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

COURTNEY A. SCHAEEL

Plaintiff,

v.

**TOWN OF WESTFIELD, WESTFIELD
POLICE DEPARTMENT, WESTFIELD
CHIEF OF POLICE DAVID WAYMAN,
LIEUTENANT EDWARD MAGUIRE,
LIEUTENANT CHRISTOPHER
BATTILORO, CAPTAIN SCOTT RODGER,
SERGEANT LAUREN MALONEY,
OFFICER NICHOLAS BRUNO, OFFICER
ELIZABETH DAVIS, SERGEANT JASON
CARTER, AND JOHN DOES 1-15.**

Defendants.

Civil Action No.

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

1. This action is brought to redress intentional and wanton violations of the rights of the Plaintiff pursuant to the Fourth, Fifth, Eighth, Ninth and Fourteenth Amendments of the United States Constitution, as well as violations of federal statutory law, committed by the Town of Westfield and its Police Department, and one or more of its agents, servants, employees or officers, in effecting unreasonable, unconstitutional and unlawful arrest and physical assaults upon the Plaintiff, and by means of the use of excessive force.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C.A. §§ 1983, 1985, 1986 and 1988. This Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. §§ 1331, 1332, and 1343, as one or more causes of action arise under the United States Constitution and federal law. Plaintiff brings this action for damages under 42 U.S.C. §§ 1983 and 1988, since the conduct complained of was engaged in under color of state law, and such conduct by the Defendants subjected the Plaintiff to deprivation of rights, privileges and immunities secured by the United States Constitution under the Fourth, Fifth, Eighth, Ninth and Fourteenth Amendments.

3. Plaintiff further invokes the pendent jurisdiction of this Court, relating to Plaintiff's state law claims, pursuant to 28 U.S.C. § 1367.

4. Venue is proper in this District, as it is the District in which the Plaintiff and the Defendants reside and the District in which the claims arise. 28 U.S.C. § 1391(b).

PARTIES

5. At all relevant times Plaintiff Courtney A. Schael resided at 511 Summit Avenue in the Town of Westfield in Union County, which is located in the District of New Jersey.

6. At all relevant times Defendants Westfield Chief of Police David Wayman (hereafter referred to as "Wayman"), Captain Scott Rodger (hereafter referred to as "Rodger"), Lieutenant Edward Maguire (hereafter referred to as "Maguire"), Lieutenant Christopher Battiloro (hereafter referred to as "Battiloro"), Sergeant Lauren Maloney, Badge No. 162 (hereafter referred to as "Maloney"), Officer Nicholas Bruno,

Badge No. 174 (hereafter referred to as "Bruno"), Officer Elizabeth Davis, Badge No. 179 (hereafter referred to as "Davis"), Sergeant Jason Carter (hereafter referred to as "Carter"), and John Does 1-15 were agents, servants, employees and/or officers of the Westfield Police Department. On December 6 and 7, 2013, these Defendants were either assigned to work together or were in fact working together at or near the location of the 120 Wychwood Road, Westfield, New Jersey and/or at the Westfield Police Department, along with Defendants John Doe 1-10 (these names being fictitious but meant to describe unidentified agents, servants, employees and/or officers of the Westfield Police Department who were involved in the incident of December 6 and 7, 2013, pertaining to the Plaintiff).

7. Defendant Town of Westfield is a municipality situated within the County of Union, State of New Jersey, and is a "person" within the meaning of 42 U.S.C. § 1983. At all times relevant hereto, the Township of Westfield employed, directed, supervised, condoned, and/or acquiesced in the conduct of Defendants Wayman, Rodger, Maguire, Battiloro, Maloney, Bruno, Davis, Carter and/or John Does 1-15.

8. Defendant Westfield Police Department is a municipal government agency located in the Town of Westfield, New Jersey and all times relevant hereto, the Town of Westfield employed, directed, supervised, condoned and/or acquiesced in the conduct of Defendants Wayman, Rodger, Maguire, Battiloro, Maloney, Bruno, Davis, Carter and/or John Does 1-15.

9. Defendant John Doe 11 is the unidentified Westfield Police officer who failed to report and/or take action with respect to the assaults witnessed against Plaintiff as set forth in Paragraph 31 *infra*.

10. John Doe 12 is the unidentified Westfield Police spokesperson who, along with Defendant Rodger, made false statements to the media as set forth in paragraph 53 *infra*.

