UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
Newark Division

Ronald H. Posyton, III
113 Sussex Street,
Westfield, NJ 07090

Vs.

Township of Westfield

Serve: Michelle W. Brindle
520 Fairmount Avenue,
Westfield, NJ 07090

DiFrancesco Bateman Coley Yospin Kunzman Davis Lehrer & Flaum, P.C.

Serve: Stephen O. Davis
15 Mountain Boulevard,
Warren, NJ 07059

David C. Wayman
1605 Rising Way,
Westfield, NJ 07090

Christopher E. Battiloro
30 Hillcrest Avenue,
Cranford, NJ 07016

Frank J. Padovano
15 Columbia Avenue,
Cranford, NJ 07016

Kevin J. O'Keefe
758 Prospect Street,
Westfield, NJ 07090

Robert J. Riley
224 Elizabeth Avenue,
Westfield, NJ 07090

Marcin Kapka
543 Willow Avenue, Apt 2,
Garwood, NJ 07027

Case No.: ____________________

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Steven Martinez & Preston Mandel-Freeman & Christopher Forcenito & Richard Gill
425 East Broad Street,
Westfield, NJ 07090

Gov. Donald T. DiFrancesco, Esq.
6 Forest Drive,
Warren, NJ 07059

Richard J. Guss, Esq.
1735 Merriam Drive,
Martinsville, NJ 08836

Does 1-Z@

Defendants

COMPLAINT

COMES NOW, I (me), proceeding *pro us*, praying for any and all and says:

Opening

1. Around 1:30 a.m. on Wednesday, July 18, 2018, Auditor was listening to Fifth Harmony or the like on a couch at Home after finishing a 2nd shift at 7-Eleven. And, Auditor was essentially sober and bored *so*, Auditor threw on a grey stripped Jos. A. Bank suit jacket and blue button-down dress shirt, yellow tie, GAP jeans, and brown Cole Haan Hamilton Grand Wingtip Oxfords; Auditor also partially stuffed a white handkerchief into his suit jacket's upper-left-hand-side pocket-square. *And*, ultimately, Auditor came across a large, solid blue, New York Giants football thick winter-like hat in the basement *and*, accordingly, Auditor then transformed this Giants hat into a viable face-mask by using a long serrated kitchen knife he obtained as a Cut-Co knives salesman, to repeatedly stab this hat and slit two (2) eye holes into the cloth. The newly spawned MASK fit Auditor very well, covered his entire face, and fully extended down to his neck-line. Exhibit Zc.

Power

2. Jurisdiction exists and venue is proper pursuant to 28 U.S.C. §§ 1331, 1343, 1361, 1391, 2101, 2201, and 2202 via 42 U.S.C. § 1983,[1] U.S. Const. Art. III, among other authority and inherent, equitable, and almighty powers.

Guide

3. Auditor is a 24-year-old 5 foot, 3.5-inch-tall white American male citizen, accident. Auditor is religious and was baptized and confirmed at the Catholic Church of Holy-Trinity (the "Church") in Westfield. My Mother is my Single-Mother. I resided at 868 Carleton Road, Westfield, NJ 07090 (Auditor's "Home") from about September of 2009 till about October of 2018, and from generally always relevant herein, and I have lived in Westfield for about 22 years.

4. Defendant, Township of Westfield (the "Town"), always relevant herein, was a political subdivision of the State of New Jersey, operated a quasi-military domestic policing force and/or the Westfield Police Force ("WPF"), and was comprised of about 39 police patrol agents, eight (8) sergeants, five (5) lieutenants, two (2) captains, and a policing director.

5. According to a 2014 nationwide survey, Westfield was once considered the 30th safest city to be among the United States;[2] Westfield always enjoyed an extraordinarily low crime rate. And, in 2018, Bloomberg ranked Westfield as the 99th richest place in the United States.[3] Westfield was, always relevantly, one of the safest and most privileged districts on planet Earth.

6. Defendant, DiFrancesco Bateman Coley Yospin Kunzman Davis Lehrer & Flaum, P.C.

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[1] 18 U.S.C. §§ 241 and 242 are incorporated into the meaning of § 1983 herein in relation to some State Defendants for some of their respective unlawful actions and/or omissions.

[2] "Top 100 Safest Cities to Live in the US 2014." *NeighborhoodScout*, 26 Feb. 2019, www.neighborhoodscout.com/blog/top100safest-2014.

[3] Hagan, Shelly, and Wei Lu. "American's 100 Richest Places." *Bloomberg.com*, Bloomberg, 5 Mar. 2018, www.bloomberg.com/graphics/2018-hundred-richest-places/.

(*The "Firm*"), always relevant herein, was counsel retained and employed by the Town to represent and serve it and WPF agents unconditionally in matters of law.

7. Defendant, Richard J. Guss, always relevant herein, was an attorney of *The Firm* who represented *The Firm* as lead *Firmsman* in servicing the Town and its police in matters of law.

8. Defendant, former New Jersey Governor Donald T. DiFrancesco, always relevant herein, was a member of *The Firm* representing the Town and its agents in matters of law.

9. Besides for defending the Town and policing agents in *My* prosecutions, *The Firm*, Mr. Guss and Gov. DiFrancesco have represented and served the Town and its agents with *Firm* activities through *Sorrentino v. Town of Westfield*, No.: 2:11-cv-7412-MCA (D.N.J. Dec. 21, 2011) (consolidating *Rolnick v. Town of Westfield*, No.: 2:11-cv-7414-SRC (D.N.J. Dec. 21, 2011)), *Shale v. Township of Westfield*, No.: 2:15-cv-8461-CCC (D.N.J. Dec. 12, 2015), and *Green v. Town of Westfield*, No.: 2:17-cv-289-JMV (D.N.J. Jan. 13, 2017).

10. Defendant, Christopher E. Battiloro, always relevant herein, was a policing agent for WPF and employed by the Town. On and after August 1, 2018, Battiloro was Policing Director for WPF always relevant herein; prior to said date, Battiloro was a WPF Captain and tasked with investigating administrative complaints within the Town's internal affairs policing unit.

11. Defendant, Frank J. Padovano, always relevant herein, was a policing agent and lieutenant for WPF and was employed by the Town.

12. Defendant, Kevin J. O'Keefe, always relevant herein, was a policing agent and sergeant for WPF and was employed by the Town. O'Keefe's education is comprised of completing Perth Amboy Vocational-Technical and Police School.[4]

[4] "Promotions And New Hires Announced By The Westfield Police Department." PDF file. *The Westfield Leader*, 30 Jul. 1998. https://goleader.com/misc/98jul30/18.pdf.

13. Defendant, Marcin Kapka, always relevant herein, was a policing agent and sergeant for WPF and was employed by the Town.

14. Defendants, Steven Martinez, Preston Freeman, Christopher Forcenito, Robert J. Riley, Richard Gill, always relevantly herein, were policing patrol agents for WPF and were employed by the Town.

15. Defendant, David C. Wayman, always relevant herein, was Policing Director for WPF and was employed by the Town. As Director, Wayman enjoyed a salary of about $157,000.00 per year as of about June of 2018.[5] Wayman departed WPF on August 1, 2018 "effective immediately" following approximately 30 years of Westfield policing (including six (6) as chief policer);[6] Wayman was 52.

16. Defendant(s), Doe(s) 1-Z@ ("Doe"), always relevant herein, were government(s), agent(s), official(s), affiliate(s), associate(s), and/or entities of which are currently but unknowingly connected to facts described herein.

17. The Town and Firm, Doe, Battiloro, Padovano, Riley, O'Keefe, Kapka, Freeman, Martinez, Forcenito, Gill, Wayman, Mr. Guss, and Gov. DiFrancesco (sometimes individually and/or collectively referred to herein as "State," "Police," "Defendant(s)," and/or other), always relevant herein, preformed all actions and engaged in all omissions and/or decision-making under color of law.

18. Every Defendant is a 'person' within the meaning of § 1983.

[5] Town, "Minutes of Regular Meeting Held June 19, 2018." PDF file. https://www.westfieldnj.gov/vertical/sites/%7B57704CD8-22F3-44AB-BC43-B0B1CE80A3BB%7D/uploads/MINUTES_OF_REGULAR_MEETING_06-19-18.pdf at page 17.

[6] TAPinto Westfield Staff. "Westfield Police Chief Retires, Effective Immediately, Mayor Announces." *TAPinto.net* 1 Aug. 2018. https://www.tapinto.net/towns/westfield/articles/westfield-police-chief-retires-effective-immedia.

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19. Every Defendant is being prosecuted in every capacity.

20. All Defendants affiliated with Police Forces, always relevant herein, were fully dressed in police uniforms, armed with handguns, and linked to marked Ford Interceptor Utility type police vehicles and/or squad cars.

Ambiguous language and/or grammar used herein should be interpreted as averse and prejudicial against the State and implicating it in wrong when applicable. This Power should accept all labeling and averments as accurate and true under a 12(b)(6) review. All ambiguities are resolved in Auditor's favor; this Power should liberally construe it all.

Facts

21. Auditor's childhood Home was not large but, it might have resembled what 'is' the America dream. As of around 2018: There were about 50 houses located on Carleton; the Home was located near the middle area into the 800 block of Carleton. There were houses located on the left, right, and back sides of the Home's property. The Home's lot was about 0.3616 acres or 105 by 150 feet in dimension; the front lawn running parallel to the street was roughly 105 feet long. There was a front pathway made of some solid extending approximately 45 feet from Carleton's public sidewalk to the Home's front door; this pathway encompassed and/or led to two concrete steps which ascended about three feet high from ground-level to the Home's front door; these steps transformed into a roughly four-square foot platform extending/attaching directly to the Home. A garden comprised of many plants and flowers and some large bushes or small bushy trees existed near the far edging of the Home's yard attached to then 902 Carleton; this garden extended from near the beginning of the street to the Home's back yard. A fence stood near the end of this garden and stretched to the farthest edge of the back yard (and/or nearby then bordering 865 Boulevard). On the Home's yard edging closeby then 862 Carleton

stood bushes and plants scattered from around the beginning of the street to approximately 50 to 60 feet deep into the yard. Past this yardage sat condensed bushes, large & tall trees, and an extremely large (but not tall) green leafy plant spreading and extending about, across, and towards the farthest part of the Home's back yard. Also deeper near this side-edging existed a 15-foot-long, decaying fence extending to the dimensional edge of the back yard. And, lastly, in general, a fence ran along the edge of the Home's back yard. So, in sum, there was fencing on all sides of the Home's yard (besides for the edging of the front lawn); there was a front walkway leading to the front door; the yard was comprised of dirt, grass, and earth; and there existed a driveway of which led deep into the back yard. <u>Exhibit A</u>.

22. Besides for essentially nothing other than what could be described as brief trips elsewhere, Auditor lived at the Home every day from about 2009 to 2018.[7] During this time, Auditor slept in the Home, ate breakfast and dinner in the Home, cooked, cleaned, and bathed in the Home, and performed a multitude of other activities within the Home; he retained a key which unlocked the Home's exterior doors; he could come and go from the Home at will; his mail was delivered to the Home; and all of Auditor's possessions (*e.g.*, clothes, desk, bed, etc.) were stored in the Home. Auditor steadily utilized the Home's yard and front lawn for many activities (*e.g.*, playing catch & building snowmen). And landscapers would visit the Home on a regular basis and groom the entire property.

23. The Home was owned by Vincent Buontempo.[8]

24. Auditor's Mother[9] usually gave Mr. Buontempo monetary compensation in a timely

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[7] Auditor lived with his Mother and his two (2) sisters during this period, generally.

[8] Mr. Buontempo owned many other rental properties during this time.

[9] Auditor's Mom had no educational degree other than a Westfield High School diploma throughout all times herein. And Auditor's Mom loves her only son unconditionally.

fashion to rent the Home on a monthly basis.

25. Since 2009 till always relevant herein, Auditor performed various tasks prescribed by his Mother in exchange for enjoyment of housing or that of the Home and its property.

26. Throughout said period, Auditor's Mom gifted Auditor enjoyment in the Home and its property, and supplied him with authority to exclude, ban, and/or forbid strangers from entering upon the Home or its property during the dead of night/morning; Auditor's Mom welcomed Auditor to exercise this authority, or significantly encouraged him to protect the Home and their family from strange intruders.

27. In the early hours of December 23, 2009, Westfield homeowner, Kimberly Sorrentino, Esq., and her son, Austin Rolnick, are standing within their fenced-in gated front yard surrounding their house. (*See Sorrentino* at D.E. 1, ¶¶ 16 & 20). At the same time, Kapka, Freeman, and Martinez stand nearby on the corresponding sidewalk. (*Id.*, at ¶ 20).[10] Ms. Sorrentino advises these agents that they cannot enter the property. (*Id.*, at ¶ 25). Martinez, Freeman, and Kapka nevertheless enter onto the property anyway as Mr. Rolnick and Sorrentino return to their house and enter thereafter. (*Id.*, at ¶ 26). The agents steadily approach the home and then shove and trample over Ms. Sorrentino and tare her 'anterior cruciate ligament'[11] as they invade the house in pursuit of capturing and arresting Mr. Rolnick for supposedly having defied them. (*Id.*, at ¶¶ 28-31). A judge found that these Police violated natural law and trashed the evidence gathered as a result of the invasion. Exhibit B. The Town and its agents gave Sorrentino about

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[10] Also, around here, "Defendants Mandel-Freeman, Kapka and/or Martinez" were "direct[ing] profane and offensive language at Austin Rolnick" and emitting "loud and abusive language" towards Sorrentino. (*Sorrentino*, at ¶¶ 21 & 24).

[11] Haydon, Tom. "Westfield Pays Family $1m Over Controversial Arrests." *Nj.com* 19 Nov 2015. https://www.nj.com/union/2015/11/westfield_pay_115_mill_to_settle_lawsuit_over_arre.html.

$1,000,000.00 and gave Mr. Rolnick about $100,000.00 in response to their ensuing civil-actions.[12] The Town and its agents also gave Ramon Martinez (another civilian subjected to this policing engagement) about $55,000.00 in response to his ensuing civil-action,[13] likely for being "forcibly throw[n]" and "spray[ed] with mace" by Defendant Martinez. (*See Rolnick* at D.E. 1, ¶ 41). It is likely that no Town policing agent was disciplined for involvement in this matter; Kapka, however, was promoted to the rank of police sergeant soon thereafter.

28. Around December 6, 2013, a law office in Westfield belonging to Courtney Schael, Esq., catches fire and starts to burn. (*See Schael* at D.E. 1, ¶¶ 20 & 24-25). The Westfield Fire Department responds to suppress the fire and ultimately concludes that it has been extinguished. (*Id.*). Subsequently, Ms. Schael moves away from WFD and observed flames coming from her law office. (*Id.*, at ¶ 27). Ms. Schael attempts to approach Westfield fire personnel to alert them of the fire but WPF police sergeant Lauren Maloney, however, prevents Ms. Schael from doing so, and instead starts "pushing and striking [Ms. Schael] in the face" and arrests her as her law office is going about the process of burning to the grown before her very eyes. (*Id.*, at ¶¶ 28-33). According to Ms. Schael via phone-call with Auditor in 2017, the Town and its agents agreed to comfort her with a settlement in response to her ensuing civil-action. And it is likely that no Town police agent was disciplined for involvement with these events.

29. From 2012 till the 2nd quarter of 2018, besides for a few "rule violation[s]" and apparent times of poor police "demeanor," no assertion of WPF misconduct has been "sustained" by the Town during these six (6) and some half years, including those circumstances concerning Schael's likely filed complaint against Maloney and other WPF agents. Exhibit C.

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[12] *See* fn. 11.
[13] *See* fn. 11.

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30. Around June 27, 2017, 9:45 p.m., Auditor enters the lobby of WPF headquarters and, like Auditor's future meetings with all the other Defendants, Auditor meets O'Keefe for the first time during his life and begins this First Amendment audit. Exhibit D.[14] Auditor and O'Keefe sit down on a bench located inside WPF's lobby for a short time and Auditor, in a friendly manner, casually askes O'Keefe questions about searches and seizures, constitutional questions of which O'Keefe is unable to answer. Auditor and O'Keefe, however, then shake hands and Auditor leaves WPF headquarters.

31. Later-on that evening, around 10:10 p.m. or so, Auditor enters 16 Prospect Street Wine Bar & Bistro (the "Bistro") in downtown Westfield and sits down at its bar. A drunken stranger and life-long police agent, Kenneth Hogan, reaches over some chair(s) and unjustifiably and offensively grabs Auditor's shoulders. The Bistro's co-owner, Timothy Boyle, illegally touches Auditor as he is leaving the Bistro. After exiting the Bistro, Auditor calls WPF and reports an assault and battery against Hogan and Boyle. O'Keefe, Martinez, Forcenito, Freeman, and WPF agent Ricardo Johnson respond and O'Keefe speaks with Boyle. After speaking with Boyle, but without interviewing the complainant (or Auditor), O'Keefe says no assault or battery has occurred, within approximately 60 seconds of arriving on the scene of the Bistro. Successively, O'Keefe accuses Auditor of smelling like alcohol and of having been drinking alcohol, of having previously been "arguing with patrons" and of having "unlawful[ly]" entered the Bistro with alcohol. Although O'Keefe recognizes and says that Auditor "obviously looks like he's not intoxicated and can care for himself," and also observes and says that Auditor is "obviously not intoxicated," O'Keefe nevertheless tells Auditor that he needs to "take the [victim] high road"

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[14] O'Keefe can be heard asking Auditor to cease recording inside WPF headquarters with his iPhone right before Exhibit D ends; O'Keefe says, "Sir." (Exhibit D at 1:20-1).

