and Law Enforcement Officers 1-20 (the "State Police actors"), are agents, detectives, troopers, and/or duly constituted law enforcement officers with statewide jurisdiction and are of various ranks, including

but not limited to those acting in a supervisory capacity, who are employed by the New Jersey State Police, and who may be responsible and liable for acts and omissions described in this Complaint. The State Police actors' actual locations throughout the New Jersey State Police system are presently unknown. However, the business address for the Division of State Police is River Road, P.O. Box 7068, West Trenton, New Jersey 08628-0068.

15. Defendants, John/Jane Doe(s) Law Enforcement Officers of the City of Pleasantville Police Department 1-20 (the "Pleasantville officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by the City of Pleasantville Police Department, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the Pleasantville officers have a business address located at the Pleasantville Police Department, 17 N. 1st Street, Pleasantville, New Jersey 08232.

16. Defendants, John/Jane Doe(s) Law Enforcement Officers of the Township of Galloway Police Department 1-20 (the "Galloway officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by the Township of Galloway Police Department, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the Galloway officers have a business address located at the Galloway Township Police Department, 300 E. Jimmie Leeds Road, Galloway, New Jersey 08201.

17. Defendants, John/Jane Doe(s) Law Enforcement Officers of the Ocean County Prosecutor's Office 1-20 (the "Ocean County officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in

a supervisory capacity, who are employed by the Ocean County Prosecutor's Office, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the Ocean County officers have a business address located at the Ocean County Prosecutor's Office, 199 Hooper Avenue, P.O. Box 2191, Toms River, New Jersey 08754-2191.

18. Defendants, John/Jane Doe(s) Law Enforcement Officers of the Atlantic City Police Department 1-20 (the "Atlantic City officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by the Atlantic City Police Department, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the Atlantic City officers have a business address located at the Atlantic City Police Department, Public Safety Building, 2715 Atlantic Avenue, Atlantic City, New Jersey 08401.

19. Defendants, John/Jane Doe(s) Law Enforcement Officers of the Egg Harbor City Police Department 1-20 (the "EHC officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by the Egg Harbor City Police Department, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the EHC officers have a business address located at the Egg Harbor City Police Department, 500 London Avenue, Egg Harbor City, New Jersey 08215.

20. Defendants, John/Jane Doe(s) Law Enforcement Officers of the Egg Harbor Township Police Department 1-20 (the "EHT officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by the Egg Harbor Township Police Department, and who may be

responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the EHT officers have a business address located at the Egg Harbor Township Police Department, 3515 Bargaintown Road, Egg Harbor Township, New Jersey 08234.

21. Defendants, John/Jane Doe(s) Law Enforcement Officers of the Mullica Township Police Department 1-20 (the "Mullica officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by the Mullica Township Police Department, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the Mullica officers have a business address located at the Mullica Township Police Department, 4528 S. White Horse Pike, P.O. Box 317, Elwood, New Jersey 08217.

22. Defendants, John/Jane Doe(s) Law Enforcement Officers from other law enforcement agencies 1-20 (the "unknown officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by other law enforcement agencies, and who may be responsible and liable for the acts and omissions described in this Complaint. The business addresses for the unknown officers are as yet unknown.

23. Defendants, ABC Other Law Enforcement Agencies 1-20 (the "undetermined agencies") are other duly constituted law enforcement agencies whose roles, if any, in the events described in this Complaint are as yet undetermined, but which may be responsible and liable for the acts and omissions described in this Complaint. The business addresses for the undetermined agencies is as yet unknown.

24. To the extent the full and/or true name and/or identity of any Defendant is later

determined. through discovery and investigation, Plaintiffs reserve the right to amend the caption and body of this Complaint to name those individuals and/or agencies who and/or which may be responsible and liable for the acts and omissions described in this Complaint.

25. On April 20, 2017, Plaintiffs served evidence preservation letters upon numerous law enforcement agencies, including the Defendants named herein. Thus, Plaintiffs reserve the right to make a claim for evidence spoliation in the event discoverable evidence has not been preserved.

26. On June 23, 2017, Plaintiffs served Tort Claim Notices upon the Defendants pursuant to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1. et seq.