11. John Doe 13 is the unidentified Westfield Police officer who failed to obtain medical treatment for Plaintiff as set forth in paragraph 46 *infra*.

12. Defendants Wayman, Maguire, Battiloro, Maloney and/or John Does 14-15 (these names being fictitious) were, upon information and belief, members of the Westfield Police Department and had supervisory authority over the patrol division or the part of the police department to which Defendants Bruno, Davis, Rodger, as well as Maguire, Battiloro and Maloney, who as supervising officers were subordinate to their superior officers, including Defendant Chief of Police Wayman, were assigned.

GENERAL ALLEGATIONS

13. At all times material hereto, Defendants Wayman, Rodger, Maguire, Battiloro, Maloney, Bruno, Davis, Carter and/or John Does 1-15 purported to act and/or acted within the course of their duties and scope of their employment as the agents, servants, employes and/or officers of Defendants Town of Westfield, the Westfield Police Department under the direction and supervision of Defendants Wayman, Maguire, Battiloro and/or John Does 14-15 (these names being fictitious).

14. At all times material hereto, Defendants Wayman, Rodger, Maguire, Battiloro, Maloney, Bruno, Davis, Carter and/or John Does 1-15 acted either negligently or intentionally, maliciously, and/or wantonly under color of state law and authority, and in reckless, intentional or callous disregard of or indifference to the rights secured by Plaintiff Courtney A. Schael by federal and state laws and rules, the Fourth,

Fifth, Eighth, Ninth and Fourteenth Amendments to the Constitution of the United States and the Constitution of the State of New Jersey.

15. At all times material hereto, Defendants Town of Westfield, the Westfield Police Department under the direction and supervision of Defendants Wayman, Maguire, Battiloro, Carter, Maloney and/or John Does 14-15 acted by and through its agents, servants, employees and/or officers Defendants Rodger, Maloney, Davis, Bruno, Carter and/or John Does 1-13, who acted in accordance with and pursuant to governmental customs, patterns, and policies of committing constitutionally offensive acts, including but not limited to the harassment of citizens, the use of excessive force, false arrests, and/or the filing of false and baseless charges against law-abiding citizens, which customs, patterns and policies were known, or in the exercise of reasonable diligence and care, should have been known by Defendants Town of Westfield and the Westfield Police Department.

16. Defendant Town of Westfield is a governmental entity and/or political subdivision of the State of New Jersey organized and existing under and by virtue of laws of the State of New Jersey which maintains, operates, manages and controls the Westfield Police Department, of which the individuals were employees, and has offices at the Westfield Municipal Building, Westfield, New Jersey.

FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

17. On or about November 20, 2013, Plaintiff's sister, Lisa Varandas (hereafter referred to as "Varandas"), purchased a home at 120 Wychwood Road (hereafter referred to as the "Wychwood House") located on the corner of Wychwood Road and East Broad Street in Westfield, New Jersey. The Wychwood House, built in

1928, was a landmark home in Westfield, NJ. Its stunning antique stained glass windows, original plank wood doors and other architectural features resembled a storybook cottage that was essentially untouched since its construction in 1928.

18. Varandas rented the Wychwood House to Plaintiff. Plaintiff, a single mother, intended on living in the Wychwood House with her two young daughters, at that time ages 6 and 11. Plaintiff, an attorney with a solo law practice, also intended on working from the Wychwood House.

19. In late November 2013, Plaintiff consolidated her two law offices located in Union and Westfield, NJ to the Wychwood House and moved all of her office furniture, computers and law files to the eastside section of the Wychwood House.

20. On December 6, 2013, less than two weeks after Varandas purchased the Wychwood House and just days after Plaintiff completed moving her entire law practice into the Wychwood House, Varandas and Plaintiff received calls from the real estate broker telling them that the Wychwood House was on fire. When Plaintiff received the call, Plaintiff was in Toms River, New Jersey attending to her elderly mother who suffers from dementia while Plaintiff's father was having heart surgery.

21. On that date, Plaintiff left Toms River and drove to the Wychwood House. When Plaintiff arrived at the Wychwood House, Plaintiff was met by the real estate broker, Varandas and Ms. Varandas' boyfriend, Kenneth DeFranco (hereafter referred to as "DeFranco"). Plaintiff also spoke with various neighbors who were standing along Wychwood Road next to the Wychwood House.