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or, be transported to a police center located in Elizabeth, NJ; Auditor submits to this "high road." A few minutes later, and while standing away from Auditor, O'Keefe tells Martinez to turn off his voice recording mic, saying, "You're on here, right? Is it on or not on?" Martinez then deactivates his device for about 10 seconds and reactivates it as O'Keefe tells Martinez to, report and "say [Hogan] ... observed [Auditor] being aggressive," irrespective of the fact that no agent had yet interviewed or spoken to Hogan. Next, Forcenito pats Auditor down for weapons, supposedly pursuant to WPF's "standard operating procedure" of searching every America not-withstanding whatever. Around the same time and as Auditor begins the process of entering a WPF squad car, O'Keefe orders the running of an extensive 19-minute-long nation-wide warrant check on Auditor; nobody else like Hogan, for example, is reviewed for outstanding warrants. During this national search for information on whether Auditor is a fugitive of justice, O'Keefe tells Auditor that WPF has discovered the existence of a facially valid warrant issued for his arrest in South Carolina; these agents begin discussing possible options for extraditing Auditor as he sits locked inside a human cage. The warrant, however, was issued for somebody else; Auditor has never entered a Carolina. After Defendants learn that the "W9 check" on Auditor was always clear, Martinez and Johnson involuntarily transport Auditor Home upon O'Keefe's instructions and over Auditor's objections. Once Auditor, Martinez, and Johnson arrive at Auditor's Home, Auditor advises Martinez and Johnson that they may not go onto his property. Despite Auditor's passionate objections to arbitrary governmental entry and intrusion to the sanctity of Auditor's Home around 11:00 p.m. or so, the domestic Military nevertheless storms, invades, and occupies Auditor's property and Home and engages Auditor's Mother.

32. From around June 29, to about July 6, 2017, Auditor sends a few e-mails to then Town Mayor, Andy Skibitsk, and to some Town councilmembers, opining that the Town's Policing

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agents acted unlawfully on June 27, 2017; O'Keefe, Freeman, Martinez, and Forcenito may have learned of these e-mails.

33. On July 14, 2017, Auditor files suit *pro us* against the Town and said WPF agents. *See Me v. Township of Westfield*, et al., No.: 17-cv-5139-JMV (D.N.J. July 14, 2017) (occasionally hereafter "D.E. (#)" or "ID (#)"). The Town primarily sent *The Firm* and Mr. Guss into this Court to defend the Town itself and to repel or suppress claims against its Policing agents.

34. Auditor never mentioned Hogan in the initial pleadings (or D.E. 1) in *Me*.

35. On July 20, 2017, Auditor submits an Open Public Records Act (OPRA) demand to the Town pursuant to N.J.S.A. § 47:1A-1 *et seq.* (allegedly requesting records implicating "all events regarding [Me] occurring on June 26, 2017.")

36. On July 21, 2017, the then Town Clerk, Claire Gary, supplies Auditor with a true and accurate copy of the WPF investigative police report concerning the June 27, 2017 matter of which is comprised of two (2), and only two (2), pages. Exhibit E.

37. Somewhere around here, the Town (and/or its agents) gave *The Firm* and Mr. Guss an un-redacted copy of Exhibit E and/or a copy of the June 27, 2017 WPF investigation report. *See* D.E. at 12-1, ID 103-107.

38. On August 21, 2017, Auditor filed a First Amended Complaint or D.E. 8 in *Me*.

39. In reliance on Exhibit E provided by the Town, Auditor claimed for the first time in his pleadings that *My* Defendants retaliated against him for accusing a life-long police agent and a Union County Prosecutor's Office employee (Hogan) of assaulting Auditor. D.E. 8 at ¶¶ 41-42 & 112. In support of this claim, Auditor asserted that WPF agents "scripted" Exhibit E by not recording and/or associating Hogan as a party amid the "contact witness" section of Exhibit E "to protect Hogan" so his name could not be located electronically by computer and/or "be traced to

the incident." D.E.8 at ¶¶ 98-99.

40. On September 18, 2017, *My* Defendants moved for Summary Judgment. D.E. 12.[15] In support of said Motion, the State filed D.E. 12-2 pp. ID 103-107.

41. Mr. Guss attached an Affidavit of Counsel with his and *The Firm's* and State's Motion representing that ID 103-107 comprised "a true and accurate copy of" the WPF "investigative police report" concerning the June 27, 2017 matter. D.E. 12-1 at ¶ 6, p. ID 100. Mr. Guss's Affidavit also avers that Auditor did not contact the Town about *My* matter prior to filing suit; that averment is untrue. *See* ¶ 32, *supra*.

42. ID 105 is unique.

43. ID 103-104 & 106-107 all have titles. *See* ID 103 ("Investigation Report"); ID 104 ("Investigation Report"); ID 106 ("CAD Report"); ID 107 ("CAD Report"). ID 105 has no title.

44. ID 103-104 & 106-107 all have the same formatted headers ending with "Mun. Code: 2020" on the same line where WPF's "Phone" and "Fax" numbers are located. ID 105 ends the same intended lining with "Mun. Code" and the number "2020" sits below that lining thereto.

45. Auditor retains a group of 205 pages of CAD reports. *See* Exhibit G.[16] These 205 pages have been sporadically generated over a span of six (6) years (2013-2018). Besides for a change of WPF's fax number during some point, not a single page of these 205 pages has any remote difference in relation to the formatted wording header located on the top of ID 106-107. Auditor retains many other CAD report pages and some pages amount to almost nothing more than white blank pages, but all of which pages nonetheless display perfectly identical formatted headers just

[15] At this time, the Town itself was currently a Defendant in *Me*.

[16] The Town provided Auditor said 205 pages of CAD reports on March 2, 2018 in response to Auditor's OPRA demand seeking, in relevant part: "All police reports … created by Westfield Police Department … since 2008 concerning … public intoxication." Exhibit H.

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like every other CAD report page. True WPF investigation report page headers hold the same formatting header consistency level as true CAD report pages (*i.e.*, always).

46. ID 103-104 both list the "Officer of Record" (Martinez) at the bottom and near the very left edge of these pages. ID 105 indents the mere words "Officer of" instead.

47. ID 103 states that the investigative report was "Reviewed By" O'Keefe in the bottom right corner. ID 105 lacks the word "By" near the word "Reviewed[.]"

48. ID 103 includes colons after each section located in the footer. *See* ID 103 ("Officer of Record:"), ("Date:"), ("Other Reports Filed:"), & ("Reviewed by:"). ID 105 has no colons in the sections labeled "Officer of[,]" "Date[,]" or "Reviewed[,]" but does include a colon in the nearby located section titled, "Other Reports Filed:"

49. The current Town Clerk, Tara Rowley, avers that WPF "investigation reports are created electronically" on some computerized "system." Exhibit I. Genuine WPF investigation reports do not contain sporadic errors scattered all about just one (1) single page if that page was generated at the time of a true connected investigation report.

50. Words and numbers entered into the "Date" or "Officer of Record" section within page 1 of Exhibit E, for example, are likely entered automatically by computer in the same sections of supplemental pages to any investigation report at the time of its generation. Words and/or numbers entered in the "Incident Details" section of ID 103 are also likely entered automatically by computer in the same section of pages like ID 105. ID 105, however, unlike ID 103, is missing the street name "West North Avenue" in the "Incident Location" and "intersection" section.

51. Auditor began probing for information on WPF investigatory reports around November of 2018, beginning by demanding "a blank copy of a WPD investigation report comprised of eight (8) contact name spaces associated with the contact information section." Exhibit I. On

November 30, 2018, Auditor presented ID 105 in person to WPF lieutenant Jason McErlean and questioned ID 105's oddity and alerted McErlean of his suspicion against the possible "slip[ping]" of this "third page" into the actual June 27, 2017 report. On December 7, 2018, the Town denied Auditor's OPRA demand seeking "[a]ny Westfield Police Department investigation report containing five (5) or more named individuals imputed into and/or associated with such report's contact information section, and which was completed/generated on June 27, 2017 (if any) otherwise, any such type of report generated near such date." Exhibit J.[17] The Town likewise told Auditor that it has no information/records concerning "policies" or "procedures" surrounding the "generation, completion, revision, tracking, labeling," and/or "storing" of WPF investigative reports. Exhibit J. The Town, however, supplied Auditor with the pages comprising Exhibit F in response to his simultaneous December 7, 2018 OPRA demand seeking another copy of a June 27, 2017 WPF investigation report.

52. Page 1 of Exhibit F now appears extremely different then page 1 of Exhibit E. Even so, abbreviations contained within the "Other Reports Filed" section of pages 1 and 2 of Exhibit F, abbreviations contained within page 1 of Exhibit E, and the same abbreviations contained within ID 105 appear to be very similar or in sync with the same full shade of printing ink. The abbreviations contained within the "Other Reports Filed" section of ID 103, however, appear to be lighter in shade and seem more disturbed than the aforementioned abbreviations vis-à-vis printing ink wise. This could suggest that ID 103 was printed on some date and ID 105 was printed on some later date (when needed) with a printer containing fuller ink cartridges.

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[17] Also, on December 21, 2018, Auditor provided the Town further clarification linking said OPRA demand (if any 'clarification' was ever needed) in a subsequent OPRA demand seeking, in part, "a copy of (1) WPF investigation report comprised of the same aforementioned specifications created nearest to said date" and/or June 27, 2017. Exhibit K. The Town likewise denied this OPRA demand a few days later.

53. The word 'prop' contained within the abbreviation section of ID 103 is missing a '.' (likely due to faulty printing ink) compared with the same word contained within page 1 of Exhibits E-F, respectively. However, neither ID 105 nor page 2 of Exhibit F contain a '.' located anywhere within that same section. Like ¶¶ 43-48, 50, & 52 *supra*, this ¶ could also suggest that ID 105 and page 2 of Exhibit F were not created with WPF's electronic computerized algorithmic investigation report generating program.

54. The narrative contains the most significant implication: The "Narrative" section of ID 103 correctly observes that Auditor "was assaulted by Mr. Timothy [B]oyle and Mr. Ken Hogan." Despite this and the fact that Auditor and his Mother and brothers Christopher and Timothy Boyle are all 'coded' as 'other' in the "Contact Information" section of ID 103, Hogan is nevertheless codified within ID 105 as a 'witness' to his own assault of Auditor.

55. Defendants failure and/or refusal to record Hogan's actual name (*i.e.*, Kenneth) and choice to instead record Hogan's first name as a friendly "Ken" could also suggest that Defendants know and appreciate former police and now Union County prosecuting agent, Ken Hogan.

56. The Town avers that WPF's electronic investigative report "system does not have the capability of printing blank reports." Exhibit I. Using this information, therefore, it is likely that anyone wanting to supplement a completed investigation report with an additional page would need to make an additional page from scratch. That is what more likely than not happened here, and long after Exhibit E was generated and completed.

57. Ms. Gary did not knowingly withhold pages from Auditor in relation to supplying him with the actual WPF investigation report. Ms. Gary distributed Auditor the complete WPF investigation report on July 21, 2017, of which report she received from WPF around the same time; Ms. Rowley has also conveyed that WPF controls distribution of police records to People. The

Town was moreover just beginning to become acquainted with Auditor around July of 2017 and it unlikely it had any concerns about Auditor and his High School level of education.

58. Some Defendant created ID 105 *ex post facto* to the originally generated June 27, 2017 investigation report and Mr. Guss submitted it to this Court for consideration.

59. On September 20, 2017, Auditor sent Mr. Guss an e-mail and advised him that he should "correct any error" concerning page ID 103 in relation to Auditor's and his Mother's "social security number[s]," provided his filing violated "Local Rule 17" and "Fed.R.Civ.P. 5(2)(a)" (which it does (*e.g., Engeseth v. County of Isanti, Minn.*, 665 F. Supp. 2d 1047 (D. Minn. 2009)). Mr. Guss never followed Auditor's instructions or ever remedy his violations by way of removing Auditor's (or anyone else's) social security numbers from public view and access. This deliberate inaction may be the result of some type of creed Mr. Guss follows and which expounds to decline to alter any Court submission that he fully knows to be State manufactured evidence.

60. Yet, what really infers ID 105 to be State all known manufactured evidence stems from the fact that *The Firm* printed at least two (2) copies of that of ID 103-107. *The Firm* redacted personal information (including social security numbers) in one (1) of these copies. The State thereafter mailed a copy of said pages to this Court as a 'courtesy copy;' mailed Auditor a like copy of the 'courtesy copy' containing redactions to social security numbers; and then electronically filed an un-redacted version of ID 103-107 inadvertently in open Court instead of the intended redacted version of ID pages 103-107 sent to Auditor.[18] Indeed: Why would Defendants

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[18] Auditor filed the exact same redacted copy he received from Defendants in this Court, *see* D.E. 18 at ID 177-181, along with the State's "Exhibit A" page. *Id.*, at ID 176. In relation to ¶ 52, *supra*, page ID's 177 & 179 (and/or their "Other Reports Filed" sections) likewise seem to have been printed with the same shade of printing ink. In other words, of all WPF investigation report pages in question the State printed, only ID 103 appears to have been printed with a low or unique ink cartridge/toner level in relation to the "Other Reports Filed" sections compared with the same sections within page 1 of Exhibits E-F, respectively, and ID 105, 177, & 179.

send Auditor a redacted copy of an investigation report, and then file an un-redacted copy in open Court all knowing that Auditor would receive a copy of that un-redacted copy via this Court's *pro se* ECF e-mail service program? And then never remedy their illegal filing so to bring it in accordance with the Rules?

61. Defendants' creation of ID 105 *ex post facto* and its submission to this Court prejudiced Auditor by operating to refute Auditor's assertions contained within D.E. 8 at ¶¶ 98-99 explaining that Hogan was not affiliated with any "contact witness" section in the originally generated and actual and true WPF investigation report concerning events occurring on June 27, 2017; Auditor omitted this fact from his Second Amended Complaint or D.E. 18 in *Me*. Auditor may have very well continued pursuing a First Amendment retaliation claim against *My* Defendants amid his SAC had Defendants not spawned false evidence (or ID 105) and slipped it into the real investigation report. At a bare minimum, the State's manufacturing of ID 105 *ex post facto* refuted the truth and facts contained within the FAC and led to suppression of those facts, and likewise abrogated time and prosecutorial strategies that Auditor was entitled to enjoy.

62. On December 12, 2018, Auditor e-mailed Mr. Guss nearly all of the evidence contained about ¶¶ 42-61, *supra*. Mr. Guss has since done nothing in relation to *Me*; rather, about 12 hours after Auditor alerted Mr. Guss of said evidence, Mr. Guss contacted this Court in regard to the Town via filing waivers of service for WPF Defendant agents in *Green*, perhaps as a way to remind JMV that he needed to judge *Me. See Green* at D.E. 44.

63. On December 20, 2018, Auditor e-mailed Gov. DiFrancesco and his secretary nearly all of the evidence contained about ¶¶ 42-62, *supra*, and conveyed to *The Firm* once again to remove the "social security numbers from the docket" and to "please alert John Michael Vazquez, U.S.D.J.," of *Firm* "fraud at once." Gov. DiFrancesco responded to Auditor by replying with an

e-mail "from [his] iPhone" within a half an hour later-on that day but, Gov. DiFrancesco has since done nothing in relation to *Me*.

64. The State may have declined to remove Auditor's and other social security numbers from public view and access and refused to address ID 105 at least in effort to advert detrimental consequence prior to the possibility of obtaining favorable judgement on some Motion to Dismiss (and on such a Motion of which had already been pending for about seven (7) months as of December of 2018). *See* D.E. 55.

65. And, Auditor moreover forwarded the relevant abovementioned previously authored December 12, 2018 e-mail to Mr. Guss on May 13, 2019, and then sent one (1) blank or "(no subject)" collective e-mail to Gov. DiFrancesco, Mr. Guss, and WPF on May 17, 2019.

Summaries – Claims – Conclusions

66. *The Firm*, Mr. Guss, and Gov. DiFrancesco are shining examples of *de facto* State agents – they represent the Town and its policing agents in judicial proceedings on a daily basis; *The Firm*, Mr. Guss, and Gov. DiFrancesco are the Town itself. The Town also gave *The Firm* and its attorneys a governmental 'record' divulging Auditor's and many other social security numbers. OPRA categorically forbids State disclosure social security numbers less one (1) limited exception: disclosure is made to a public agency. Obtaining and filing an unredacted Police report revealing social security numbers in open Court while representing the State, or the manufacturing of a Police report amid being the State's representation and subsequent submission of such papers to Federal Court on the State's behalf without redacting civilians' social security numbers on such papers of which have been provided by and obtained from the State, and refusal to thereafter remove such private information upon advisement so not to prejudice the State – is action responsible by the State itself. *The Firm* and Mr. Guss are also shining examples of

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governmental policy-makers – they are the highest level of authority in relation to the Town's litigation decisions and strategies and/or at least in relation to legal courses of action involving *Me*. And, all *My* policies have been principally sculpted and enacted by Mr. Guss, a *Firmsman* who operated throughout *Me* unsupervised and with unfettered discretion and full *Firm* authority because *My* Defendants were being prosecuted *pro us* by a 7-Eleven cashier.

67. Some Defendant manufactured ID 105 and Mr. Guss knowingly submitted such fraudulent State evidence to this Court for consideration during an unpressurized environment in direct response to Auditor's exercise of the right to petition the Government for redress of grievances and access to Court, all in violation of Auditor's rights secured by the First and Fourteenth Amendments to the U.S. Constitution, respectively, and, therefore, some Defendant (*e.g.*, Doe) and/or Mr. Guss is/are responsible via § 1983.

68. Mr. Guss violated Auditor's legitimate subjective expectation of privacy that society recognizes as objectively reasonable and revealed Auditor's social security number to the general public in direct response to Auditor's access of Court, and then Mr. Guss and Gov. DiFrancesco refused to remove and/or hide such sensitive information for the same reason and chose to display it for an incredible length of time for personal and professional benefit, strategy, or use in violation of the Local and Federal Rules of Civil Procedure, all in violation of Auditor's rights secured by the First, Fourth, and Fourteenth Amendments to the U.S. Constitution, respectively, and, therefore, Mr. Guss and Gov. DiFrancesco are responsible via § 1983.

69. It is *Firm* Town policy to deploy State manufactured evidence at this Court for State benefit and so to prejudice Auditor in direct response to Auditor's access of Court, all in violation of Auditor's rights secured by the First and Fourteenth Amendments to the U.S. Constitution, respectively, and, therefore, *The Firm* and Town are responsible via § 1983.