Factual Allegations

27. At approximately 6:24 a.m. on March 30, 2017, Plaintiff Weldon was walking out of her bedroom on the second floor of her residence when numerous unknown Defendant officers entered the Plaintiffs' residence at 204 Cincinnati Avenue, in Egg Harbor City, New Jersey through the front door.

28. At the time, Plaintiff Weldon heard the Defendant officers yelling, "Police, police, put your hands up!"

29. Plaintiff Sessoms came down the stairs behind Plaintiff Weldon.

30. All six of the minor Plaintiff children were at home at the time, together with Plaintiffs Weldon and Sessoms.

31. At the time, one of the foster children identified as D.J.F. was walking down the stairs.

32. The officers were dressed in all black, wearing puffy vests, the backs of which were emblazoned with the word "POLICE."

33. About five officers were on the first floor with four of the children.

34. Some of the children were sitting on the couch on the first floor waiting for their school bus to arrive to take them to school that morning.

35. Approximately another six officers were running up the stairs toward Plaintiffs Weldon and Sessoms.

36. At least two of these officers had their firearms out.

37. The daughter of Plaintiffs Weldon and Sessoms, identified as C.S., who was two years old at the time, was headed back to bed on the second floor while the son of Weldon and Sessoms, C.S., who was approximately one year old, was asleep on the second floor.

38. Plaintiff Weldon saw guns pointed in the direction of the children when she came down the stairs with her hands up.

39. Upon information and belief, all of the children saw guns, except for the son of Plaintiffs Weldon and Sessoms, C.S., who was asleep at the time.

40. Amid the chaos and confusion of this police raid, one or more of the Defendant officers who invaded Plaintiffs' home on that morning asked why a bedroom door on the second floor was locked.

41. Plaintiff Weldon told the Defendant officers of her belief that the door was not locked.

42. In response, one of the Defendant officers cursed at her, and told her to stop lying, and/or that Weldon was "f---in' lying," or words to this effect.

43. The Defendant officers broke into that bedroom and damaged the door; as it turned out, the door had been locked by accident.

44. At some point during the raid, the young daughter of Plaintiffs Weldon and Sessoms, C.S., was in the arms of one of the Defendant officers.

45. A female Defendant officer told Plaintiff Weldon not to worry, but to continue to keep her hands up on the first floor.

46. Once all of the adults and children (except for C.S., the son of Weldon and Sessoms) were in the living room of the residence, one or more of the Defendant officers began to mention a name with which the Plaintiffs were not familiar.

47. During this time, the Plaintiff minor children were on the couch, crying and hysterical.

48. At some point, however, the Defendant officers came to the realization that they had raided the wrong residence.

49. As a recognition and admission that the Defendant officers had violated Plaintiffs' right to the sanctity of their home, one of the Defendant officers offered to walk the children to their bus stop.

50. Upon information and belief, Defendants neither had a search warrant for the premises nor presented Plaintiffs with such a document.

51. Plaintiffs did not consent to, or voluntarily allow, Defendants' entry into their home.

52. In fact, one or more of the Defendant officers told Plaintiffs that they "**came in because the door was open,**" or words to this effect.

53. Upon further information and belief, the Defendant officers also attempted, shortly after their illegal entry into Plaintiffs' residence, to gain entry into the apartment of one of Plaintiffs' neighbors, which entry that neighbor refused on account of Defendants' not being in possession of a search warrant. It is further alleged, upon information and belief, that Defendants later sought a warrant for this neighboring residence.

54. On or about April 1, 2017, Defendants Tyner, and/or the ACPO, and/or ACPO personnel

announced a joint investigation which culminated in police raids in Pleasantville, Egg Harbor City, and other areas of Atlantic County on March 30, 2017, the same day Plaintiffs' home was raided.

55. The raids announced by Tyner, by the ACPO, and/or by ACPO personnel shortly after Plaintiffs' home was raided resulted in the arrests of multiple suspects and seizures of narcotics and firearms at other locations, including the arrest of Kenneth J. Burrell, who was an alleged leader of a narcotics trafficking network and who, upon information and belief, lived on Buffalo Avenue and a short distance away from Plaintiffs' residence in Egg Harbor City.

56. Burrell's criminal case was prosecuted in Superior Court, Atlantic County.

57. On May 25, 2018, Defendants Tyner, and/or the ACPO, and/or ACPO personnel announced that Burrell had been sentenced to a lengthy prison term in Superior Court, Atlantic County.