22. On that date, Westfield Fire Department personnel were standing on Wychwood Road next to the driveway to the Wychwood House. A canopy had been set up on Wychwood Road next to the Wychwood House.

23. On that date, after Plaintiff arrived at the Wychwood House, Westfield Fire Department personnel, upon information and belief, the Chief of Westfield Fire Department (hereafter referred to as "Chief"), discussed the fire with Plaintiff and Varandas while standing on Wychwood Road by the driveway of the Wychwood House.

24. On that date, the Chief advised Plaintiff and her sister that the fire had started on the eastside of the Wychwood House farthest from Wychwood Road. Plaintiff's law practice was entirely located in the eastside of the Wychwood House.

25. On that Date, the Chief further advised Plaintiff that the fire on the eastside of the Wychwood House had been extinguished but that the fire had spread to the westside of the Wychwood House along Wychwood Road and the fire department was directing their efforts to the westside of the Wychwood House.

26. On that date, after their discussions with the Chief, Plaintiff and Varandas stood under the canopy on Wychwood Road next to the burning Wychwood House with DeFranco. Both Plaintiff and Varandas were observably distraught over the loss of the landmark Wychwood House and Plaintiff's entire law practice.

27. On that date, Plaintiff left the canopy area and walked away from the Wychwood House to East Broad Street. While walking on the sidewalk on East Broad Street, Plaintiff observed flames coming from the eastside of the Wychwood House where Plaintiff's law office was located. Plaintiff further observed that no fire personnel were in the vicinity of the flames nor could the firefighters observe the flames

on the eastside of the Wychwood House from their location on the driveway on the westside of the Wychwood House.

28. On that date, Plaintiff walked back to Wychwood Road to the location that Plaintiff has previously spoken with the Chief to advise the Chief that the fire was burning again on the east side of the Wychwood House. Plaintiff was confronted by Officer Maloney just past the canopy area. On that date, Defendant Maloney began to verbally harass Plaintiff.

29. On that date, Plaintiff advised Defendant Maloney that Plaintiff wanted to go back to talk to the Chief again to tell him that the Wychwood House was burning on the east side. Defendant Maloney told Plaintiff that Plaintiff was not permitted to speak to the Chief.

30. On that date, Plaintiff requested that Defendant Maloney tell the Chief that the fire was burning on the east side of the Wychwood House. Defendant Maloney refused Plaintiff's request using abusive and harassing language. Plaintiff continued to speak to Defendant Maloney regarding her refusal to speak to the Chief. Thereafter, Defendant Maloney unlawfully, illegally, maliciously and wrongfully repeated physically assaulted Plaintiff by pushing and striking her in the face and shoving her causing injury to Plaintiff.

31. On that date and time, Officer Maloney's physical assault of Plaintiff was observed by another Westfield Police Officer, John Doe 11, who was later heard confronting Defendant Maloney about assaulting Plaintiff. Upon information and belief, Defendant John Doe 11 failed to report such unlawful and excessive force and

Defendant Maloney's physical assault of Plaintiff to his superior officers, the Westfield Police Department or the Town of Westfield.

32. On that date and time, Defendant Maloney circled around the back of Plaintiff and De Franco who was standing behind Plaintiff and using unlawful and excessive force tackled Plaintiff and DeFranco forcing them to the ground with Defendant Maloney laying directing on top of them, injuring Plaintiff and causing her eyeglasses to be mangled and fly off her face several feet away.

33. On that date and time, Defendant Maloney got off of DeFranco and let him get up off the ground and continued to lie on top of Plaintiff. Defendant Maloney then forcibly pushed Plaintiff's face into the dirt ground while she handcuffed Plaintiff.

34. On that date and time, Defendant Maloney unlawfully and illegally arrested Plaintiff without justification or probable cause. Defendant Maloney did not advise Plaintiff that she was under arrest or of any charge(s) or advise Plaintiff of her rights pursuant to the Miranda decision.

35. On that date and time, Defendant Maloney forcibly brought Plaintiff to a patrol car located on East Broad Street.

36. On that date and time, Defendant Bruno forcibly picked up Plaintiff and held her perpendicular to the street and then with unlawful and excessive force threw Plaintiff into the rear passenger side of the police car causing Plaintiff's head to violently hit a partition that separated the two seats in the back of the police car vehicle causing injury to Plaintiff, including without limitation, a large bump and contusion on her forehead.