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70. It is *Firm* Town policy to violate Auditor's privacy and reveal Auditor's private information and hold it up for all the public to see in direct response to Auditor's access of Court, all in violation of Auditor's rights secured by the First, Fourth, and Fourteenth Amendments to the U.S. Constitution, respectively, and, therefore, *The Firm* and Town are responsible via § 1983.

Facts

71. On September 29, 2017, Auditor files an administrative complaint against O'Keefe, Freeman, Martinez, and Forcenito with then Captain Battiloro and WPF's internal affairs unit. An investigation ensues; these agents are likely alerted. Battiloro advises Auditor that he will be informed of the outcome of the investigation after its completion which investigation was to take approximately '30 days' to be completed. The Town and/or Battiloro send Auditor a letter informing Auditor that WPF found no police wrongdoing involving the June 27, 2017 matter sometime following July 5, 2018, after Auditor avers that WPF has "refused to inform Auditor of the investigation's outcome" at D.E. 1 at ¶ 46 technically in *Me III.*

72. From about November of 2017 till October of 2018, Auditor works as a cashier at a 7-Eleven convenience store located at 800 Central Avenue and around the block from his Home. Throughout this period, many WPF agents (including, but not limited to, Battiloro, O'Keefe, Martinez, Freeman, Forcenito, Gill, Shaughnessy, Desiato, Santangelo, and Wayman) enter 7-Eleven, and are generally rung-up by Auditor; this occurs about four (4) times with Forcenito and Shaughnessy; twice with Gill with Battiloro; and once or twice with many other WPF agents. Additionally, while Auditor works at 7-Eleven, countless WPF agents (and likely most Defendants) repeatedly drive into a Valley National Bank parking lot located across the street from 7-Eleven on a daily basis, sometimes in multiple shifts, and park their squad cars facing directly at 7-Eleven's cash register window area; this positioning offers a direct line of sight for

all WPF agents who so desired to stare at Auditor as he operates a cash register throughout the day or night, depending on the changing shift schedule (*i.e.*, 1st, 2nd, or that sketchy 3rd shift).

73. On or around January 12, 2018, at 1:30 a.m., Auditor is visiting a friend (C) at his house in Westfield. Auditor's friends (M & J) are also visiting at C's house. Auditor is intoxicated around this time due to his consumption of many alcoholic beverages. Auditor leaves C's house and begins walking towards his Home located about 1.9 miles away. It is approximately 45 degrees Fahrenheit outside and Auditor is wearing jeans, a T-shirt, and a light Ralph Lauren sweater modeling its insignia – polo. Auditor soon begins to become cold and feels uncomfortable. Auditor calls WPF for assistance. Auditor divulges his name and asks for a WPF agent to transport him Home because he is intoxicated. O'Keefe, Martinez, Johnson, and at least two (2) other WPF agents are dispatched and arrive soon thereafter in about four (4) squad cars. The agents gather around Auditor. In turn, Auditor informs these agents that he is intoxicated and then requests for them to assist him Home. O'Keefe declares that Auditor is not intoxicated and tells Auditor that the State will not assist him. Auditor says that these agents' refusal to help him "violates the Equal Protection Clause;" some agent briefly laughed in response. Afterwards, these agents return to their vehicles and drive away. At least one (1), if not every single agent, however, likely then generally do absolutely nothing besides drive around Westfield for about the next 50 minutes as Auditor walks Home in the cold. The Police report indicates and categorizes Auditor as an "intoxicated male." Exhibit L. The Police report also provides in part that Auditor was "of sound body;" this is a lie.

74. On or around May 4, 2018, at 2:00 a.m., Auditor is visiting M's house located in Westfield and about one (1) block from St. Marks Avenue. C and J are also visiting. Auditor is intoxicated due to his consumption of many alcoholic beverages. Auditor leaves M's house and

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begins to walk towards his Home located about 1.4 miles away. Once Auditor reaches St. Marks, he calls WPF for assistance. Auditor's identity becomes known; the operator connects Auditor with O'Keefe. Auditor asks for a WPF agent to assist him Home because he is intoxicated. O'Keefe, Freeman, and one (1) other WPF agent begin traveling to St. Marks and arrive soon thereafter. In turn, Auditor informs these agents that he is intoxicated and asks them to assist him Home. O'Keefe declares that Auditor is not intoxicated and that WPF will not assist him Home. In response, Auditor performs a few spectacular jumping-jacks as he asks these agents, "Am I intoxicated now?" Successively, the agents return to their vehicles and drive away. At least one (1), if not every single agent, however, likely then generally do absolutely nothing besides drive around Westfield for about the next 40 minutes as Auditor walks Home. The Police report indicates that "[Auditor wa]s intoxicated." Exhibit M. The report also provides in part that Auditor was "not intoxicated;" this is a lie.

75. On or around May 25, 2018, at 2:00 a.m., Auditor is visiting M's house; J is also visiting. Auditor is intoxicated due to his consumption of alcoholic beverages. Auditor is wearing jeans and a polo shirt. Auditor leaves M's house and begins walking Home. Once Auditor reaches St. Marks, he calls WPF for assistance. Auditor neither divulges his name nor is his identity recognized. Auditor asks for a WPF agent to assist him Home because he is intoxicated. Riley is dispatched to St. Marks and arrives soon thereafter; Johnson is also dispatched but does not arrive until sometime later. In turn, Auditor informs Riley that he is intoxicated and asks Riley to assist him Home. Riley opens his squad car's back door, Auditor enters, and Riley closes the door. Riley enters the driver's seat and radios that Auditor "just needs a ride Home" and that Auditor is going to be assisted Home by Riley. Exhibit N. Riley then begins driving towards Carleton and Johnson intercepts and begins following behind around here. As Auditor and Riley

close upon Carleton (near Grove Street), Auditor advises Riley, "You don't need to ... go up to my uh – my house, my curtilage. ... I don't really want ya to go onto my curtilage. I forbid you to do it." Exhibit O. After Auditor and Riley turn onto Carleton from Grove, Auditor asks Riley to pull the squad car to the side of the road so Auditor can exit, and Riley does just that; Johnson, who is still following Riley and Auditor, also does the same. Riley parks his squad car near 820 or 826 Carleton Road and/or about seven (7) houses away from Auditor's Home. This occurs around 2:12 a.m. or so. Riley exits the driver's seat and opens the squad car's back door and Auditor exits. Auditor sincerely thanks Riley for the assistance and shakes Riley's hand. Auditor waives to Johnson and begins walking in the direction towards his Home. After Auditor has walked past about five (5) houses, Riley drives past Auditor and then his Home. There are no lights activated in Auditor's Home that could be seen from outside. Riley continues driving towards the end of Carleton and then turns onto Sycamore Street en route to Central. Johnson also vacates Carleton. *Cf.* Exhibit P. No police are on Carleton as of this point. Prior to Riley's encounter with Auditor, Riley was likely unaware or indifferent to Auditor's identity.

76. Auditor reaches his lawn but does not enter his Home; Auditor instead remains outside and calls WPF. This call occurs around 2:19 a.m.

77. During this call, Auditor speaks in a slow, soft, and gentle tone of voice. The following denotes the roughly 44-second call between a WPF operator and Auditor.

Operator: 911 where is your emergency?
Auditor: Yes, I am um – I'm – your, your officers just escorted me Home. And I am safe at Home – I'm on curtilage. And I just would like to say that I am uh – if um Mr. Guss has anything to say then I am uh, did not – did not do anything. Alright, thank you very much.
Operator: Hey, hang on a minute – what's the – what's the issue?
Auditor: There is no emergency. There is no issue. I have been transported Home by your officers.
Operator: Alright, is there anything else? Are you just saying thank-you?
Auditor: I'm just saying thank-you.

Operator: Alright, thank you very much.

Background/Unknown: He wants to make it a habit of (unintelligible).

Operator: Alright, buh-bye.
Auditor: Alright, b- (Operator disconnects Auditor).

Exhibit N.

78. After the WPF operator hangs-up on Auditor, Auditor continues to remain outside around his Home and, at some point, Auditor walks onto his neighbor's lawn. Auditor remains in this general vicinity for some time hereafter and does not venture far; rather, Auditor stands close to the garden bordering his and his neighbor's yards.

79. Meanwhile, approximately 12 seconds after WPF terminates said call, the operator radios Riley that Auditor "just called … to thank [him (Riley) and Johnson]." Id. WPF agent and/or sergeant Kapka then radios Riley to go inform Auditor to refrain from using "the police department as a taxi service" and says, "Apparently he's made a habit of this." Id. Riley subsequently begins driving towards Auditor's Home for the sole purpose of finding and contacting Auditor so to inform Auditor to refrain from asking WPF "for rides home." Exhibit Q.

80. While Auditor is standing on his neighbor's lawn at 902 Carleton, Riley turns onto Carleton from Grove and begins approaching Auditor's Home. As Riley nears Auditor's Home, Auditor slowly repositions himself a few feet to the left across his neighbor's lawn and just casually stands upright alongside a large bush or small tree; this adjustment would likely somewhat obstruct someone's ability to see Auditor when being located in front of the Home.

81. Riley pulls up to and parks his squad car in front of Auditor's Home; this occurs around 2:25 a.m. or so. No person is located outside on or about Carleton besides for Auditor and Riley around this time. Riley exits his vehicle and begins approaching the Home's front door. Riley walks into and up the pathway leading to the Home's front door. Riley reaches the two (2) steps

ascending to the front door; climbs those steps, and ultimately plants both of his feet on the platform attached to Auditor's Home that leads to the front door. Riley, however, never touches the Home's front door or its doorbell, notwithstanding that he ultimately becomes situated about one (1) second and/or a couple feet away from doing so; this is because as Riley is approaching the Home, Auditor returns to his lawn by walking through the garden separating his and his neighbor's yards and, after Auditor is fully located on his lawn and while Riley is climbing the final step needed to reach the platform leading to the Home's front door, Auditor explicitly yells at Riley, "Get off my property!" Riley hears every word of the same; nothing is producing any noise or obstructing Riley's ability to hear Auditor around 2:26 a.m. on Carleton.

82. Upon hearing Auditor's command to exit his property, Riley immediately turns away from the Home and begins to exit the platform leading to the Home's front door. Riley walks down the two (2) steps and returns to the front pathway leading to the street but, Riley then deviates from the Home's front pathway by executing a sharp turn onto the grassy area of the Home's yard. Riley begins approaching Auditor. Around here, Auditor believes that he is not free to do whatever or ignore Riley and go about his business. When Riley reaches Auditor, Riley is standing on the lawn's grassy area roughly 25 feet away from the front pathway and about 20 feet away from the Home. Riley seems or appears somewhat angry or annoyed upon reaching Auditor. Riley then speaks to Auditor for about 10 seconds. Riley tells Auditor, "You know I'm the officer you just thanked, right? Listen, stop calling us for rides home – we're not a taxi service, ok?" Auditor remains silent during Riley's lecture. Following the conclusion of Riley's lecture, Riley just stands silently looking at Auditor. Over the course of the subsequent few seconds of silence surrounding Auditor and Riley, it becomes clear that Riley is never going to leave Auditor or his lawn alone until Auditor produces some type of acknowledgment of the

State's lecture. As a result, Auditor says, "Ok," and then Riley leaves Auditor's Home soon thereafter and eventually drives away. Exhibit Zd.

83. At some point(s) within the next 30 days following May 25, 2018, Auditor becomes intoxicated due to his consumption of alcoholic beverages; he is located in Westfield some distance away from Home, and he is without another's means of assisting him Home. On or around said point(s), Auditor does contact WPF on said date(s) and instead walks Home on foot. Auditor understood that making such contact would result in some cognizable detriment.

Summaries – Claims – Conclusions

84. Auditor has always enjoyed a possessory interest and a legitimate subjective expectation of privacy that society recognizes as objectively reasonable in relation to the Home and its immediately surrounding land, especially during the dead of morning, and he possesses standing to challenge any police presence upon either. Auditor had been living at the Home for about the past 10 years and he could come and go at will, and all of his possessions were located inside the Home during that period. The dimensions of Home's yard were defined by fences, gardens, bushes, trees, adjacent neighboring homes, and a public roadway and sidewalk. The Home's entire property was regularly groomed by a landscaping company; it was located amid an incredibly safe semi-condensed residential neighborhood, and it was not only utilized daily for reaching the Home, but it was also used for many other activities such as building snowmen and playing catch. Auditor likewise employed considerable safeguards and took substantial steps to keep his lawn private by excluding others; Auditor, for example, advised Riley that he was "forbid[den]" from entering upon the Home's lawn. Every square inch or part of the Home's lawn, yard, and property (including its driveway, front pathway, steps, and platform) is 'land' immediately surrounding Auditor's Home and/or is always curtilage (especially here and around 2:30

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a.m.) and is protected by the Amendments from arbitrary governmental intrusion.

85. Auditor explicitly advised Riley that he was absolutely forbidden from entering Auditor's property and, Riley initially complied with Auditor's proclamation by driving far away from Auditor's Home. Auditor called WPF and clarified that he was "safe ... on curtilage" or, otherwise again decreed that no police could intrude upon the privacies of Auditor's life unless the intrusion was reasonable. Riley returned to Auditor's Home approximately five (5) minutes later around 2:26 a.m. and began approaching the front door of the Home. Yet, after Riley reached the Home's front door but just before he could perfect his plan, Auditor commanded Riley to immediately exit his lawn by yelling, "Get off my property!" Riley refused and instead chose to venture further and travel deeper into Auditor's curtilage. Riley then stood stationary upon Auditor's lawn and did not leave until he finished lecturing Auditor and received satisfactory acknowledgment of the same.

86. Riley did not enter and occupy Auditor's curtilage to combat or prevent imminent hazard or danger or to aid others in distress or injury; no information existed showing an exigent or any other safety issue to be present on Auditor's curtilage or otherwise within his Home. Riley moreover did not really even know whether anyone was inside of the Home or located on its property. Riley was not bypassing through the Home's curtilage to go elsewhere. Riley also did not approach Auditor's Home for any traditional or recognized investigatory purpose; there existed no information suggesting any indication of crime being associated with the Home or anyone affiliated with it. Rather, Riley's sole and only purpose for approaching Auditor's Home was to find nobody other than Auditor so to then briefly say some words to him.

87. Riley's purpose for approaching the Home during the dead of morning and his actual entry and occupation upon Auditor's curtilage, from his very first step till his very last, was

contrary to widely shared social expectations and norms and the habits of the country. Riley's premeditated plan to approach Auditor's Home and pound on its front door or ring its doorbell was going to prompt lots of loud noise to echo throughout the Home. Riley's likely foreseeable act or something surely to be interpreted as nearly identical to that of him banging on the Home's front door around 2:30 a.m. while repeatedly announcing, 'POLICE – OPEN UP,' was either going to disturb, awake, rattle, or perhaps traumatize others who might have been located in the Home like, for example, a sleeping teenage girl; and, Riley's execution of his plan was most undoubtedly going to aggravate Auditor. Riley was and is a total ***stranger*** to everyone intimately associated with the Home and its property but, despite this, Riley and Kapka, however, apparently had no problem whatsoever and could care less about arousing anyone and everyone out of bed to stand at attention because Police had a slight itch to briefly say a few words to the citizenry. No reasonable respectful private American would have replicated Riley's actions via approaching a stranger's Home at approximately 2:30 a.m. in defiance of the fact that a full-grown man and/or only resident physically present had just explicitly decreed that entry upon their lawn was categorically "forbid[den];" nor would any competent American approach and subsequently venture deeper into such a stranger's property so to lecture that resident as they were yelling, "Get off my property!" Riley did not enjoy a customary license and/or implicit consent to either approach the Home's front door or to travel towards and thereafter occupy the part of curtilage near where Auditor was standing. And, any such consent was certainly not unequivocal or specific, or freely or voluntarily given, or otherwise abided by in scope.