58. Public pronouncements by Defendants Tyner, by the ACPO, and/or by ACPO personnel demonstrate that these ACPO defendants were in charge of the operation which led to the arrests of numerous individuals and seizure of illegal contraband, but which operation also resulted in the entry into Plaintiffs' home on March 30, 2017 in violation of the New Jersey Constitution.

59. These public pronouncements by Defendants Tyner, by the ACPO, and/or by ACPO personnel also confirmed the involvement, participation and/or assistance provided by officers from the multiple other law enforcement agencies referred to above in this Complaint.

60. Based on these public pronouncements by Tyner, by the ACPO, and/or by ACPO personnel, it is believed, and therefore alleged, that John/Jane Doe officers from the law enforcement agencies referred to herein entered Plaintiffs' home on March 30, 2017 in violation of the New Jersey Constitution.

61. Defendants violated Plaintiffs' rights under Article I, Paragraph 7 of the New Jersey Constitution by depriving them of their freedom from unreasonable searches and seizures -- specifically, by illegally entering and remaining in Plaintiffs' home and by subjecting Plaintiffs to excessive force as described herein.

62. As a proximate result of Defendants' acts and omissions, Plaintiffs suffered damages, including but not limited to constitutional injury, property damage, and substantial emotional upset and mental pain, suffering, grief and anguish.

63. Plaintiffs bring this Count pursuant to the New Jersey Civil Rights Act, N.J.S.A. 10:6-2 (c), (d), (e), and (f).

64. Defendants Tyner, the ACPO, ACPO personnel, and those as-yet unknown defendants acting in a supervisory capacity are liable for the acts and omissions of the Defendant officers described in this Count and in the Counts set forth below, pursuant to the doctrine of *respondeat superior*.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants individually, jointly and severally, in amounts that would reasonably and properly compensate them in accordance with the law, together with punitive damages, prejudgment interest, reasonable attorney's fees, costs of suit, and such other relief as the Court deems just.

SECOND COUNT Trespass

65. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth at length herein.

66. Defendants, upon information and belief, were lacking a search warrant when they entered Plaintiffs' home.

67. Plaintiffs did not consent to Defendants' entry into their home.

68. Defendants' entry into Plaintiffs' home was unauthorized.

69. Upon information and belief, Defendants had no legal authority to enter Plaintiffs' residence and, in fact, indicated that they entered the Plaintiffs' home because "the door was open," or words to that effect.

70. Accordingly, Defendants committed the civil tort of trespass upon real property.

71. Defendants' actions in entering and remaining in Plaintiffs' home were intentional.

72. As a proximate result of Defendants' acts and omissions, Plaintiffs suffered damages, including but not limited to property damage, substantial emotional upset and mental pain, suffering, grief and anguish.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants individually, jointly and severally, in amounts that would reasonably and properly compensate them in accordance with the law, together with punitive damages, prejudgment interest, reasonable attorney's fees, costs of suit, and such other relief as the Court deems just.

THIRD COUNT
Intentional Infliction of Emotional Distress

73. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth at length herein.

74. Defendants' actions as described herein were committed intentionally and/or recklessly.

75. Defendants' conduct as described in this Complaint was extreme and outrageous, including but not limited to the act of pointing loaded firearms at children whom Defendants could not reasonably have believed were engaged in criminal activity.

76. Defendants' actions proximately caused Plaintiffs to suffer emotional distress.

77. The emotional distress suffered by Plaintiffs was and is so severe that no reasonable person could be expected to endure it.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants individually, jointly and severally, in amounts that would reasonably and properly compensate them in accordance with the law, together with punitive damages, prejudgment interest, reasonable attorney's fees, costs of suit, and such other relief as the Court deems just.

FOURTH COUNT

Assault

78. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth at length herein.

79. By their actions and/or behavior described in detail herein, and in particular through the use of deadly weapons aimed in Plaintiffs' direction, Defendants caused Plaintiffs reasonably to be placed in fear and to believe that they were at risk of death, physical harm and imminent bodily injury, including by Defendants' physical menace.

80. Defendants' actions were intentional and/or reckless.

81. As a proximate result of Defendants' acts and omissions, Plaintiffs suffered damages, including but not limited to substantial emotional upset and mental pain, suffering, grief and anguish.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants individually, jointly and severally, in amounts that would reasonably and properly compensate them in accordance with the law, together with punitive damages, prejudgment interest, reasonable attorney's fees, costs of suit, and such other relief as the Court deems just.