37. On that date and time, Defendants Bruno, Davis, Maloney and/or John Does 1-10 participated in the illegal and unlawful arrest of Plaintiff.

38. On that date and time, Defendants Bruno and Davis violated Plaintiff's Fifth Amendment constitutional rights by interrogating her without reading her rights pursuant to the Miranda decision. Defendants Bruno and Davis further violated Plaintiff's Fifth Amendment constitutional rights by interrogating her after she requested that she be allowed to call an attorney.

39. Defendants, Bruno, Maloney, Davis and Carter falsely issued complaints against Plaintiff without probable cause for disorderly persons violation, aggravated assaults of a police officer, resisting arrest and obstruction.

40. On that date and time, after arriving at the police station, Defendants Davis and Bruno handcuffed Plaintiff to a metal bench. Plaintiff repeatedly advised Defendants Davis and Bruno that she had medical condition and that she needed medications that she took on a daily basis.

41. On that date and time, Plaintiff told Defendants Davis and Bruno that she suffered from post traumatic stress disorder as a result of being carjacked in Fanwood, New Jersey, kidnapped and repeatedly raped and sodomized in 1988.

42. On that date and time, Plaintiff repeatedly requested to make phone calls to her boyfriend who was with her two young children and to an attorney. Defendants Davis and Bruno told Plaintiff that she could not make any telephone calls until they completed their paperwork.

43. On that date and time, after being handcuffed to the bench and interrogated for a lengthy period, Defendants Davis and Bruno would still not allow

Plaintiff to make any phone calls and told Plaintiff that she would not be able to see a judge and would be incarcerated over night.

44. On that date and time, upon being advised that she would be imprisoned and confined to a jail cell without the ability to leave and no medication, Plaintiff suffered a seizure related to her post traumatic stress disorder causing her to be completely disoriented both as to time and place and unable to speak.

45. On that date and time, Plaintiff motioned for something to write with and Defendants Davis and Bruno gave her a pen and paper. Plaintiff wrote on the paper that she suffered from seizures. Defendants Davis and/or Bruno grabbed the pen and paper and after reading Plaintiff's note began to harass, threaten and mock Plaintiff stating that she was lying, that Defendants Davis and Bruno knew Plaintiff could talk but was just refusing to talk, threatening Plaintiff that Plaintiff had better stop faking it and talk to Defendants Davis and Bruno or Plaintiff would be in more trouble and other harassing and threatening remarks. Thereafter, Defendants Davis and Bruno refused to give Plaintiff any writing implements or paper.

46. On that date and time, while Plaintiff was being interrogated, Plaintiff's boyfriend, Gary Sommer (hereafter referred to as "Sommer"), called the Westfield Police Station. Sommer spoke to the commanding officer on duty, upon information and belief, Defendant Maguire and/or John Doe 13, and was told that he could not speak with Plaintiff. Sommer advised the commanding officer of Plaintiff's medical condition, that Plaintiff needed medication and medical attention, and that if Plaintiff had a seizure, Plaintiff would be completely disoriented, confused and unable to speak. The commanding officer responded that "she is playing that game right now".

Defendant Maguire and/or John Doe 13 refused to let Sommer or anyone else speak with Plaintiff, and failed to obtain medical treatment for Plaintiff for her medical condition or the injuries inflicted by Defendants.

47. On that date and time, after completing their paperwork, the Defendants Bruno and/or Davis called emergency volunteers to the station. The emergency volunteers briefly observed Plaintiff during her seizure and saw the contusion on Plaintiff's forehead and bruises from injuries inflicted by the Defendants but were unable to communicate with Plaintiff due to the seizure and left the police station.

48. On that date and time, Defendants Davis and Bruno did not direct the emergency volunteers to take Plaintiff to the hospital or obtain proper medical treatment for Plaintiff. Instead, Defendants Davis and Bruno put Plaintiff in a jail cell.

49. Early in the morning on December 7, 2013, hours after Plaintiff was placed in the jail cell, Plaintiff's seizure passed and she was able to speak.