88. *See Kentucky v. King*, 563 U.S. 452, 469-470 (2011) (Alito, J.) ("When law enforcement officers ... knock on a door, ... occupant[s] ha[ve] no obligation to open the door[,] ... respond[,] or to speak[;] ... need not allow the officers to enter the premises[;] and may refuse to

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answer" questions and "choose ... to stand on their constitutional rights" at any time), *Collins v. Virginia*, 584, __ U.S. __, __, 138 S.Ct. 1663, 1681 (2018) (J. Alito, dissenting) (quoting Maj. Opn., at 1678-1679) (Police need a warrant, exigency, or consent (implicit or explicit) to infringe "home's 'curtilage'" enjoyed by occupant of house paid for by another), *United States v. Carloss*, 818 F.3d 988, 1003 (10th Cir. 2016) (J. Gorsuch, dissenting) (Police "need a warrant, exigent circumstances, or consent … to reach the home's front door"), *Florida v. Jardines*, 569 U.S. 1, 7 (2013) (Scalia, J.) (Unprivileged "unlicensed" police existence on curtilage accomplished without express invitation violated Amendment), *id.*, at 8 (Police entry/occupation in curtilage is unlicensed/nonconsensual upon failure to comply with "traditional invitation" terms observed by reasonable respectful strange and timid "Girl Scouts" or "trick-or-treaters"), *Collins*, 138 S.Ct., at 1673, n.2 (Unlicensed upon venturing "beyond where a neighbor would" go), *Carloss*, 818 F.3d at 999 (C.J. Tymkovich, concurring) (emphasis in original) (Unlicensed when "a reasonable person would conclude that entry onto the curtilage … by police or others was *categorically* barred"), *Davis v. United States*, 327 F.2d 301, 303 (9th Cir. 1964) (License may be revoked by "express orders"); *State v. Grice*, 367 N.C. 753, 762, 767 S.E.2d 312, 319 (2015), *State v. Christensen*, 131 Idaho 143, 147, 953 P.2d 583, 587 (1998), *State v. Christensen*, 517 S.W.3d 60, 71 (Tenn. 2017) (citing *Grice & Holmes*), *United States v. Holmes*, 143 F.Supp.3d 1252, 1269 (M.D. Fla. 2015) (Corrigan, J.) ("Telling visitors to go away would revoke the implied license"), *Jardines*, 569 U.S., at 20 (J. Alito, dissenting) (Amendment bars arbitrary police approach to home's "front door in the middle of the night without an express invitation"), *United States v. Abarza*, 199 F.Supp.3d 1270, 1276 (D. Or. 2016) (Mcshane, J.) (Police "entry into the curtilage of a home late at night without probable cause, a valid warrant, or an express invitation from the occupant, violates the Fourth Amendment"), *and Ysasi v. Brown*, 3

F.Supp.3d 1088, 1098-1099 & 1151-1157 (D.N.M. 2014) (Browning, J.) (Denying summary judgement on "unlawful entry" Fourth Amendment § 1983 claim where physically present occupant advised police "that he did not consent to them entering and remaining on his property"); *and then cf. Collins*, 138 S.Ct., at 1670 (quoting *Jardines*, 569 U.S., at 6), *Sims v. Stanton*, 706 F.3d 954, 962, n.6 (9th Cir. 2013) *rev'd on other grounds in* 134 S.Ct. 3, *United States v. Taylor*, 458 F.3d 1201, 1206 (11th Cir. 2006), *United States v. Molkenbur*, 430 F.2d 563, 566 (8th Cir. 1970), *and Oliver v. United States*, 466 U.S. 170, 180 (1984) (emphasis added) (Curtilage "warrants *the* Fourth Amendment protections that attach to the home") *with Georgia v. Randolph*, 547 U.S. 103, 106 (2006) (A "physically present co-occupant's stated refusal to permit entry prevails" over another occupant's invitation), *id.*, at 111 (Examining validity of invitation with "widely shared social expectations"), *Bumper v. North Carolina*, 391 U.S. 543, 548, n.11 (1968) (No "question of the petitioner's standing to challenge" invasion "in[to] the common part of the house" owned by grandmother), *Minnesota v. Olson*, 495 U.S. 91 (1990) (Standing for search of another's home), *Byrd v. United States*, 584 U.S. __, 138 S.Ct. 1518 (2018) (Standing for search of "effect" paid for by another), *and Rakas v. Illinois*, 439 U.S. 128, 149 (1978) (Explaining that defendant in *Jones v. United States*, 362 U.S. 257 (1960) "had complete dominion and control over" friend's apartment absent consideration "and could exclude others from it" in friend's absence); *and then see also Sims*, 706 F.3d at 959 ("The Fourth Amendment prohibits officers from entering" curtilage "to the same extent that it prohibits them from entering a home"), *United States v. Barajas-Avalos*, 377 F.3d 1040, 1055 (9th Cir. 2004), *Kirsche v. State*, 271 Ga. App. 729, 731, 611 S.E.2d 64, 67 (2005), *Payton v. New York,* 445 U.S. 573, 582, n.17 (1980) (Stevens, J.) (Nonconsensual entry to the sanctity of the home is "the chief evil that the Amendment is designed to deter"), *Johnson v. United States*, 333 U.S. 10, 14 (1948)

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(Jackson, J.) (Police thrusting upon homes is "a grave concern"), *Silverman v. United States*, 365 U.S. 505, 512 (1961) (Nonconsensual entry by "fraction of an inch" was unlawful), *and Olson*, 495 U.S., at 95 (*Payton* stands "not to protect the person … but to protect his home from entry.") *Payton's* "'firm'" and *Kyllo's* "'bright'" lines "govern" the curtilage. *See Jardines*, 569 U.S., at 14 (J.J. Kagan, concurring) (quoting *Kyllo v. United States*, 533 U.S. 27, 41 (2001) & *Payton*, 445 U.S., at 590); *and cf. Entick v. Carrington*, 2 Wils. K.B. 275, 291, 95 Eng. Rep. 807, 817 (K.B. 1765) (L. Camden) ("[N]o man can set his foot upon his neighbour's close without his leave; if he does[,] he is a trespasser") *with Boyd v. United States*, 116 U.S. 616, 627 (1886) (Bradley, J.) (It "may be confidently asserted that" the propositions of *Entick* "were in the minds of those who framed the Fourth Amendment"), *Payton*, 445 U.S., at 600 (Respect "for the sanctity of the home that has been embedded in our traditions since the origins of the Republic") *accord Semayne's Case*, 5 Co. Rep. 91a, 91b, 77 610 Eng. Rep. 194, 195 (K.B. 1604) (S. Coke):

> The protection guaranteed by the Amendments is much broader in scope. The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone — the most comprehensive of rights and the right most valued by civilized men. To protect that right, *every unjustifiable intrusion by the Government*[,] … whatever the means employed, must be deemed a violation of the Fourth.

Olmstead, 277 U.S., at 478-479 (J. Brandies, dissenting) (emphasis added); *see also Boyd*, 116 U.S., at 630 & 635.

89. Riley moreover 'searched' Auditor's property, curtilage, Home, and/or 'house' within the meaning of the Amendment. *See* L 625-639, *supra and cf. Johnson*, 333 U.S., at 13 ("Entry to defendant's living quarters ... [i]s the beginning of [a] search"), *Segura v. United States*, 468

U.S. 796, 820-822 (1984) (J. Stevens, dissenting) (same), *Loria v. Gorman*, 306 F.3d 1271, 1286-1287 (2d Cir. 2002) (Taking "two steps into" house was a "search"), *Me v. Maryland*, No.: PWG-16-3887, 2017 U.S. Dist. LEXIS 137857, 2017 WL 3704616, at *12 (D. Md. Aug. 28, 2017) (citation & brackets omitted) (Police that "took two steps into [Auditor's dorm] room" and "then 'immediately exited' when P[laintiff] 'yelled, 'No!''" violated Amendment), *Mazuz v. Maryland*, 442 F.3d 217, 226 (4th Cir. 2006) ("[E]ntry into" college dorm "constitutes a Fourth Amendment 'search'"), *United States v. Newman*, 472 F.3d 233, 236, n.1 (5th Cir. 2006) ("[E]ntry into a person's residence constitutes a search"), *Smith v. City of Wyo.*, 821 F.3d 697, 709 (6th Cir. 2016) ("Entrance by" police into "home ... constitutes a search"), *Leaf v. Shelnutt*, 400 F.3d 1070, 1081 (7th Cir. 2005) ("[E]ntry into a private home constitutes a search"), *United States v. Cannon*, 264 F.3d 875, 879 (9th Cir. 2001) ("[E]ntry into a residential unit ... constitutes a search"), *O'Rourke v. Hayes*, 378 F.3d 1201, 1208 (11th Cir. 2004) ("[M]ere presence inside" home "constitutes a search"); *cf. United States v. Harrison*, 689 F.3d 301, 307, n.2 (3d Cir. 2012) (Undisputed that "entry" into home "constituted a 'search'") *and also Arizona v. Hicks*, 480 U.S. 321, 325 (1987). Riley violated Auditor's legitimate subjective expectation of privacy that society recognizes as objectively reasonable by trespassing upon Auditor's constitutionally protected areas to gather information. Riley entered upon and occupied Auditor's curtilage without consent in effort and attempt to find Auditor and to also hear and discover words and/or information that Auditor would voice as acknowledgment of Riley's forthcoming lecture; and, Riley, at least unconsciously, likewise nonconsensually entered and occupied the same to discover and/or dispel suggestions of criminality by, for example, recognizing signs of whether the scent of drugs or drugs themselves could be detected or spotted with enhanced smell-points or view-points resulting from being located upon and around Auditor's

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curtilage. *See People v. Frederick*, 500 Mich. 228, 234-242, 895 N.W.2d 541, 544-548 (2017).

90. On or around May 25, 2018, Riley stormed and affixed himself upon Auditor's lawn and Home for a lecture around 2:30 a.m. without a warrant, exigency, probable cause, reasonable suspicion, legal justification, or license and/or free, voluntary, unequivocal, and specific consent (implicit or explicit) of which was abided by in scope; and, otherwise, unlawfully entered and occupied, unreasonably searched, and arbitrarily intruded upon the Home and the privacies of Auditor's life, all in violation of Auditor's rights secured by the Fourth and Fourteenth Amendments to the U.S. Constitution, respectively, and, therefore, Riley is responsible via § 1983.

91. Riley 'seized' Auditor's 'person' within the meaning of the Amendment. Auditor submitted to Riley's intentionally directed show of authority by not running away in response to Riley's approaching and subsequent lecturing of Auditor at Home around 2:30 a.m. after having dismissed Auditor's decree forbidding his approach and command for him to leave Auditor and Auditor's lawn alone, among other factors (*e.g.*, gun, history of police, lack of a witness), as Riley's show would have caused a reasonable innocent resident standing on their lawn to feel they were not free to do or otherwise ignore Riley and go about their business without interference.

92:

> So what do we do if we don't know? I can follow my instinct. My instinct is he would feel he wasn't free because the red light's flashing. That's just one person's instinct. Or I could say, let's look for some studies. They could have asked people about this, and there are none. What should I do? Look for more studies?

-Justice Stephen Breyer

> Maybe we can just pass until the studies are done?

-Justice Antonin Scali

See David K. Kessler, *Free to Leave - An Empirical Look at the Fourth Amendment's Seizure Standard*, 99 J. Crim. L. & Criminology 51 (2008-2009) (ellipses omitted) (quoting Transcript

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of Oral Argument at 43, *Brendlin v. California*, 551 U.S. 249 (2007) (No. 06-8120) (Breyer, J.) and *id.* at 44 (Scalia, J.)); *see also* Alisa M. Smith, Erik Dolgoff, & Dana Stewart Speer, *Testing Judicial Assumptions of the "Consensual" Encounter: An Experimental Study*, 14 Fla. Coastal L. Rev. 285 (2013) (Building on Harvard J.D. graduate David K. Kessler's authority in *Free to Leave*), *and e.g.*, Janice Nadler, *No Need to Shout: Bus Sweeps and the Psychology of Coercion*, 2002 Sup Ct Rev 153, 155 (2002). This is the reasonable American civilian facing police: *Click* VitalyzdTv. "Cop cutting ID's prank!" *YouTube*, 12 Feb 2017 https://www.youtube.com/watch?v=TPh7bZBvuyo&feature=youtu.be&t=143 *See* Leonard Bickman, *The Social Power of a Uniform*, 4 J. Applied Soc. Psychol. 47 (1974), Stanley Milgram, *Obedience to Authority: An Experimental View* (1974), *and* Zimbardo, *The Stanford Prison Experiment: A Stimulation Study of the Phycology of Imprisonment* (1971). The reasonable American civilian is 10 times more frightened of police when facing actual police agents (*i.e.*, not jolly YouTube prank police). *E.g.*, *YouTube*, *supra* at 3:54 ("Go ahead," cut my ID at your pleasure. I don't mind waiting five (5) hours at the DVM to get another one); *see Com. v. Dowds*, 563 Pa. 377, 390, 761 A.2d 1125, 1132 (2000) (J. Nigro, dissenting) ("From the moment the police approach a person and identify themselves, the average citizen is" seized); *and cf. Randolph*, 547 U.S., at 124, n.2 (J. Stevens, concurring) (citations omitted) (Under "many circumstances a reasonable person might read an officer's" friendly smile "as the courteous expression of a demand backed by force of law.")[19]

93. On or around May 25, 2018, Riley involuntarily stopped and/or detained Auditor on his lawn for a State lecture around 2:30 a.m. without a warrant, exigency, probable cause,

[19] This 'implicit police consent' amid armed State agents is certainly one of those "stealthy encroachments" upon the Fourth Amendment. *Boyd*, 116 U.S., at 635.

reasonable suspicion, or legal justification; and, otherwise, unreasonably seized Auditor at his Home in violation of Auditor's rights secured by the Fourth and Fourteenth Amendments to the U.S. Constitution and, therefore, Riley is responsible via § 1983.

94. Auditor's acts of contacting WPF and/or its agents on or around January 12, May 4, and May 25, 2018, respectively, and Auditor's subsequent requests for transportation and/or assistance Home due to his lack thereof during a state of intoxication, was an exercise of his right "to petition the Government for a redress of grievances" and/or protected by the Amendment. Contacting a Police agency by telephone is a formal mechanism or practice adopted by the State designed to collect and hear grievances of the People and to subsequently determine appropriate responses. Auditor was grieved around certain times because of being intoxicated some distance away from Home without another's means of transporting him Home so, Auditor petitioned the Government to assist him Home on those corresponding dates and times; Auditor lodged a grievance and did not further pursue that same grievance after the Government's disposition of redressability. If of any import, Auditor's requests for assistance implicated some, if not a substantial matter of public concern: The public certainly endorses, likely expects, and may even demand for Police to assist intoxicated persons Home in response to a request for such consensual services. Police dismissing an intoxicated person's request for assistance to shelter and abandoning them to actively engage in freely wandering the streets all alone around 2:00 a.m. is generally not going to benefit anyone or anything; to the contrary, Police declining to accommodate such a request in that context can result in the gravest of consequences. Auditor's grievance petitions, at a bare minimum, were arguably supported by a meritorious potentiality for favorable redress, if not were beyond legitimate and/or subject to full automatic redress; Riley even specifically redressed one of Auditor's identical grievances he petitioned for WPF to

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redress. Auditor also lodged his grievance petitions seeking genuine favorable redress; for example, it is unlikely for any person to possess any remote inclination to embark upon an approximately two (2) mile journey Home alone around 1:30 a.m. during the dead of winter while essentially clothed in nothing but a light sweater. Auditor's requests for Police assistance cannot really be considered as anything other than extremely responsible uses of the right "to petition the Government for a redress of grievances." U.S. Const. Amend. I.

95. On or around May 25, 2018, Riley unlawfully entered and occupied, unreasonably searched, and arbitrarily intruded upon the Home and the privacies of Auditor's life, and unreasonably seized Auditor in a direct response to Auditor's exercise of his right to petition Government to redress his grievance of lacking assistance, of which retaliatory striking was intended to deter (or frighten) Auditor in exercising the same and of which strike would moreover likely chill and silence a similarly situated individual of average or mere ordinary firmness from exercising the same for some length of time resulting from some fear of some cognizable detriment; and, otherwise, chilled Auditor's exercise of his right to petition Government for redress of grievances by and through a striking in retaliation or in direct response to Auditor's prior petitions, all in violation of Auditor's rights secured by the First and Fourteenth Amendments to the U.S. Constitution and, therefore, Riley is responsible via § 1983.

96. On or around May 25, 2018, Kapka voiced instructions and/or statements of which guided, assisted, impacted, and moved Riley so to deprive Auditor of his rights secured by the First, Fourth, and Fourteenth Amendments to the U.S. Constitution, respectively, and, therefore, Kapka is responsible via § 1983.

Facts

97. On June 18, 2018, Auditor e-mailed Rowley and informed her that he "ha[d] prepared a

complaint" of which was going "to be filed in the U.S. District Court of New Jersey" soon after the "receipt of information" he previously requested a few days prior in relation to Riley's abovementioned conduct. The next day (June 19, 2018), WPF and Wayman created and issued and implemented a brand-new five (5) page policy outlining rules, regulations, and procedures applicable to transporting Auditor (the "Transport Policy") Exhibit R. The Transport Policy was constructed in response to encounters involving Auditor and Defendants. WPF clarifies in its Transport Policy that it strongly believes that "is not a transport or *"taxi"* service." Id., at p.5, § II-C ¶ 5 (emphasis in original). The Transport Policy includes a detailed, fully italicized example of how to handle transportation of intoxicated persons to residences. The Transport Policy would also condemn most of Riley's actions, such as, for example, failure to request and subsequently obtain supervisor approval for a civilian transport; id., at p.3, § II-B ¶ 1; failure to secure a transportee in a seatbelt; id., at ¶ 6; and failure to transport a transportee directly and completely to their intended destination. Id., at p.4, § II-B ¶ 8. Prior to enacting the Transport Policy, WPF had no rules, regulations, policies, and/or procedures relating to civilian transports.

98. WPF's Transport Policy only applies to Auditor. For example: the Transport Policy avers that the WPF "dispatch center shall document" all pre-transport information that a WPF agent is required to radio, and which details: "[a] Their present location; [b] Their intended destination; [c] Number of passengers; and, [d] The police vehicle's odometer reading at the start of transport." Id., at ¶ 2. The Transport Policy was distributed to "all personnel." On August 2, 2018, however, in response to Auditor's request for (1) (and only one) CAD report denoting a civilian transport, the Town provided a report averring that a civilian was transported on July 13, 2018 (apparently nearby a "Seven Eleven Food Store"), which report notes provide in full: "Civilian Transport[,] Transport complete 12:38:47 p.m." Exhibit S.

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99. On or around June 29, 2018, at 4:00 a.m., Auditor is visiting C at his house; J is also visiting. Auditor is intoxicated due to his consumption of many alcoholic beverages.[20] Auditor is wearing jeans and a polo shirt. Auditor leaves C's house and begins walking Home. Auditor is walking among Westfield while carrying an empty, sealed, labeled, glass, and approximately a half gallon-sized bottle of Captain Morgan spiced rum. After some brief walking, Auditor stops, hides the bottle behind a small rock, and then calls WPF for assistance. Auditor's identity is known. Auditor asks for a WPF agent to assist him Home because he is intoxicated. Freeman and another police agent are dispatched and arrive at Auditor's location soon thereafter in the same squad car. In turn, Auditor informs these agents that he is intoxicated and asks them to assist him Home. Freeman tells Auditor that he is not intoxicated. Auditor subsequently moves towards the aforementioned rock, retrieves the Captain Morgan bottle, holds it up, and then says, "I just drank this." Freeman tells Auditor that WPF will not assist him Home. Afterwards, Freeman and the other agent return to their squad car and drive away. Freeman and the other agent, however, likely than generally do absolutely nothing besides drive around Westfield for about the next 50 minutes as Auditor walks Home. The WPF report summarizing this encounter carefully frames Auditor as having called WPF to merely 'say' that he was intoxicated. Exhibit T. This report also provides in part that Auditor was "not intoxicated;" this is a lie.