FIFTH COUNT

Negligence

82. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth at length herein.

83. Defendants in the alternative were negligent and/or reckless in entering and remaining in Plaintiffs' residence without a warrant and/or without the consent of Plaintiffs.

84. Defendants, as law enforcement officers, owed Plaintiffs and/or the public a duty of care to abide by the New Jersey Constitution, to abide by the laws and regulations of the State of New Jersey, and to abide by the guidelines and directives which governed their employment as law enforcement officers, and owed Plaintiffs and/or the public a duty of care to act as reasonable law enforcement officers and/or to refrain from placing Plaintiffs and others in danger.

85. Defendants breached their duty of care in the following ways: (1) by invading the sanctity of the home, upon information and belief, without a search warrant and/or other legal justification to enter; and/or (2) by remaining in Plaintiffs' home longer than necessary; and/or (3) by pointing loaded firearms at and/or in the direction of the adult Plaintiffs; and/or (4) by pointing loaded firearms at and/or in the direction of minor children who could not have been involved in any criminal activity Defendants were investigating at the time; and/or (5) by causing property damage

at the residence; and/or (6) by failing properly to determine whether they were entering the correct residence pursuant to a search warrant, if the same was actually obtained; and/or (7) in such other ways as may be revealed in discovery.

86. As a proximate result of Defendants' acts and omissions, Plaintiffs suffered damages, including but not limited to property damage, substantial emotional upset and mental pain, suffering, grief and anguish.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants individually, jointly and severally, in amounts that would reasonably and properly compensate them in accordance with the law, together with prejudgment interest, reasonable attorney's fees, costs of suit, and such other relief as the Court deems just.

SIXTH COUNT
Negligent Infliction of Emotional Distress

87. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth at length herein.

88. Defendants owed a duty of care as outlined in paragraph 84 of this Complaint, which is incorporated herein by reference.

89. Defendants negligently and/or recklessly breached their duty of care as outlined in paragraph 85 of this Complaint, which is incorporated by reference.

90. As a proximate result of Defendants' acts and omissions, Plaintiffs suffered severe emotional distress.

91. Furthermore, it was foreseeable that Defendants' acts and omissions would cause fright or shock severe enough to cause emotional injury in average persons.

92. The harm was foreseeable, in that Defendants: (1) entered the Weldon-Sessoms residence on the improper basis that "the door was open," or words to this effect; and/or (2) entered the residence, upon information and belief, without a warrant; and/or (3) failed to make certain that they were entering the correct residence; and/or (4) entered the residence with a show of overwhelming force which would place any adult -- and particularly children -- in fear; and/or (5) pointed loaded firearms at the adult Plaintiffs; and/or (6) pointed loaded firearms at children in the residence who could not have been involved in any criminal activity Defendants were investigating; and/or (7) other ways which may be revealed in discovery.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants individually, jointly and severally, in amounts that would reasonably and properly compensate them in accordance with the law, together with prejudgment interest, reasonable attorney's fees, costs of suit, and such other relief as the Court deems just.

SEVENTH COUNT
Negligent Supervision

93. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth at length herein.

94. As alleged elsewhere herein, Defendants Tyner, the ACPO, the ACPO personnel, and/or the other as-yet unidentified supervisory officers were in charge of the law enforcement investigation and operations leading up to and on or about March 30, 2017, which resulted in the illegal raid on Plaintiffs' home in Egg Harbor City.

95. The acts and/or omissions complained of herein occurred and were within the scope of the Defendant officers' employment for Defendants Tyner, for the ACPO, for the ACPO personnel.

and/or for the other as-yet unidentified supervisory officers, and/or for the various law enforcement agencies by whom they were employed.

96. Defendants Tyner, the ACPO, the ACPO personnel, and/or other as-yet unidentified supervisory officers, and/or the various law enforcement agencies involved prior to and on March 30, 2017 negligently failed to supervise the actions and conduct of the Defendant officers who raided Plaintiffs' residence.