50. On that date and time, Plaintiff requested that she be immediately taken to the hospital for medical treatment for her head injury and other injuries inflicted by Defendants and for her prescribed medications. At approximately 4:00 am, over six hours after her arrest, Plaintiff was given medical treatment at Overlook Hospital in Summit, New Jersey.

51. On that date and time, Defendants Town of Westfield, the Westfield Police Department, Defendants Davis, Bruno and/or John Does 1-10 had video equipment in operation in the patrol car transporting Plaintiff and in the room where Plaintiff was interrogated which would have memorialized the interaction between Plaintiff and Defendants on December 6 and 7, 2013.

52. Defendants who had sole custody of the videotapes from December 6 and 7, 2015 failed to produce the videotapes with discovery in the criminal action and, upon information and belief, destroyed or misplaced such videotapes.

53. Defendant Rodger and an unidentified police spokesperson, John Doe 12 (this name being fictitious), further violated Plaintiff's constitutional rights pursuant to the Ninth Amendment by making false and defamatory statements about Plaintiff to the newspapers, with the expectation that their false comments would be published, to the detriment of Plaintiff.

54. As a direct and proximate cause of Defendants' unlawful arrest of Plaintiff and the false and defamatory statements made by Defendant Rodger and/or John Doe 12, Plaintiff has suffered a significant loss of business and income.

55. On or about December 7, 2013, Defendant Bruno illegally, unlawfully and wrongfully swore out a complaint against Plaintiff, falsely charging her with aggravated assault on a police officer.

56. On or about December 7, 2013, Defendant Davis illegally, unlawfully and wrongfully swore out a complaint against Plaintiff, falsely charging her with aggravated assault on a police officer.

57. On or about December 7, 2013, Defendants Maloney and Carter illegally, unlawfully and wrongfully swore out a complaint against Plaintiff, falsely charging her with resisting arrest, disorderly conduct, obstructing administration of law and aggravated assault on a police officer.

58. Plaintiff was required to spend significant amounts of money to defend herself against these false charges. Defendants knew there was no probable cause

for the arrest or issuance of the complaints against Plaintiff, but nevertheless maliciously subjected Plaintiff to prosecution.

59. Plaintiff has and will continue to suffer severe emotional trauma and pain and suffering proximately caused by the Defendants. Plaintiff has and will continue to suffer a severe increase in the number and frequency of seizures and other symptoms of post traumatic stress proximately caused by Defendants.

CAUSES OF ACTION

COUNT I

VIOLATION OF FEDERAL CIVIL RIGHTS STATUTE 42 U.S.C. §1983

60. Plaintiff Courtney A. Schael repeats each and every statement contained in the preceding paragraphs as if the same were set forth herein at length, and incorporates the same herein by reference.

61. The respective conduct of Defendants Town of Westfield, the Westfield Police Department, Rodger, Maloney, Bruno, Davis, Carter, Battiloro, Maguire, Wayman, and John Does 1-15, acting under color of state law, is described in detail in the preceding paragraphs and incorporated herein by reference. The Defendants by their unlawful conduct, individually and/or in concert, either negligently or knowingly, intentionally, willfully and/or maliciously or with reckless and callous disregard of, or deliberate indifference to the rights, privileges and immunities secured for Plaintiff by the Constitution of the United States of America, and Amendments, and by the Constitution of the State of New Jersey, attempted to, and did deprive Plaintiff of same in violation of 42 U.S.C. 1983 and 1985.

62. As a direct and proximate result of the unlawful acts of the

Defendants, Plaintiff has suffered in the past, and will continue to suffer in the future, excruciating and agonizing mental anguish, humiliation, and embarrassment, as well as limitation and restriction of her usual activities, pursuits and pleasures, loss of income and other monetary losses.

63. As a further direct and proximate result of the unlawful and improper conduct of the Defendants, Plaintiff was incarcerated and suffered the loss of her freedom.

64. The conduct of the Defendants, acting under color of state law, resulted in the illegal arrest of Plaintiff in violation of the Fourth Amendment, made applicable to the States by way of the Fourteenth Amendment. As set forth in Paragraph 34 and 38 of this complaint, the Fifth Amendments rights of Plaintiff were violated, in addition to the violation of the civil rights of Plaintiff pursuant to 42 U.S.C. § 1983.

65. The conduct of the Defendants violated the Plaintiff's rights to be free from cruel and unusual treatment under the Eighth Amendment, and the conduct described in Paragraph 53 of this complaint violated the Plaintiff's rights under the Ninth Amendment, as well as the Plaintiff's rights pursuant to 42 U.S.C. § 1983.