Summaries – Claims – Conclusions

100. Over many years, countless WPF agents (including Defendants) have used WPF vehicles on numerous occasions for the consensual transportation of individuals, especially white adult American males, some wearing polo apparel, from parities, strip malls, and restaurants

[20] Due to their levels of intoxication, Auditor records a video of J slapping C in the face for fun; Auditor's words are heavily slurred during this video.

located within Westfield, to elsewhere within Westfield such as to motels, train stations, bakeries, and residences, irrespective of whether the transportee is intoxicated, alleged to be violent, appears to be in good health, or has been seen urinating in public and regardless of whether these journeys consist of a matter of a few blocks or extend to the farthest ends of Westfield resulting in upwards of 10 minute driving times. *See, e.g.*, Exhibit U.[21] This list is not exhausted and extensively continues.

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[21] A WPD agent has transported an "adult male," who was alleged to be "violent," "bothering the neighbors," and "passed out" in an apartment building, with a WPD vehicle, from somewhere in Westfield, to a local Westfield motel, the "Best Western." This transport was comprised of approximately 0.5 miles in distance.

On or around August 14, 2013, a WPD agent transported an intoxicated individual, who was "refusing to leave" a former Westfield restaurant, "The Office," with a WPD vehicle, from a nearby area within Westfield, to the border of Westfield. This transport took about 11 minutes by drive. O'Keefe and Freeman were present on the scene and participated in the transport.

On or around August 9, 2014, a WPD agent transported "a white male" who "decided to take a nap" by a tree near a strip mall in Westfield or "Bagel Chateau," with a WPD vehicle, from a nearby area within Westfield, "to the [Westfield] train station" located nearby.

On or around December 24, 2014, a WPD agent transported a "white male" who was around the time "seen urinating in the bushes by the bank," with a WPD vehicle, from a nearby area within Westfield, to a local Westfield bakery of which Plaintiff was once employed as a dishwasher during high school or, "Bovella's."

On or around March 17, 2017, Martinez "transport[ed] 1 adult male" from an "all adult party" which presented "no issues," with a WPD vehicle, from somewhere in Westfield, to an area located elsewhere within Westfield about seven (7) minutes away by drive.

On or around June 11, 2017, a WPD agent transported "1 adult male" who "[wa]s not intoxicated" and "appear[ed] to be in good health," with a WPD vehicle, from somewhere in Westfield, to an area located elsewhere within Westfield about six (6) minutes away by drive. Forcenito was present on the scene and participated in the transport.

On or around June 24, 2017, a WPD agent transported an intoxicated "white male wearing a polo," with a WPD vehicle, from somewhere in Westfield, to an area located elsewhere within Westfield about one (1) minute or a few blocks away in driving distance. Martinez was present and participated in the determination to transport and the transport itself.

The events described in this footnote were consensual.

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101. Around 2:00 a.m. on both May 4, and May 25, 2018, respectively, Auditor was standing on St. Marks Ave in Westfield and called WPF for assistance to his Home due to being intoxicated. Riley responded and assisted Auditor; O'Keefe and Freeman did not. This fact alone supports an inference that O'Keefe and Freeman hold some dislike for Auditor because of, for example, Auditor having filed a federal lawsuit against them and their employer. Prior to Auditor's filing of said lawsuit, on June 27, 2017, O'Keefe, Freeman, and Martinez were so enthusiastic about transporting Auditor Home on suspicion of him being slightly under the influence of alcohol that they involuntarily compelled his transportation over his numerous objections. Yet, after Auditor filed his lawsuit against said agents, on January 12, May 4, and June 29, 2018, respectively, O'Keefe, Freeman, and Martinez apparently rather have been doing any activity whatsoever (including driving nowhere for hours) than assist Auditor with anything.

102. On or around January 12, May 4, and/or June 29, 2018, respectively, O'Keefe, Freeman, and Martinez, around said applicable dates and/or times, selectively, wholly irrationally, and in furtherance of no legitimate government interest, denied and refused Auditor the same assistance, gifts, services, benefits, functions, and activities that he qualified to enjoy, activities of which countless WPF agents (including Defendants) have supplied numerous similarly situated individuals (including Auditor's past selves), as a result of some animus towards Auditor or his class of one; and, otherwise deprived Auditor of Equal Protection of the Laws in violation of Auditor's rights secured by the Fourteenth Amendment to the U.S. Constitution and, therefore, O'Keefe, Freeman, and Martinez are responsible via § 1983.

Facts

103. In June of 2018, Congress proposed legislation (H.R. 6054, 115th Cong., 2d Ses.) titled: Unmasking Antifa Act of 2018. This bill was sponsored by U.S. House of Representative Daniel

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Donovan and co-sponsored by Representatives Peter King, Theodore Budd, and Paul Gosar; the bill is aimed at targeting and severely penalizing the mere wearing of a mask.

104. On or around July 1, 2018, at 4:00 a.m., Auditor walked into the lobby of WPF headquarters. About 100 civilians enter and walk about this area per day. Auditor, thinking of *Fields v. City of Phila.*, 862 F.3d 353, 359-360 (3d Cir. 2017), began recording police activity with his iPhone. The first WPF police agent Auditor encountered, who was standing behind a bullet-proof glass window inside of the command center room affixed to the lobby, informed Auditor that he enjoyed permission and authorization to film in the lobby. O'Keefe was also located in WPF's command center room and, considering Westfield has an extremely low crime rate, O'Keefe somewhat predictable informed Auditor that "nothing" was going on in Westfield. O'Keefe likewise revealed that he had been briefed on Riley's transportation of Auditor to his Home and/or O'Keefe talked about "what Officer Riley did." Auditor apprised O'Keefe that he was preparing another lawsuit against him; O'Keefe got upset and said that Auditor has "no reputation" and conveyed that therefore, it cannot possibly be tarnished by anyone. Yet, Auditor eventually left WPF and returned Home.

105. On July 4, 2018, Auditor travels into Manhattan to watch the Macy's Independence Day Firework Show. Auditor ultimately attends the New York City Police Department annual 4th of July party on the helipads affixed to the East River. Before Macy begins its show, Auditor briefly mingles with active duty government personnel. Auditor approaches and asks NYPD in a very friendly and casual tone of voice for their position on the legality of unlawful entries onto curtilage. NYPD gets upset and starts interrogating Auditor for information divulging how Auditor obtained entry to the Police State Party. NYPD tells Auditor that he's "gonna be free to leave in a second" if he doesn't get the hell away from NYPD; Auditor yields and goes over to

pal-around with Fire. Next, Auditor approaches a group of about five (5) men from Homeland Security equipped with like M-16's, bullet vests, and every gadget in the catalog, and briefly speaks with them in some type of fashion basically summarized by, "Hey, what's goin' on? Nice vest." And, finally, soon after Auditor walks away from Homeland Security and as he's speaking with a friend in an excited manner about his police mingling, Auditor looks over and sees two (2) secret agents standing about four (4) feet away from him, one (1) of whom appears extremely nervous as she's looking directly at Auditor. In turn, Auditor sorta gives this secret agent a somewhat annoyed/confused stare over the following few seconds until she performs a like quasi-hop and then looks away from Auditor, seemingly thinking like, "Please boy, don't blow my cover, I'm beggin' you." Auditor looks away from the secret girl in response and subsequently watches the bombs bursting in air.

106. The next day, on July 5, 2018, Auditor boards the Raritan Valley Line at the Westfield train station and rides the train into Newark Penn Station. And, like his procedure Auditor has performed with nearly every single paper he has ever filed in the U.S. District Court of New Jersey, Auditor leaves the train terminal, walks past the Prudential Center, enters the Federal Courthouse, and files suit *pro us* against the Government in the Clerk's Office on the fourth floor of that Martin Luther King Building, this time against the Town, Wayman, O'Keefe, Martinez, Freeman, Johnson, Riley, and Maloney. *See Me v. Township of Westfield*, No.: 18-cv-11343-JMV (D.N.J. July 5, 2018).[22] Mr. Guss later-on conveyed that he would accept service on behalf of all of the aforementioned agents. *Me II* is still pending as of here.

107. On or around July 12, 2018, 10:00 a.m. and July 13, 2018, 11:00 a.m., respectively, Auditor enters WPF's lobby and records police activity for approximately 10-minute time spans.

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[22] *See* Exhibit R at D.E. 1 for reference to ¶ 104, *supra*.

While Auditor is recording, WPF sergeant Jeffery Johnson rejects Auditor's request to search the bag he's carrying, rejection to which Auditor responses by saying, "Smart man." Johnson subsequently says to Auditor, "Thank-you for what you do," language to which Auditor genuinely conveys in response, "What am I doing? I don't even know what I'm doing." And, before Auditor begins walking back Home, Auditor asks Johnson as he's sitting in a squad car with WPF super-girl Tiffany Kenny, "When [does] a search occur?" "That's way too broad of a question," Johnson says. Auditor advises Johnson, "When you violate privacy, right?" In response, Johnson, however, appears very confused and merely asks, "What?"[23]

108. On or around July 14, 2018, 4:30 a.m., Auditor entered WPF headquarters and video recorded a brief encounter with WPF sergeant Bradford Brien. Exhibit V

109. On or around July 15, 2018, at 3:30 a.m., Auditor entered WPF's lobby. O'Keefe and Freeman were inside the command center. Around this point herein, Defendants literally begin their attempts in covering up their activities linked to Auditor right before Auditor's very eyes; O'Keefe and Freeman started attaching very large pieces of yellow note-pad paper to the one and only giant bulletproof glass window offering sight from the lobby into WPF's command center. Auditor stood next to the yellow padded paper window with his back turned against it sometime after the window had been entirely covered by paper; O'Keefe observed and was aware of Auditor's location due to viewing of a security camera video feed of WPF's lobby that was being displayed in the command center room. As Auditor silently stood really close by the papered window with his back faced against it, O'Keefe angrily slapped the glass with incredible force and caused an extremely loud booming noise which prompted Auditor to quickly hop

[23] This is similar to how O'Keefe responded to Auditor's questions on June 27, 2017 inside WPF headquarters.

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away from the window and blurt out in mid-hop, "Oh shit." Exhibit W.

110. Afterward, on said date and time, O'Keefe stealthily attempted to contact Auditor's Mother to instruct her to come to WPF headquarters and to then remove Auditor; O'Keefe dialed and called (908) 317-5606. During this call, O'Keefe learned that this number is either nobody's phone number or simply not a number connecting to Auditor's Mom. The number (908) 317-5606 is an ancient and non-working Auditor family land-line number. Next, O'Keefe started repetitively telling Auditor that he would happily call his Mother (around 3:30 a.m.) and 'ask' her to come to WPF headquarters so to thereafter transport Auditor Home if Auditor so approved of this plan. Auditor objected to any police ever contacting any members of his family, and Auditor also advised O'Keefe to leave his Mother alone. O'Keefe just kept babbling to himself over and over again saying that calling Auditor's Mom was no problem at all. O'Keefe moreover continued alerting Auditor that he had even already pulled up his Mom's phone number on a screen and was staring right at it – (908) 317-5606 – and kept saying that he was going to dial this number (presumably sometime after needing to read these numbers out-loud to himself a few times because he is slow and needed to focus on the dials). Auditor ultimately left and returned Home. Auditor has not provided his family's contact information to police.

111. Successively, WPF agents launched an investigation devoted to discovering a working phone number connecting to Auditor's Mother. WPF agents found the permanently restricted and/or always blocked cell-phone number connecting to Auditor's Mom; this number is designed to always hide caller identification, so nobody can find it, so nobody can call it.

112. On or around July 16, 2018, 11:00 p.m. or so, T invites Auditor to visit his house. T picks-up Auditor who both then go to T's house and met J.C. and P and J.M. who would be at T's house. And, from about 12:00 a.m. to 4:00 a.m., T, Auditor, J.C., P, and J.M. drank wine,

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and played drinking and video games, generally.[24]

113. On or around July 17, 2018, at 1:15 a.m., Auditor left his Home and began walking towards WPF headquarters.[25] Auditor encountered a few WPF agents (including Forcenito) sitting in two (2) squad cars stationed on Central and located near Auditor's Home during his journey to WPF headquarters. When Auditor entered WPF's lobby around 1:40 a.m., the giant yellow note-pad paper had already been placed over the command center room window. While Auditor kept to himself inside the lobby, Padovano exited the command center room and entered the lobby by using the only door directly bridging the divide between such rooms. Auditor and Padovano spoke for a few minutes, seemingly in a friendly manner. Auditor then asked Padovano if he knew of Auditor's identify; Padovano answered in the negative and said he had "no idea" of Auditor's existence, notwithstanding that Padovano had just previously exited WPF's command center room where giant yellow pad paper had been lying around for some time covering and affixed to a large area within WPF's command center. Auditor ultimately left WPF around 2:00 a.m. and returned Home about 25 minutes later.

114. On or around the same date, between 2:50 a.m. and 2:58 a.m., a Delta or Westfield Coastal gas station located in a secluded area of Westfield at 801 South Avenue, Westfield, NJ, may have been 'broken into' by some unknown and unseen actor(s); such purported crime may have been reported around 6:30 a.m. later-on in the day. No property was reported stolen.[26]

115. On or around the same date at approximately 3:30 a.m., after having returned Home from WPF headquarters, Auditor again left his Home and returned to WPF around 4:00 a.m. or

[24] Also, while a T's house, T suggested for Auditor to wear a suit and tie while filing his engagements with Police.

[25] Auditor embraced T's suggestion and dressed-up in a suit and tie on said date.

[26] Any actor(s) who may have victimized the Delta station did not assimilate to any physical description of Auditor in any aspect.

so. O'Keefe was inside WPF's command center room and, sometime after Auditor arrived, O'Keefe stealthily called Auditor's Mother on her hidden cell-phone number and aroused her out of bed. O'Keefe suggested, asked, instructed, and/or commanded Auditor's Mother to drive to WPF headquarters and remove Auditor by transporting and remanding him to the Home; Auditor's Mother agreed to participate and to do as O'Keefe wished and/or directed.

116. Auditor's Mom drove to WPF headquarters and arrived soon thereafter, appeared and presented herself before Auditor and O'Keefe, and commanded Auditor to enter her vehicle so to be transported and remanded Home. Auditor did not feel free to do and complied with his Mother's directions by entering her vehicle. Auditor's Mom transported Auditor Home and subsequently instructed Auditor to enter the Home and remain inside thereof; Auditor complied with his Mom's directions and remained inside the Home for many hours thereafter.

Summaries – Claims – Conclusions

117. O'Keefe supplied significant encouraging persuasion and asserted tremendous overt coercive pressures about Auditor's Mom of which induced and compelled her into implicitly and explicitly agreeing to jointly participate in the effectuation of a State orchestrated plan devised to transport and remand Auditor to a secluded location designated by the State. Any reasonable loving Mother contacted by Police around 4:00 a.m. would feel obligated to participate in a plan designed to remove her child from a place embedded with numerous armed individuals affiliated with an incredibly powerful organization of which at times engages in dangerous and deadly unlawful activities. Auditor's Mother was operating as a *de facto* State agent under color of law during the performance of all acts undertaken in furtherance of her and O'Keefe's implicit and explicit transport and housing agreement.

118. Auditor's Mom 'seized' Auditor's 'person' within the meaning of the Amendment.

Auditor submitted to his Mother's intentionally directed show of authority by entering her vehicle and the Home thereafter and remained inside thereof in response to his Mom's commands to do so, among other factors, as Mother's State guided show caused Auditor to believe that he was not free to do or ignore his Mother and go about his business.

119. On or around July 17, 2018, O'Keefe, by and through the actions of Auditor's Mother undertaken pursuant to O'Keefe's suggestions and instructions in furtherance of an implicit and explicit agreement between her and O'Keefe, did involuntarily stop Auditor in public and subject Auditor to a *de facto* House arrest and/or detention without a warrant, exigency, probable cause, reasonable suspicion, or legal justification; and, otherwise, unreasonably seized Auditor in public and at his Home in violation of Auditor's rights secured by the Fourth and Fourteenth Amendments to the U.S. Constitution and, therefore, O'Keefe is responsible via § 1983.

120. WPF and O'Keefe sought, discovered, and retained Auditor's Mother's private phone-number designed to prevent all members of the public from finding it so they are unable to call it. O'Keefe committed an unreasonable government intrusion by utilizing and calling the permanently restricted and/or always blocked cell-phone number connecting to Auditor's Mom.

121. On or around July 17, 2018, O'Keefe infiltrated the sanctity of Auditor's family by way of unreasonable government intrusion upon Auditor's Mom, and likewise ordered Auditor's Mom to assist the State in depriving Auditor of rights and freedoms, while possessing a degree of wrongful culpability during an unpressurized environment of which provided ample time for careful deliberative judgment-making; and, otherwise, unjustifiably infringed upon Auditor's familial integrity and the privacies of Auditor's life in violation of Auditor's rights secured by the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution, and, therefore, O'Keefe is responsible via § 1983.

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Facts

122. Around 1:30 a.m. on Wednesday, July 18, 2018, Auditor was listening to Fifth Harmony and the like on a couch at Home after finishing a 2nd shift at 7-Eleven. And, Auditor was sober and bored *so*, Auditor threw on a grey stripped Jos. A. Bank suit jacket and blue button-down dress shirt, yellow tie, GAP jeans, and brown Cole Haan Hamilton Grand Wingtip Oxfords; Auditor also partially stuffed a white handkerchief into his suit jacket's upper-left-hand-side pocket-square. *And*, ultimately, Auditor came across a large, solid blue, New York Giants football thick winter-like hat in the basement *and*, accordingly, Auditor then transformed this Giants hat into a viable face-mask by using a long serrated kitchen knife he obtains as a Cut-Co salesman, to repeatedly stab this hat and slit two (2) eye holes into the cloth. The newly spawned MASK fit Auditor very well, covered his entire face, and fully extended down to his neck-line.

123. Around 1:45 a.m., Auditor exited his Home and then placed the mask over his head and face about 30 seconds later. Auditor walked to the end of Carleton; turned right onto Grove; walked towards and made a left onto Central; and casually walked along the sidewalk on Central in the direction towards downtown Westfield.

124. Around 1:58 a.m., after having walked about one (1) mile in the mask, Auditor began to near a non-operating Raceway gas station or 400 Central Avenue.