97. Upon information and belief, in addition to those acts and omissions which may be revealed in discovery, and in the alternative, Defendants Tyner, the ACPO, the ACPO personnel, and/or the other as-yet unidentified supervisory officers, failed to intervene and/or failed to prevent the illegal entry into Plaintiffs' home, failed to prevent the acts and omissions complained of herein, and/or failed to de-escalate the encounter at Plaintiffs' home, and/or, upon information and belief, failed to discipline some or all of those officers responsible for violating Plaintiffs' rights under the New Jersey Constitution and as otherwise described in this Complaint.

98. Such named and unnamed supervisory defendants had a duty to members of the public and to Plaintiffs to insure that such basic violations of rights under the New Jersey Constitution did not occur.

99. As a proximate result of Defendants' acts and omissions, Plaintiffs suffered damages, including but not limited to constitutional injury, property damage, substantial emotional upset and mental pain, suffering, grief and anguish.

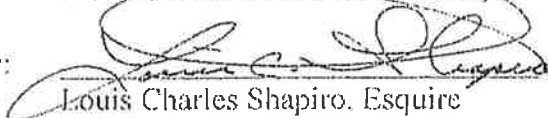
WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants individually, jointly and severally, in amounts that would reasonably and properly compensate them in accordance with the law, together with prejudgment

interest, reasonable attorney's fees, costs of suit, and such other relief as the Court deems just.

Respectfully submitted,

~~LOUIS CHARLES SHAPIRO, P.A.~~

By:



Louis Charles Shapiro, Esquire
Attorney for Plaintiffs

DATED: March 22, 2019

NOTICE PURSUANT TO RULES 1:5-1(a) and 4:17-4(c)

TAKE NOTICE that the undersigned attorney for the Plaintiffs hereby demands pursuant to Rules 1:5-1(a) and 4:17-4 (c) that each party herein serving pleadings and interrogatories and receiving answers thereto serve copies of all such pleadings and answered interrogatories upon the undersigned attorney, and TAKE NOTICE that this is a continuing demand.

~~LOUIS CHARLES SHAPIRO, P.A.~~

By:



LOUIS CHARLES SHAPIRO, ESQUIRE

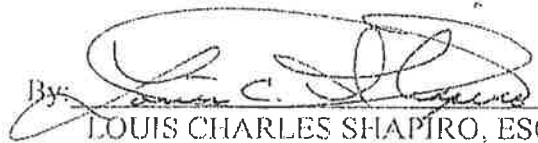
DATED: March 22, 2019

CERTIFICATION PURSUANT TO RULE 4:5-1

To the best of the undersigned counsel's knowledge, information and belief, the matter in controversy is not the subject of any other court proceeding, nor is any other arbitration or court proceeding contemplated, except that Plaintiffs reserve the right to amend the within Complaint to name various as yet unknown John/Jane Doe Defendants, whose identities may become known through discovery and investigation.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

LOUIS CHARLES SHAPIRO, P.A.

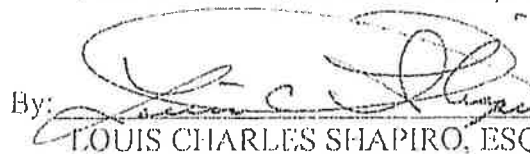
By: 
LOUIS CHARLES SHAPIRO, ESQUIRE

DATED: March 22, 2019

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Louis Charles Shapiro, Esquire is designated as Trial Counsel for Plaintiffs in this action.

LOUIS CHARLES SHAPIRO, P.A.

By: 
LOUIS CHARLES SHAPIRO, ESQUIRE

DATED: March 22, 2019

DEMAND FOR INTERROGATORIES

TAKE NOTICE that, pursuant to New Jersey Court Rule 4:17-1, as amended effective September 5, 2000, Plaintiffs hereby demand that Defendants provide Answers to "Uniform Interrogatories Form "C" within the sixty (60) day time period prescribed by the New Jersey Court Rules.

LOUIS CHARLES SHAPIRO, P.A.

By: 
LOUIS CHARLES SHAPIRO, ESQUIRE

DATED: March 22, 2019

DEMAND FOR JURY TRIAL

TAKE NOTICE that the Plaintiffs hereby demand a Trial by Jury on all issues in accordance with the Rules of this Court.

LOUIS CHARLES SHAPIRO, P.A.

By: 
LOUIS CHARLES SHAPIRO, ESQUIRE

DATED: March 22, 2019