COUNT II

VIOLATION OF NEW JERSEY STATE CONSTITUTION AND NEW JERSEY CIVIL RIGHTS ACT

66. Plaintiff Courtney A. Schael repeats each and every statement contained in the preceding paragraphs as if the same were set forth herein at length, and incorporates the same herein by reference.

67. The conduct of the Defendants Town of Westfield, the Westfield Police Department, Rodger, Maloney, Bruno, Davis, Carter, Battiloro, Maguire,

Wayman, and John Does 1-15,, violated the rights of Plaintiff Courtney A. Schael under the New Jersey State Constitution and the New Jersey Civil Rights Act.

COUNT III

VIOLATION OF FEDERAL STATUTE 42 U.S.C. § 1985

68. Plaintiff Courtney A. Schael repeats each and every statement contained in the preceding paragraphs as if the same were set forth herein at length, and incorporates the same herein by reference.

69. The actions of Defendants Town of Westfield, the Westfield Police Department, Rodger, Maloney, Bruno, Davis, Carter, Wayman, Maguire, Battiloro, and John Does 1-15 named in the preceding paragraphs represent a conspiracy to deny and violate the civil rights of Plaintiff Courtney A. Schael.

COUNT IV

PATTERN OF SUPERVISORY MISBEHAVIOR

70. Plaintiff Courtney A. Schael repeats each and every statement contained in the preceding paragraphs as if the same were set forth herein at length, and incorporates the same herein by reference.

71. The Defendants Town of Westfield, the Westfield Police Department, Westfield Chief of Police Wayman, Battiloro, Maquire, Rodger, Maloney, and John Does 14-15 (collectively referred to as "the supervisory Defendants") have a non-delegable duty to hire, train and supervise, investigate and discipline or sanction members of the municipal police force and to institute policies, practices and customs so as to ensure that no member of the police force utilizes excessive force or perpetrates

unreasonable seizures or detentions upon the citizens and residents of the municipality.

72. Upon information and belief, the supervisory Defendants were on actual and/or constructive notice that Defendants Rodger, Maloney, Bruno, Davis, Carter, Maguire, Battiloro and other members of the Defendant Westfield Police Department engaged from time to time in the practice or custom of harassment of citizens, administering or utilizing excessive force in police-citizen encounters, including the use of unnecessarily painful and injurious techniques upon physically helpless or vulnerable persons, such as was done to Plaintiff Courtney A. Schael in the present case.

73. The supervisory Defendants had and have a duty to hire, train, supervise and discipline the employees of the Westfield Police Department and instruct them to refrain from harassment of citizens and/or the use of excessive force and unnecessarily painful and injurious techniques for detaining, immobilizing or otherwise incapacitating citizens, such as occurred with Plaintiff Courtney A. Schael on December 6 and 7, 2013.

74. Upon information and belief, the supervisory Defendants have knowingly and recklessly failed to fulfill said duty and have failed to institute policies and/or practices to prevent, penalize and cure such abuses.

75. Upon information and belief, the supervisory Defendants' failure to hire, train and supervise subordinates to refrain from use of excessive force and to refrain from the violation of citizens' or suspects' constitutional rights, amounts to a pattern, practice and/or policy of lax or no supervision and lax or no correction of subordinates when they engaged in conduct that violates the constitutional rights of citizens to be free from such unreasonable seizures and the use of excessive force during inquiries,

investigations, or detentions. The pattern, practice or policy is also exhibited by a failure to adequately train and supervise officers regarding, inter alia, the requirements to lawfully detain citizens; the requirements to lawfully enter or remain on the private property of a citizen, the appropriate method for conducting an investigative inquiry or "pat down" or temporary detention the constitutionally permissible methods of conducting temporary physical seizures or detentions of a suspect, without resort to barbarous and unduly dangerous techniques such as physically assaulting a citizen, thereby causing serious personal injuries, or by wrongfully arresting a citizen without probable cause, or by filing false charges against citizens, or by recklessly failing to consult with fellow officers or supervisors before arresting a citizen without probable cause.

76. The supervisory Defendants have failed in their duty to supervise employees such as Defendants Davis, Maloney and Bruno to ensure that they do not utilize excessive force and do not commit unconstitutional searches and seizures.