125. The Raceway is located about 850 feet away from the platform of a medium-size operational train station in one direction and is located about 850 feet away from the beginning of a strip-mall in the opposite direction. The Raceway is also located about 150 feet away from a five (5) story apartment building in another direction. There are small businesses scattered all around the Raceway. The Raceway is located at the intersection of Central and South Avenue; this intersection might be one of the most traveled areas in Westfield. The Raceway employed

no illumination and was almost entirely covered by darkness. An Exxon gas station or 421 Central Avenue was also located at the intersection of South and Central;[27] the Exxon is located directly across the street from the Raceway. At the time, the Exxon lot was a non-operating and closed-down gas station and its gas pumps were under renovation and/or construction; said pumps were completely surrounded by fencing. A canopy stands high above and over top of the Exxon pumps; about half of the lights fixated inside this canopy of which normally shine down over the gas-pumps were not operating. There were no street lamps operating or illuminating any part of Central between the Raceway and the Exxon (including on either of the street corners of the Exxon and the Raceway near the intersection of South and Central). There is a structure or building located near the back corner of the Exxon lot; around this time, this building contained a non-operating Dunkin Donuts located on one side within this building, and also contained a closed-down and cleaned out (or previous) Tiger Mart convenience store located on the other side within the building. (The Exxon or Dunkin Donuts/Tiger Mart building is referred to as the Tiger Mart herein). The Tiger Mart employed a few lights of which were illuminating some of the area immediately surrounding its structure. There is a narrow pathway (the "Path") affixed directly against and around the brick Tiger Mart building. The Path is equipped with about four (4) foot high guard rails positioned upwards on the side of the Path opposite to the building. The Path starts and runs along the back of the Tiger Mart, leads to a sharp 90-degree right-turn (the "Turn") which rounds the Tiger Mart building, and then the Path leads in a straight direction towards and into the Exxon lot. There are many large plants, bushes, or small trees lined against or stationed alongside the back of the Tiger-Mart of which obscure and/or

[27] The Exxon station is now an Amoco gas station, and other surroundings have changed since this matter's date; for clarification, this pleading will only refer to the elements present and surrounding factors of this matter of which existed at the time of the events described herein.

conceal the Turn and the entire Path itself when viewing the back-side of the Tiger-Mart.

126. Around this time and always relevantly hereafter, no person or vehicle was located anywhere near this area's vicinity, and no business was operating. The area was dead and silent.

127. Auditor closed upon and began to walk past 414 Central Avenue (or the business located right next to the Raceway). Around this time and slightly prior thereto, a vehicle was approaching this area, from the north. This vehicle reached and entered about the intersection of South and Central as Auditor likely neared, reached, and/or passed the properly line between 414 Central and the Raceway lot. This vehicle began to slowly, steadily, and methodically roll towards an entrance to the vacant, non-operating Raceway station affixed to Ross Place, and principally located somewhat diagonal to Auditor around here. Auditor could not see any decal or logo on this vehicle from where he was about, but he knew it had to be police.

128. This vehicle was a WPF squad car driven by Gill and accompanied by Forcenito.

129. Around the time Defendants were entering and about the intersection of South and Central, Auditor was located around an almost entirely blacked-out area. Objects and things located around Auditor and Defendants about their corresponding routes included two (2) short but somewhat leafy or bushy trees, a street-light post stationed in-between said trees, a traffic-light post and a New Jersey Garden State Parkway signposted thereto, a traffic speed-limit sign located adjacent to said tree nearest to South and Central, and a 'one way' traffic sign. Additionally, as Defendants closed upon and began pulling into the Raceway's Ross Place entrance on a route closely going up alongside the edging of that entrance nearest Central, a large brick wall stationed on the Raceway lot and its above sitting signage displaying gas prices and a Raceway logo also became directly in-between Auditor and Defendants locations. The Raceway wall and signage is about seven (7) feet wide and seven (7) feet tall; there was also a lamp-post standing

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directly adjacent to the Raceway wall together with a couple very short and tiny bushes nearby.

130. As Auditor was casually walking along the sidewalk laid over the Raceway lot entrance affixed to Central and located furthest away from South and Central, and very soon or almost immediately after the State began pulling into the Raceway Ross Place entrance, Auditor said, "Alright, here we go," and then quickly accelerated into a full-blown sprint.

131. Auditor bolted across Central towards the Exxon lot; he cut over some part of the Exxon en route to South Ave; he reached South Ave and began traveling along its sidewalk and away from Central; he redirected himself from South Ave to the back of the Tiger Mart; he ran down the Path under cover of its small adjacent trees, skillfully rounded its Turn, and continued down the Path leading strait to the Exxon lot: Auditor essentially ran around in a giant circle.

132. The Police gave chase, eventually. Gill exited the Raceway lot onto Central by using the lot's entrance/exit located furthest away from South and Central. The squad car's engine loudly revved as Gill drove in a straight direction down Central and headed towards the intersection of South and Central. The State's engine went soft as Gill turned onto South Ave but it began rev-ving loudly once again as Gill started speeding down this avenue. Around here, Gill radioed and/or beeped WPF requesting to make a report. Defendants thereafter lost all sight of Auditor for at least 12 seconds following the moment Auditor skillfully rounded and maneuvered the sharp Turn at a high rate of speed. Gill ultimately stopped the WPF squad car on South Ave, and Forcenito exited and began pursuing Auditor on foot. Forcenito headed towards the back of the Tiger Mart and its Path; and, Gill routed his vehicle in some direction.

133. After Auditor sharply cut around the Tiger Mart, Auditor maybe could have continued sprinting into the Exxon lot, turned left, and then just darted through a gate located behind a tall wall of bushes and about 15 feet away from the Path's entrance into the Exxon lot. This route

leads to 443 Central Ave and, at the time, going down this route would have offered Auditor a multitude of other running routes, hiding places, possibilities, and also more exercise time; and, ultimately, Auditor would have undoubtedly out-moved Westfield Police, and would have lawfully gotten away. Auditor, however, felt compelled to yield and allow Defendants to catch-up. During the approximately 12 seconds Defendants had lost sight of Auditor following the Turn, Auditor soon began decelerating over some part of the Path leading to the Exxon lot. Auditor thereafter casually and/or slowly walked out and about the Exxon lot for about the next five (5) seconds in a straight direction towards the Raceway, and Auditor then began to lightly jog in the same direction, or strait towards the Raceway for about the following two (2) seconds. As of this point, the State had not directed any explicit direction towards Auditor (and especially not any type of direction supported by any remote volume or clarity), but there was most certainly a Police show. Auditor never looked back or over his shoulders or behind himself to see anything as he ran because the revving of the squad car's engine was more than enough for Auditor.

134. Forcenito rapidly traveled into the Path and headed towards its sharp 90-degree right-Turn. As Forcenito entered and simultaneously began attempting to maneuver this Turn, Forcenito commanded Auditor, for the first time, to "stop," just around the same time Forcenito ran straight into the guard-rails attached to the Turn; this collision caused Forcenito's "stop" command to come out very faint and soft. In any event, Auditor afterward no longer felt free to do whatever at all. Auditor complied with Forcenito's order in near-instantaneous fashion by ceasing all movement; Auditor also quickly spun his head around to see Police and, as a result, Auditor saw Forcenito tumbling away from the Path's guard rails around its right-Turn, and also saw Forcenito continue to tumble about the Path for a brief period thereafter. Forcenito generally tumbled around with a hunched back and with his head facing and looking towards the

ground or, otherwise looking at the Tiger Mart's solid brick wall located right next to his face as he tumbled in that direction. Before Forcenito could collect himself and before he had caught anything more than a slight glimpse of a figure in the distance, as Forcenito tumbled about this Path, Forcenito asked Auditor, "Why you running?" Next, about a split second later, Forcenito looked towards and at Auditor and, for the first time, observed and/or recognized that the person Defendants saw running around was wearing a mask covering their entire face; Forcenito immediately thereafter demanded, "Let me see your hands." Auditor threw his left-hand straight up into the sky and Auditor also let Forcenito see his other hand in which he was holding his iPhone. Auditor soon shifted his body around towards Forcenito who stood about 10 feet away. Despite the solid blue mask, Forcenito immediately recognized Auditor's identity within about one (1) second after issuing his 'show hands order,' saying, "Aah." Forcenito shined a flashlight at Auditor and asked Auditor, "You kidding me? You kidding me, right? Wh – why you got the mask on your face? Why you running around with a mask on?" Auditor began to slowly walk towards Forcenito as he removed his mask and nonchalantly asked, "Am I being detained?" Around here, Gill began broadcasting over WPF's radio frequency: "South and Central Dunkin Donuts parking lot. We have an individual running, from the gas station parking lot, on foot. Also Forcenito's out with him now." Forcenito dismissed Auditor's attempt to elicit unequivocal conformation that he was seized for the record, and instead asked Auditor, "What are you doing at the gas station?" Auditor asked Forcenito, "Am I being detained?" Forcenito thereafter responded in the affirmative and said, "Ya," and subsequently asked Auditor, "Why you at the gas station? Why do you have a mask on?" Auditor declared, "I want an attorney." Forcenito continued to question Auditor and asked Auditor, "Why are you at the gas station with a mask on?" Auditor responded, "I want an attorney." Forcenito asked Auditor, "Why are you at the gas station with a mask on?" During these 45 seconds Forcenito engaged Auditor, Gill drove his squad car into the Exxon lot and parked it near Auditor and Forcenito; exited his vehicle; observed Auditor holding a piece of blue cloth and thought nothing of it; casually approached Auditor and Forcenito; and ordered Auditor to move towards a curb about 15 feet away and to then sit on the ground next to the Exxon building. Auditor complied and relocated to the ground; Gill and Forcenito followed Auditor. As Gill began to stand near and shine a flashlight in Auditor's face, Forcenito said, "I'm gonna get O'Keefe," and radioed WPF requesting to "send a boss." At the same time, Gill asked Auditor, "What are you doing man? Why you running around?" Auditor declared, "I really want an attorney." Gill acknowledged Auditor's demand, saying, "Ok." Gill and Auditor remained silent for about the next 15 seconds while Forcenito radioed that he and Gill were "code 4;" code 4 indicates that no further assistance is currently needed. Gill asked Auditor, "Why you running from the gas station parking lot?" which question was thereafter supplemented by Forcenito with the language: "With a mask on your face?" Auditor declared, "I want an attorney." Forcenito walked towards the WPF cruiser parked about 30 feet away. Sequentially, Gill said: "Well, at this time then I'm gonna make you aware of your rights. You have the right to remain silent. Anything you say can and will be held against you in a court of law. You have the right to an attorney. If you cannot afford one, one could be appointed to you. Do you understand that? Do you understand your rights?" During and briefly after Gill's approximately seven (7) second 'right' advising as he meaninglessly looked elsewhere at times, Auditor made no gesture or sound and sat mute and almost motionless on the ground either looking at Gill or off into space; as Auditor remained virtually lifeless, Gill said, "Ok – – We're gonna have a supervisor come out and well take it from there." A few moments later, as Forcenito stood near the WPF cruiser, Forcenito said for Gill to "read [Auditor] his rights;" Gill responded that he "already did," and then Forcenito called O'Keefe. Next, Gill said that whatever Auditor might have been doing, it was "not good." Auditor asked, "What? To exercise freedom and liberty?" Gill said, "Ok – we've had some weird stuff going on around here with people breaking into stuff." Auditor asked Gill whether the "stuff" happened "recently?" Gill apprised Auditor that the "stuff" happened "last night." Auditor asked Gill whether any "stuff" happened "in the last hour?" Gill said, "No, but," and then Auditor interjected and said, "Ok." Gill said that Auditor's prior actions were at least "a little bit suspicious." Auditor advised Gill that he was engaged in "privileged activity." Gill informed Auditor that he would "argue that" the circumstances were "suspicious." During Gill's aforementioned engagement with Auditor, Forcenito spoke with O'Keefe over a recorded line and said, "Hey sarg." O'Keefe asked, "What's up?" Forcenito said that he and Gill were "passing by the gas station, the Exxon, and we see someone run with a mask on his face and start running, down Central. So we follow him. Gill runs around. I get out of the car (intelligible). He runs behind the Target Mart, Dunkin Donuts. I run after him – and he stops. Mask on his face. And then I walk up to him and he put his hands in the air. And it's Posyton." O'Keefe's first question into this matter inquired into "what kind of mask" had Auditor been wearing; Forcenito said that it was a "ski-mask." Forcenito also informed O'Keefe that Auditor complied with every command; Forcenito said, "I told [Auditor] to stop and he stopped." O'Keefe asked Forcenito whether the "Exxon" had been "burglarized;" Forcenito said that he and Gill "didn't check yet." Forcenito apprised O'Keefe that he and Gill currently "ha[d Auditor] seated down on – at the Target Mart," and said that Auditor was holding his phone. O'Keefe conveyed that Auditor could not have his phone because it "could be used as a weapon" against Defendants in this Court. Forcenito asked O'Keefe whether he and/or Gill should remove the 'weapon' from Auditor's possession; O'Keefe answered in the affirmative and said, "Ya, tell [Auditor] that the [weapon] has to be put to the side for now. And I'll be responding out there." O'Keefe and Forcenito ended the call. This occurred within three (3) and 30 seconds from "stop." *See generally* <u>Exhibit X</u>; *see also* <u>Exhibit Y</u> at 0-3:27.

135. After the aforementioned call concluded, Forcenito apprised Gill that Auditor could not have his phone. Gill then apprised Auditor that he could not have his phone as Forcenito walked towards and reunited with Gill. In turn, Auditor placed his cell-phone on the ground away from his person and advised Forcenito and Gill that they could not touch Auditor's iPhone. Next, Auditor informed Forcenito and Gill that he wanted to call his attorney on his iPhone; Defendants told Auditor that he could not contact an attorney. Successively, Forcenito and Gill apprised Auditor about a purported burglary that might have previously occurred at the Delta station or in a substantially more secluded part of Westfield once upon a time; Forcenito and Gill likewise resumed questioning and probing Auditor for information concerning his mask, motive, and/or activities (*e.g.*, 'Why you wearing a mask'). Auditor thereafter said that he would articulate during this matter in exchange for promises and guarantees prescribing that anything Auditor said neither would nor could ever be used or relied upon by government or affiliates, notwithstanding anything whatever. In want of information and knowledge that Auditor did not burglarize a gas station or commit any other serious crime, Forcenito promised and guaranteed Auditor the same on his status and agreed and did issue securities by saying with the utmost sincerity, "Ok." After Auditor had acquired and enjoyed a statement shield or some form of immunity, Auditor said that he was wearing a mask and ran from the Raceway hoping that police would voluntarily cause a "chase" (or pursuit) and, if so, film that pursuit. Both Forcenito and Gill appeared slightly flustered after Auditor mentioned a "Raceway." This occurred around 2:04:30 a.m. and/or before any other Police arrived at the Exxon.

136. Afterward, around 2:05:30 a.m., Martinez drove into the Exxon lot and approached and then stood silently near Forcenito and Gill and around Auditor.

137. As Martinez was standing somewhat near Gill, Forcenito, and Auditor, but before Martinez had said anything, Martinez looked at the device attached to Gill's squad car which indicates whether a vocal mic is recording; Martinez recognized that nothing had been or was being recorded by Gill's vocal mic. About 20 seconds later, Forcenito began to approach Martinez to brief him on this matter; Martinez immediately looked away from Forcenito as he began to approach him, and also stared in that total opposite direction of Forcenito and continued to look in this direction for a few seconds after Forcenito had begun to brief Martinez on this matter (because Martinez wanted no part of this matter). Forcenito informed Martinez that he and Gill "s[aw] a guy in the [Raceway]. All of a sudden, he takes off running." Martinez did not say a single word in response to Forcenito's briefing. Soon thereafter, Forcenito walked back towards Auditor but Forcenito then once again began speaking to Martinez from about five (5) feet away; during this time, Martinez stealthily attempted to alert Forcenito that Gill's vocal mic was not recording in vaguest manner possible – Martinez looked down at his own mic for a split second. Forcenito, who was staring right at Martinez essentially did not notice that Martinez had even moved. Gill, however, who was standing nearby, caught a fraction of Martinez's split-second movement directed at Forcenito as he looked in Martinez's direction at this time, and then looked straight at his squad car's mic device. Gill recognized that his vocal mic was not recording, but nevertheless implied that it was recording, and said, "I'm miced-up." Martinez, who had previously noticed the device's inactivity moments prior, and from a further distance away from where Gill stood, said, "It's not recording though." Gill said, "Oh, no – alright," and then looked straight down at the ground for a few seconds. Forcenito thereafter moved to activate his

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and Gill's video/audio car recorder and Martinez then started to walk away and use his fist to lightly hit himself in the back about seven (7) consecutive times. *See* Exhibit Z at 0-2:39.

138. Successively, Martinez, Gill, and Forcenito all decided to do nothing other than wait around at the Exxon until O'Keefe arrived. Martinez's reasoning for this course of action provided in full: "I'll wait till O'Keefe comes. So that way:"

139. Over about the next five (5) minutes: Auditor asked, "Can I film?" Both Gill and Forcenito said, "No." Auditor said, "I want to contact my lawyer." Gill said, "You can't contact anyone." Auditor said, "I just went for a run." Martinez stood mute during this period, and Martinez would never say a single word to Auditor throughout this matter. *See* Exhibit Za at 0-4:30.

140. Around 2:12 a.m., O'Keefe arrived at the Exxon lot,[28] parked his squad car on Central, and began to approach the other parties. O'Keefe stopped some distance away from these parties and Forcenito walked towards O'Keefe and both Forcenito and O'Keefe conversed for about one (1) minute away from the other parties.

141. While Forcenito and O'Keefe spoke, Auditor attempted to convey to Gill that he "was going on the sidewalk" and began running when "a sign like at the gas station" was suppressing his visibility of Defendants and limited him to only being able to "s[ee] the lights" of the WPF squad car illuminating around the outline of this "sign" (or Raceway wall). Id., at 5:13-34.