77. The pattern, practice or policy and failure to supervise on the part of the supervisory Defendants amounts, at minimum, to deliberate indifference to the rights of persons such as Plaintiff Courtney A. Schael.

78. The pattern, practice or policy and failure to supervise on the part of the supervisory Defendants is likely evidenced by the supervisory Defendants' failure to discipline officers who engage in inappropriate or unlawful activities during their investigative inquiries or encounters with citizens. Specifically, the supervisory Defendants have, upon information and belief, acquiesced in the misconduct of Defendants Rodger, Maloney, Bruno, Davis, Carter and other members of the Defendant

Westfield Police Department on occasions prior to and since the events of the present case.

79. Upon information and belief, despite the clear requirements of the Fourth, Fifth, Eighth, Ninth and Fourteenth Amendments to the United States Constitution regarding search and seizure and the limitations upon the use of force by the police, including without limitation, the requirement that only reasonable force be used and the prohibition of excessive force, no Defendant who has engaged in such unconstitutional conduct toward Plaintiff Courtney A. Schael, or others similarly situated, has been disciplined in any manner for the actions described herein, nor have the supervisory Defendants taken any action to correct or modify Defendants' behavior.

80. Upon information and belief the supervisory Defendants have had prior notice of similar incidents and similar violations of citizens' rights by their patrol officers, in their interactions with the citizens and residents of the municipality, and have

81. Upon information and belief it is further alleged that discovery will reveal that shortly after the incident above, the supervisory Defendants became aware of the present incident and acquiesced in the conduct of Defendants Bruno, Davis and Maloney. The failure to take appropriate action to discipline officers for said conduct condones, encourages and ratifies such unlawful behavior and itself constitutes evidence of a pattern, practice and policy of deliberate disregard for the constitutional rights of Plaintiff Courtney A. Schael, as well as other residents of the Town of Westfield.

82. The various injuries suffered by Plaintiff Courtney A. Schael all proximately result from the deliberate indifference of the supervisory Defendants to the protection of the rights, privileges and immunities of Plaintiff as guaranteed by the

United States Constitution and laws of the United States, in violation of 42 U.S.C. § 1983. As a result, Plaintiff Courtney A. Schael has suffered great pain, anguish, and monetary loss, and will continue to do so in the future.

RELIEF

WHEREFORE, Plaintiff Courtney A. Schael seeks relief and judgment against Defendants Town of Westfield, the Westfield Police Department, Wayman, Rodger, Maguire, Battiloro, Maloney, Bruno, Davis, Carter and/or John Does 1-15, including but not limited to the following:

1. An award of compensatory damages and punitive damages against the Defendants, jointly, severally or in the alternative, based on the intentional and malicious acts of said Defendants, which are allowed by statutes pleaded herein or as permitted by common law and rules;
2. An award of compensatory damages and against the Defendants, jointly, severally or in the alternative, based on the negligent, careless and/or reckless acts of said Defendants which are allowed by statutes pleaded herein or as permitted by common law and rules;
3. An award of reasonable attorney's fees and all costs of suit and interest thereon;
4. An award of damages as allowed under 42 U.S.C. §§ 1983 and 1988;
5. Any other award for damages and/or equitable relief allowed by statute or pursuant to the law or equitable and just power of this Court to which Plaintiff are entitled.
6. An award of injunctive relief effectively prohibiting the Town of Westfield, the Westfield Police Department, Westfield Chief of Police David Wayman,

Westfield Police Lieutenant Maguire, Westfield Police Sergeant Rodger and/or supervisory Defendants John Doe 7-10 from engaging in the practices, customs and policies described herein; and

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

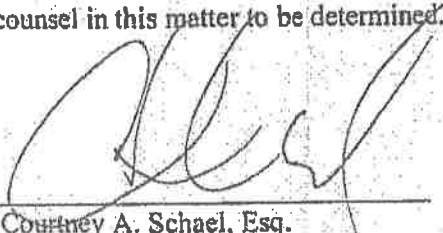
JURY DEMAND

Plaintiff hereby demands trial by jury of all issues in this action.

DESIGNATION OF TRIAL COUNSEL

Plaintiff reserves designation of trial counsel in this matter to be determined.

Dated: December 4, 2015


Courtney A. Schael, Esq.