142. Forcenito informed O'Keefe of what he and Gill actually saw and apprised O'Keefe of what actually happened either around here or eventually soon hereafter. Forcenito likely also briefed O'Keefe on Auditor's immunity agreement. O'Keefe determined that this matter likewise needed to be swept under the rug and otherwise suppressed, first by looking for random

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[28] Police did not activate any red or blue lights on any squad car during this matter. However, some of Defendants' squad car flood-lights were activated at times.

evidence of crime, and if no speck of crime could be found, go with a Plan-B.

143. Forcenito and O'Keefe then approached and stood near Martinez, Gill, and Auditor. These four (4) agents all huddled around Auditor as he sat on the ground.

144. The following exchanges occurred while the other agents stood and listened.

O'Keefe: What's goin' on?
Auditor: Just running. Just takin' a jog.
O'Keefe, With a mask on?
Auditor: Ya.
O'Keefe: On a balmy night like this? Do you think that's rational behavior?
Auditor: It's privileged activity. You gonna take me in?
O'Keefe: No – I'm gonna call your Mom.

Id., at 5:38-58.

145. Although Auditor knew about 10 minutes prior that the State was likely going to subject him to some ridiculous conditions, around here, however, Auditor fully knew he was going to camp for a minute.

146. Around 2:13:30 a.m., O'Keefe instructed Martinez to "check the businesses." Martinez began the process of driving around Westfield looking for specks of crime. O'Keefe broadcasted over WPF's radio frequency that Defendants were "on a 10-31," or just a casual 'miscellaneous investigation.' O'Keefe averred it is "undisputed" that the State had 'no knowledge' and had 'not seen' any conduct suggesting Auditor to be involved in any wrongful act,[29] but O'Keefe nevertheless radioed and instructed Freeman and WPF police agent Nicholas Bagan to drive all about Westfield in their respective squad cars to also look for specks of crime; Freeman and Bagan did as O'Keefe instructed. Auditor was to be accused of any and all crimes linked to any potential speck of crime of which might be discovered somewhere hiding in Westfield; no speck was ever found and/or "everything east from Boulevard [wa]s clear."

[29] At WPF headquarters around January 15, 2019, 6:00 p.m.

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147. Around 2:15 a.m., O'Keefe informed Auditor, "I'm gonna go back to my car; make a few phone calls and then make a decision" on how to dispose of this matter, but which disposition was nevertheless "probably gonna be ... something other than" a traditional criminal arrest.

148. Around 2:15:15 a.m., O'Keefe inquired into whether the man purportedly seen fleeing from the non-operating gas station in a 'ski-mask' around 2:00 a.m. had been "patted-down" yet. Gill said that Auditor had not been 'patted-down' yet. O'Keefe instructed Forcenito and/or Gill to "pat [Auditor] down." In response, Auditor raised and placed his hands up and out in a surrendering or submissive manner and stood up off the ground. Forcenito took hold of Auditor's hands and placed them behind Auditor's back. As Forcenito was asking Auditor whether he "ha[d] any weapons on" his person, O'Keefe said, "Just pat [Auditor] down. Don't go through [or bother with the process designed for those suspected of being dangerous]." Forcenito said, "I'm gonna pat you down," and Auditor acknowledged Forcenito's advisement and said, "Ok." Forcenito felt Auditor's entire person with his hands; Auditor did not resist. No weapons or illegal items were found on Auditor's person. Forcenito instructed Auditor to "have a seat" after he had finished frisking Auditor; Auditor complied and sat back down on the ground and then O'Keefe walked away towards Central. Prior to this time (around 2:15:30 a.m.), Auditor had yet not been touched by Police.

149. Auditor advised Forcenito and Gill, "This is freedom: I can run with a mask on if I want [when no people are looking]," and informed the State that "People wear masks" – just look at "Halloween." Auditor likewise apprised the State that he "didn't really see the" WPF logo on Forcenito's and Gill's "car, but I knew like when the pulling in it had to be a cop."

150. Around 2:18 a.m., after having walked away Auditor, Gill, and Forcenito, O'Keefe returned and said that Auditor was going to be "taken" for camping. This, however, would not

occur unless and until Defendants concluded that Westfield was crime-free. O'Keefe and Padovano agreed to this course of action involving certain matters concerning Auditor, of which course of action was likely pre-planned and devised for general applicability to any of *My* matters in advance by Doe (or other Defendants and/or *The Firm* and Mr. Guss) and the Town.[30]

151. The following exchanges occurred immediately thereafter:

Auditor: You're takin' me in [of detention]? This is how you're gonna get me?
...
O'Keefe: Let me lay the plans for you Mr. Posyton. What we're gonna do is remove [Auditor] liability from the police department [by accusing you of sickness and danger].
Auditor: You're so mean.
O'Keefe: It's not about being mean. It's about – uh – your [sickness,] your instability. ... Every night in the police station you attempt to engage to try to further (intelligible).
Auditor: People do it all the time. Actually, nah, I've been one of the first to film (intelligible).
O'Keefe: Well, you're actually not because we've had a thousand before you.
Auditor: I don't see them on YouTube. I've looked for them.
O'Keefe: You should – they're called First Amendment audits – and they're done all the time.

[some muffled evidence]

Auditor: This [audit] is a first.
O'Keefe: Um – not really.
Auditor: Not really?
O'Keefe: No – not at all.
Auditor: Ok, so it's normal activity.
O'Keefe: It's – no.
Auditor: You just said it.
O'Keefe appears to become nervous, half-heartedly chuckles, and starts to slowly and slightly pace away from and then back towards Auditor as he says: I didn't say it was normal. I just said you were last. I said a day late, dollar short. That's exactly what I said – – – Well – I'm not here to tell you any semantics or mind games or otherwise.

Id., at 11:18-13:33.

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Auditor. This isn't 'special needs.' You could get a warrant. Oh you know what, if they get me, if they commit me, then, I can get them under 1983 because their acting in concert with you.
O'Keefe: There's one the supersedes 1983, but we'll get back to that.
Auditor: There's another one? I don't know about that. Well there's *Heck v. Humphry*.
Exhibit Za at 20-38-21:11.

152. Around 2:19:22 a.m., Martinez radioed that the Raceway was "secure." A few seconds later, Padovano called an agent and began seeking a "rig" to travel to the Exxon for which Defendants could use to propel Auditor into their camping system. Exhibit Y at 20:15-23.

153. Around 2:21 a.m., Martinez returned to the Exxon and approached the other parties.

154. Around 2:22 a.m., O'Keefe asked Defendants, "Can we refrain from any further conversation [with Auditor]?" Auditor said thereafter, "There is no need to notify my Mother – that is just ... malicious." O'Keefe responded that Defendants were "actually required" to harass his family. Auditor asked, "That's required? That's law?" O'Keefe said, "No." Auditor subsequently observed that he "h[ad] no choice" on any aspect concerning this matter; he informed Defendants that they were forcing him to act "involuntarily;" and he said, "You're seizing me. I've been seized." O'Keefe responded, "Oh, undisputed."

155. Forcenito moved towards Auditor's iPhone, grabbed and picked it up off of the ground, and pressed its button; this prompted the iPhone to display previously hidden images. As Forcenito moved towards and held Auditor's iPhone near O'Keefe, Auditor said, "Ya, you know Riley? V California?" O'Keefe then suggested for Forcenito to power-down Auditor's iPhone. Forcenito pressed the iPhone's button again and also held it down to prompt the display of its power-down option (or other previously hidden images). Forcenito swiped the iPhone's screen or power-down option and deactivated the iPhone and placed it back on the ground near Auditor. Afterward, O'Keefe apprised Auditor that Forcenito had just powered down his iPhone supposedly for battery-life purposes; Auditor said, "Ok."

156. Auditor advised Defendants, "You could just let me go. You could do it because I'll just walk back Home. ... I've never hurt anyone in my life. Well, I'm mean, I guess maybe emotionally. I've probably hurt someone emotionally. ... Do I actually need [prolonged detention]?"

Forcentio responded, "You m[ight]." Gill said, "I don't feel comfortable letting you go."

157. Around here, Forcenito began claiming that he said "'stop' a few times" during pursuit. Auditor said that he never heard anybody say anything as he ran. Auditor also said, "If someone said 'stop,' I was stopping. I stopped. [Forcenito] said 'stop,' and I stopped." Forcenito nonetheless acknowledged that Auditor would not have been able to hear these extra "few" newly discovered 'stops' or any other words while Auditor was "running fast."

158. Around 2:26 a.m., Freeman arrived at the Exxon and began standing near Auditor and the other agents. Soon after Freeman approached Auditor, Auditor asked, "Is that a smile?" Auditor said, "You might be a little happy. I think I see a smile." Freeman then looked behind himself and away from Auditor for a short time to conceal his smiling from Auditor. *See* Exhibit Z at 21:47-54.

159. Gill recounted his observations and interpretations of this matter and began laughing while telling O'Keefe, Freeman, and also Forcenito that he saw nothing more than "some dude running across the way" who "ke[pt] running." *See* Exhibit Za at 38:46-50.

160. Defendants would have pursued and physically intruded upon Auditor if Auditor had attempted to leave the presence of any Defendant at any time herein.[31]

161. Around 2:42 a.m., the "rig" arrived at the Exxon and parked on Central.

162. Auditor stood up off the ground, Forcenito took hold of Auditor's arm, and Forcenito, Gill, Freeman, O'Keefe, and Martinez all escorted Auditor towards Central. These Defendants then all walked alongside Auditor up to the "rig" and forced him inside. Forcenito also entered the "rig" to restrain Auditor inside during transport, and Gill returned to his squad car with

[31] Bagan continued to drive around Westfield looking for specks of crime and did so for a long-time hereafter.

intent on following the "rig" from behind, all in an effort to confine Auditor for detention.

163. Around this time, Padovano utilized and dialed the permanently restricted and/or always blocked cell-phone number connecting to Auditor's Mother and aroused her out of bed. Padovano apprised Auditor's Mother that Defendants were going to throw her son at a camp. Padovano then put on his police neurology gloves and apprised Auditor's Mother that Auditor needed "a brain scan" because he apparently has "some kind of tumor" growing in his head of which is evidently disliked by Police. Auditor's Mother said, "Please, just don't hurt him."

164. Around 2:45 a.m., a WPF agent called an agent associated with detention centers. This agent summarized his interpretation of these events and said that Auditor was "walking around;" he is "not intoxicated or anything;" he "ran away from the officers;" and "the officers ... talk[ed] to him." On this information, Defendants were informed that they could take Auditor to the Center for detention if they so wished.

165. Around 2:48 a.m., about once WPF's "property checks came back clear" and Defendants found that Westfield was crime-free, the State involuntarily Auditor transported nearly 10 miles over roughly four (4) townships to the Center without consent. Forcenito carried Auditor's iPhone and his mask during transport.

166. Around 3:10 a.m., the parties arrived at the Center.

167. Forcenito and Gill escorted and/or forced Auditor into the Center without consent to ensure his captivity. Forcenito and Gill remained inside of the Center and stood close by Auditor to secure his captivity and prevent Auditor from exiting.[32]

168. An agent of the Center ordered Auditor to surrender his property into a plastic bag;

[32] Defendants would have pursued and physically intruded upon Auditor and would have thereafter involuntarily returned Auditor to the Center if Auditor had ever exited the Center without permission at any time during this matter.

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Forcenito returned Auditor's iPhone and mask to Auditor. The same State agent ordered Auditor to remove all his clothes besides for his underwear and to put on Center identification cloth. Auditor requested to be permitted to remain wearing clothes; this agent more than implied that other agents would rip the clothes off Auditor's back and essentially glue or staple this cloth to his person if he did not put it on himself. Auditor asked Gill and Forcenito if they would just stand by and watch as their agents viciously assaulted and battered him with their cloth and restraints; Forcenito advised Auditor that Defendants would not intervene or do anything. Auditor thereafter nearly stripped naked in front of Gill and Forcenito as they watched; Auditor subsequently sat practically naked on a cold hard chair in the middle of a room amid chilling temperatures as he waited for the identification cloth of which took about 10 minutes to arrive.

169. Around 3:20 a.m., Forcenito and Gill exited the Center and headed back to Westfield but, before they left, Forcenito become very excited as he repeatedly said that he would have undoubtedly unleashed a police attack dog on Auditor if he and Gill had been holding a canine in their squad car at the time of their pursuit. And, right before the Police drove away and returned to their daily activities and continued on with their lives, Forcenito informed Auditor that he could have been "shot" *or*, otherwise inferred that Auditor was *lucky* he had not been killed in the streets by Police for having been *seen* ***running around!*** *See*, *infra*.

170. Defendants' Police report (the "Report") correctly observes that Auditor complied with every Police command and submitted to the State "without incident." Exhibit Zb. The Report codifies Auditor as a 'criminal suspect' during all times he was before the State in connection with this matter (which continues below). Other than that, however, besides for the Report arguably admitting that Defendants had no basis to believe Auditor to be "a harm to himself or others," the Report is slightly or patently false, inaccurate, and/or misleading and is comprised of

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lies (some of which are easily identifiable). The Report indicates that Auditor stopped in response to Forcenito's "verbal commands;" Forcenito and "Gill were able to corner" Auditor; Forcenito asked Auditor "why he was running from the gas station with a ski mask on his face;" Auditor immediately blurted out that he "wanted the police to chase him and record it;" and Forcenito "then instructed [Auditor] to sit on the curb." The State may have remembered the matter as occurring this way because of either being unaware or having forgotten that Auditor documented it and because Forcenito and Gill chose not to activate their voice-recording device until around 2:07 a.m. or so. Furthermore, the Report indicates that Auditor was patted-down before any WPF agent (besides Gill) arrived at the Exxon: the Report expounds that Auditor "was patted down for weapons. Next, Ofc. Martinez, Ofc. Freeman, and Sgt. O'Keefe arrived on the scene." Although the Report depicts that "Gill read [Auditor] his miranda warnings," nowhere in the Report is the word 'attorney' even suggested or hinted at, let alone indicates that Auditor declared "I want an attorney" over and over again during questioning. Auditor also never said that he "did not steal anything." And, for whatever reason, Defendants omitted from the Report that Auditor was explicitly promised and guaranteed that anything he said neither would nor could ever be used or relied upon by government or affiliates. Despite choosing to omit that and a multitude of other material information, the State felt a need to scribble down and imply that Auditor "agreed" to go to camp. O'Keefe reviewed and approved the Report of which may have been written Forcenito in part.

171. Auditor was held in the Center from about 3:00 a.m. to 9:00 a.m. on said date.

172. Around 9:00 a.m., Auditor was involuntarily transported from the Center to 655 East

Jersey St., Elizabeth, NJ 07206 (the "Camp").[33]

173. Auditor was involuntarily moved and forced into a locked and secured area within the Camp for questioning. The Camp and/or affiliates generally employ agents who are willing to confine the World irrespective of the fact that such detention can destroy somebody's entire life.

174. Around 4:30 p.m., a Camp official conveyed to Auditor that she would make him an involuntary camper if he refused to sign a tree.

175. Americans who sign such a tree and submit to State Camps cannot lawfully be strapped down and regularly pumped-up with slews of antipsychotic drugs by the State over objection, retain some type of medical autonomy, and are released from the Camp in substantially quicker fashion than compared to those Americans who refuse to sign and yield and/or who are subsequently petitioned by others to officially be 'rubber-stamped' as involuntary campers.

176. Defendants have always been aware of every fact regarding their Camping system. Auditor moreover apprised Defendants of what they already knew: Camping agents "don't counsel you in life" but instead just "check a box" accusing People of danger after a brief interrogation (if any). Defendants fully knew that Auditor was never returning to Westfield anytime soon after sending him to the Camp; O'Keefe can be heard recognizing his own lie when he tells Auditor that somebody "can come pick [Auditor] up" from the Camp after interrogation.

177. Under threat of aggravated assaults and batteries and considerable physical injury and trauma and documented and social stigmatization and prolonged captivity, Auditor non-

[33] The Camp might be a geographically designated 'camping service' within the meaning of N.J.S.A. § 30:4-27.1 *et seq.*; the Center was/is not a 'camping service' under the same.

Similar action was held to be unlawful in *Fair Oaks Hosp. v. Pocrass* 266 N.J. Super. 140, 151 628 A.2d 829 (1993).

consensually submitted to nothing more than signing a tree and involuntarily yielded to the State.[34]

178. Auditor was involuntarily and non-consensually held in State captivity for about five (5) days (an extraordinarily short involuntary camping period); Auditor was released from the Camp from State imprisonment on July 24, 2018.

179. On July 25, 2018, around 3:00 p.m., Auditor walked into downtown Westfield during the course of a town fair or large public gathering comprised of hundred(s) of People on the streets. Auditor stealthily put on his mask in a toy-store; traveled around the downtown area out in the open with the mask over his face for about 20 minutes; and then returned Home. The public appeared to display only one of two emotions towards Auditor as they all casually went about their business: love or indifference. It might be reasonable to assume that these sediments were the only types present because nobody contacted police; and, for example, a Victoria Secret employee nonchalantly approached Auditor by herself and asked Auditor if he needed any shopping assistance. WPF police agent Frank Moya moreover casually asked Auditor if he needed any whatever as Auditor quietly stood near his squad car he was sitting in the same.

Summaries – Claims – Conclusions

180. No Defendant saw Auditor walking on Central. No Defendant saw Auditor initially accelerate to considerable speed or any movement until Auditor was already deep into the Exxon lot and en-route to South Ave. And no Defendant saw a mask until right before Forcenito ordered Auditor to show him his hands. The only relevant information Defendants held (*if any*) prior to arbitrarily intruding Auditor's life was, the fact that they *saw somebody* ***running around***

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[34] Defendants would have pursued and physically intruded upon Auditor and would have thereafter involuntarily returned Auditor to the Camp if Auditor had exited the Camp without permission at any time during this matter.

in Westfield! State visibility of Auditor, his mask and acceleration, and part of his journey across the Exxon lot was heavily obstructed due to the Raceway wall, the cover of darkness and lack of illumination, Auditor's tininess and dark clothing, and other objects and things (*e.g.*, traffic signs, bushy trees, lamp-posts, etc.). And, as a result of Auditor's route and rate of speed he initially moved amid these elements (and particularly amid the Raceway wall/shield) over the corresponding angle Defendants slowly rolled into and across the Raceway lot, State visibility of Auditor was completely suppressed until he was already located some, and likely considerable, distance deep into the Exxon lot en-route to South Ave. Defendants' sight of Auditor was moreover heavily obscured and/or obstructed for nearly the entire pursuit due to their corresponding angles and speeds amid, (a) the Exxon's fencing surrounding its gas pumps; (b) large Exxon signage, many trees and bushes, a fire hydrant, and lots of traffic signs all packed tightly about and very closely near the intersection of South and Central touching the Exxon lot; (c) merchandising signage placed near the entrance of the Exxon lot affixed to South Ave; (d) two (2) tall tree-trunks, a telephone pole, garbage can, and a blue road sign, bus-sign, and a diamond-shaped left-lane-ending sign, all of which objects stood near the very edge of South Ave attached to the Exxon; and (e) the two (2) short but bushy trees standing near the back corner of the Tiger-Mart, and those plants, bushes, or tree-like things lined along the back-side of the Tiger-Mart and which obstructs visibility of the Path and Turn. Defendants lost all sight of Auditor for at least 12 seconds during their pursuit (but likely more time than that). The Raceway, however, is only located a mere 350 feet or so away from around where Gill likely stopped his high powered WPF squad car on South Ave after having been revving it at full speed, and, Forcenito only needed to run about 80 feet from South Ave to the Turn. Defendants did not see Auditor until they had already slowly rolled some distance deep into the Raceway lot, and to a point where they could no longer utilize the entrance/exit affixed to Central of which is located closest to the intersection of South and Central; in other words, Defendants did not see Auditor at least until the entrance/exit located furthest away from South and Central became the quickest route for pursuit. Gill's first and second questions he casually directed at Auditor as he was sitting on the ground provided: "*What* are you doing man*? Why* you *running* ***around?"*** And, before Forcenito mentioned the word 'mask' around Gill, Gill asked Auditor a third question centered on simply wanting to know *why* Auditor was "*running* from" ***a*** "gas station parking lot." If Gill had seen a mask, he would not have merely radioed "individual *running*" to WPF command center as the subject of this matter; rather, he would have radioed: individual running, *in a mask*. Forcenito almost became speechless after he recognized Auditor wearing a mask, but his inquiry into the matter immediately thereafter nevertheless focused upon '*why* Auditor had a mask over his face.' Gill radioed WPF every piece of whatever he could possibly jumble together, which broadcast principally comprised: "individual running … on foot." Consider this: If somebody is running, aren't they moving "on foot" as a matter of law in any event? Before Forcenito mentioned "a mask" around Gill, Gill apparently had no interest in any mask, but instead just wanted to know why Auditor was running "from" a "parking lot." Gill certainly did not inquire about 'mask' until Forcenito mentioned "a mask," but Gill most definitely took it upon himself to issue Auditor quasi-*Miranda* warnings soon after he was made aware of "mask." Forcenito likewise exhibited his obliviousness to 'mask' in displaying his natural reflex of basic law enforcement safety practices by issuing a 'show hands order,' only after having revealed his curiosity for an issue limited in scope but providing in full: ***"Why you running?"*** Police aver in the Report that both "[Forcenito and Gill] observed an unknown actor begin to run from the Raceway" and, the Report clarifies that this actor was most indeed "fle[eeing]" from Defendants. Yet, no inquiry prompted by

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Defendants and posed to Auditor was premised on 'acceleration,' 'began to run,' or 'headlong flight,' even almost ever after their hearing of a sprint; rather, any inquiry on 'movement' was premised on having seen Auditor already '*been running*.' The first two (2) of Forcenito's three (3) substantive inquiries even expound: *"Why* you *running? ... Why* you *running* ***around?"*** Defendants used and referred to the word 'run' during this matter as *current* movement faster than a jog. This is supported by the meaning of "the gas station." Forcenito and Gill were not referring to the Raceway at least when initially talking about "the gas station." Defendants did not mention a Raceway once at any time prior to the hearing of a Raceway, and Defendants moreover appeared confused upon hearing of the same. Defendants' initial questioning implicating "the gas station" inquired into *why* Auditor was "*at* ***th[is]*** gas station" or "*at*" the ***Exxon***. Forcenito's four (4) consecutive questions of why Auditor was "at the gas station" is somewhat informative because it suggests that Defendants saw Auditor after he was '*already at*' the Exxon. But, Forcenito divulged this tad bit of information when he apprised O'Keefe that he and Gill "didn't check" whether the "Exxon" had been burglarized ***"yet."*** Why would the Exxon be burglarized if Defendants just saw Auditor sprinting from the Raceway? Why did Defendants have no interest in examining the Raceway if they just saw Auditor sprinting from its lot? Burglaries are serious crimes. Why did Defendants not immediately run across the street to see whether anybody was dying inside the Raceway that Auditor apparently just burglarized? Why did Defendants keep questioning Auditor for about five (5) minutes instead of attributing any time whatsoever to inspect the Exxon lot that they were standing on, or otherwise allocate time to examining the Tiger Mart or Dunkin Donuts located about 10 feet away from them? Well, many of these questions are easily accessible: Defendants severely abuse and even molest the word "from." Forcenito and Gill did not see Auditor running "from" anywhere; Forcenito never even used the word 'from' to

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describe Auditor's running activities. Rather, Defendants just stood around the Exxon and continued questioning Auditor because, as Forcenito and Gill both acknowledged and admitted, Defendants saw nothing more than Auditor *"running **around.**"* The Report avers that "[Forcenito and Gill] observed an unknown actor ... wearing a blue-covered ski mask" as he "fled." Even if Defendants have really good night-color-vision, it seems odd that Forcenito would just go ahead and get down to brass-tax on such actor's 'running activities' before ruling out whether the masked man just seen fleeing from the gas station is holding a Glock-9 or not; it seems odd because it would never happen. Defendants even gave up after five (5) minutes into Auditor's seizure and just issued Auditor immunity to give them the universe because the State fully knew that Auditor had not committed any crime and Defendants also had no remote idea what had just happened. Forcenito moreover quickly revised the State's story in its favor: Forcenito initially informed O'Keefe over the phone that he and Gill "s[aw] someone … start running, down Central;" after the hearing of a Raceway, Forcenito, however, subsequently informed Martinez that he and Gill "s[aw] a guy" located within the "in[side]" of the 'Raceway' lot who "t[ook] off running" "all of a sudden." Auditor, however, was also never located "[with]in" the Raceway lot; the closest Auditor came to the vicinity of the Raceway lot was his movement on the sidewalk along Central. Forcenito moreover sounds kinda nervous and scared as he tells O'Keefe that he and Gill currently "h[ad Auditor] seated down on – at the Target Mart" after advising O'Keefe that nobody had "checked" the "Exxon" for signs of crime "yet." The sole and only activity witnessed by any Police up until a split-second before Forcenito issued a 'show hands order' was, that of ***"some dude running across the way."*** Any suggestion by Defendants to the contrary is just another lie or otherwise stems from Police Forgetfulness Disorder. That State description of activity, especially being accompanied by the facts that the State starts breaking out into laughter during its articulation to three (3) other State agents where nobody else is around to hear, is possibly the absolute greatest description of the least suspicious activity in the history of man; Auditor's act of "running around" moreover occurred in Westfield, NJ – one of the safest places on planet Earth. The fact that a business might have been burglarized once upon a time in Westfield is irrelevant here. First, such an allegation does not morph Westfield into a 'high crime area' similar to Detroit's 8-mile. The purported burglary of the Delta station having occurred about 24 hours prior also does not categorize Westfield as a 'recent crime area' or 'crime scene' needing to immediately be locked down air-tight. There was no pattern of burglaries to businesses in Westfield around this period (or perhaps ever) that could be considered as a 'crime wave' of which additional police forces were urgently required for suppression of a crime-spree. Defendants certainly were not requesting or demanding many additional police forces in effort of suppressing crime prior to this matter. The Delta is also located in a considerably more secluded area of Westfield than compared to South and Central. The minds of arm-robbers are difficult to comprehend, but the Exxon and Raceway are possibly some of the absolute worst crime-targets located in perhaps the most publicly exposed area within the entire town. Maybe there were some cigarettes and scratch-off lottery tickets stored in the tiny Raceway shop; maybe there was some Dunkin Donuts coffee-mix or like ingredients stored in the Tigre-Mart; and maybe there were a few dollars stuffed away amid these businesses somewhere, besides for the Exxon: The Exxon does not store cash in a tiny vestibule in-between gas-pumps, overnight, when nobody is working, and while its operations are shut-down for renovations. Nothing was even reported stolen during the alleged 'break in' at the Delta; the police blotter merely indicates that some unknown actor(s) opened and went through some draws. Yet, even assuming *arguendo* that the unknown draw opener(s) could never be owners or uncoordinated employees of the Delta, the fact

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that there may have been a quasi-trespass to a secluded property in Westfield about 24 hours prior confirms that Westfield was unlikely to be hit by another trespass until sometime long after July 18. In any event, any potential crime alleged to have previously occurred sometime amid Westfield is principally irrelevant here for two (2) reasons: (a) mere occurrence of a crime does not retain particularity to anyone. And, once again, (b) Defendants did not see Auditor running "from" any direction; Defendants merely witnessed somebody "running *around*."[35] Defendants apparently did not even think it to be necessary to go over and examine the Raceway until about 10 minutes after hearing of a Raceway. Additionally, Forcenito only commanded Auditor to "stop" once, and Auditor stopped moving in instantaneous fashion thereafter; Auditor in fact yielded to Defendants' show before Forcenito voiced the word "stop." Forcenito's claim of having said "stop a few times" is also another Police lie. Forcenito apprised O'Keefe over the phone that Auditor stopped moving upon being commanded to "stop." Forcenito brought up his "few" newly discovered 'stops' only after approximately 25 minutes into Auditor's seizure likely for no other reason than to get these 'stops' on the record. Police articulation of the word 'stop' from far away while sitting in a squad car with its windows rolled-up is not a command. And articulating 'stop' after an intended seizee has already disappeared from Police sight is also not a sufficiently explicit Police command directed at an intended seizee. Why would Police articulate 'stop' at somebody who has already disappeared for a good length of time? A 'stop' command has almost no applicability to those circumstances and no police would say it under such conditions; the principal fitting command (if any) would contain some verbiage like: 'show yourself' or 'come here now.' Forcenito moreover admitted that Auditor would not have been able to hear these extra 'stops' during pursuit anyway. Additionally, any articulation of 'stop' by Forcenito before he

[35] Mere mentioning of the Delta herein is so utterly prejudicial and it is absolutely irrelevant.

entered the Turn was not part of State show of authority, or otherwise even a suggestion for Auditor to do anything; rather, any alleged word articulated by Forcenito before he entered the Turn was nothing other than an act of Forcenito whispering words to himself, and which any of such whisper(s) were not directed at Auditor. A 15-year-old girl sporting pony-tails and pink braces across her teeth seen sitting outside a Starbucks drinking hot-chocolate and reading Twilight is arguably more suspicious than that of "some dude running across the [Westfield] way." *Compare United States v. Lowe*, 791 F.3d 424 (3d Cir. 2015) (Tip and positive descriptive match of "black male" wearing "grey hoodie" with hands in "hoodie pockets" and in possession of "gun" around "4:00 a.m." located "around the corner" from "kn[own]" shooting that occurred "90 minutes" prior in "violent, high crime" Philadelphia "area known for drug crimes" was not suspicious at all, notwithstanding the guy was a convicted felon illegally in possession of a firearm at the time). The State moreover fully knew that the "dude" wasn't suspicious as a matter of law; Defendants lied heavily on that fact by manufacturing circumstances that may have justified pursuit. Flight upon noticing police can certainly give rise to a reasonable suspicion, *Illinois v. Wardlow*, 528 U.S. 119 (2000) (C.J. Rehnquist), but <u>moving</u> is still legal, and unprovoked flight is not even *per se* suspicious. *Id*., at 126-131 (Stevens, J.); *see United States v. Bonner*, 363 F.3d 213, 217 (3d Cir. 2004) (Requiring some "plus" factor) *accord United States v. Navedo*, 694 F.3d 463, 472 (3d Cir. 2012). Yet, there was never any "flight" here, let alone "unprovoked flight;" all the State saw was "some dude running." Was Auditor moving too fast? Not fast enough? Incorrect direction? Just in need of a little interrogation? It all revolves around that first split-second of the State's pursuit in any event. The domestic Military committed to running Auditor down with deadly weaponry at that moment showing nothing more than "some dude:" *Everything was illegal then and forever thereafter.* The seizure was moreover unreasonable before any Police knew it had even occurred. This matter was never going to involve any type of consensual encounter, let alone be a consensual encounter at inception. Defendants did not approach Auditor as a police friend so to put a few questions to him and see if he would listen; rather, Defendants ignited their engine and began vigorously pursuing Auditor by car and eventually on foot. Auditor was seized the moment he yielded; this movement occurred before Forcenito entered the Tiger Mart Path and/or around the time Auditor began decelerating on the Path after rounding the Turn. Otherwise, Auditor was subjected to an unreasonable seizure at least the moment or nanosecond after Forcenito commanded Auditor to "stop." The Department of Justice has recognized that Police pursuits are "the most dangerous of all ordinary police activities." Indeed, Forcenito advised Auditor that Defendants nearly killed him; Forcenito also apprised Auditor that he would have undoubtedly been stabbed by police dog teeth if Defendants had been carrying a canine. Defendants pursued Auditor because pursuit was more fun than rolling across the Raceway lot and then driving back and forth over Central until 7:00 a.m.; Forcenito and Gill found their first pursuit (at least of this magnitude) to be exhilarating. Forcenito's and Gill's voluntary production of a full-blown Police pursuit, fully set on using any means possible (including deadly force) for tracking Auditor down and stopping him cold, on no information other than having seen "some dude" "running around" – shocks the American conscience as so deliberately indifferent and arbitrary to offend the concept of life, and Defendants are responsible under § 1983 and potential harm, brutalization, and death of Auditor was likely to have resulted from Defendants' lawlessness.

181. The entire Report (Exhibit Zb) is a blatant lie and merely depicts a police fairy-tale. For example, Police aver in the Report that, (a) Defendants "observed an unknown actor begin to run from the Raceway gas station" – lie; (b) Auditor "was observed wearing a blue-colored ski mask" as he ran – lie; (c) Auditor was observed "fle[eing]" – lie; (d) Forcenito gave multiple

"verbal commands for [Auditor] to stop" – lie; (e) Forcenito and Gill "corner[ed]" Auditor – lie (unless Forcenito standing almost speechless and Gill casually approaching Auditor is considered 'cornering'); (f) Auditor immediately blurted out a reason for his speech – lie; (g) Auditor said that he "did not steal anything" – lie; (h) Auditor was patted-down before Martinez or any other agent arrived – lie; (i) Auditor consented or "agreed" to camp – lie; and, among others, (j) Gill "read [Auditor] his miranda warnings" – lie (*see*, *infra*); and, the State otherwise falsified a Police Report and manufactured evidence and wrote a police fairy-tale to impact and manipulate these Court proceeding in direct response to Auditor's speech, right to petition, and access of Court, all in violation of Auditor's rights secured by First and Fourteenth Amendments to the U.S. Constitution, respectively, and, therefore, Defendants are responsible via § 1983.

182. Defendants 'seized' Auditor's 'person' within the meaning of the Amendment.

183. Defendants seized Auditor for a law enforcement and/or investigatory purpose seeking to detect and acquire evidence linking him to crime. Defendants interrogated Auditor; they administered quasi-*Miranda* warnings to Auditor; they briefly fantasized about possible burglaries of the Exxon and Raceway stations; they advised Auditor of a purportedly unsolved 'break in' of a gas station; they said Auditor that he 'could not contact anyone' and they prohibited him from doing the same; they scoured a significant area of Westfield and conducted countless property checks over a substantial period of time looking for any remote suggestion of criminality for which they could accuse Auditor; they codified Auditor as 'criminal suspect' in the Report; and, among other factors, they checked the Raceway for signs of having been victimized by crime.

184. Defendants had no reason to suspect Auditor of being armed or otherwise dangerous and, Defendants' own actions, omissions, and decision-making belie any contention to the contrary. Defendants fully knew and/or possessed no information to contradict the existence of the

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following reasonable assumptions and signs indicating that, (a) Auditor has no criminal record in New Jersey and he has basically never committed any crime; (b) Auditor has never hurt himself or others and he had never expressed any desire to do so; (c) Auditor had peacefully engaged about 25 different police agents inside WPF headquarters on five (5) distinct days over the previous week; (d) no encounter involving Auditor and/or Defendants or any other police agent has ever resulted in physical confrontation; (e) Auditor has never disobeyed or failed to comply with any instruction issued by Defendants or any other police agent and, Auditor likewise swiftly complied with every Police command issued in this matter; (f) O'Keefe, Freeman, Johnson, Forcenito, Martinez, Maloney, Riley, and the Town and its Chief of Police were currently Defendants being prosecuted by Auditor *pro us* in either one (1) or two (2) pending Federal lawsuits; (g) no actual or potential witnesses or victims of crime were around or generally even awake, no civilian had recently reported any nearby criminal activity, and no police had discovered any fresh or recently unreported nearby criminal activity; (h) no warrants were issued against Auditor; (i) Auditor was not under the influence of alcohol or any other illegal substance; (j) Auditor was dressed in a grey striped suit-jacket, yellow tie, and dress shoes; (k) Auditor was video-recording Defendants with an iPhone; and (l) Auditor appeared and acted in a very calm and even somewhat nonchalant and controlling manner. Now, Defendants' own actions, omissions, and decision-making ensuing Auditor seizure and done in response to justified assumptions and information known by Police, compels the conclusion that there was no objective basis to suspect Auditor of being armed or otherwise dangerous: Forcenito and Gill effectuated Auditor's seizure around 2:00 a.m. after having engaged in an all-out sprint-style foot-chase in pursuit of the then unknown Auditor who Defendants eventually discovered had been sprinting from the Raceway with a "ski-mask" over his face as Defendants started rolling into its lot. Yet, despite these circumstances, Defendants did not bother to conduct a brief pat-down search of Auditor until 2:15 a.m. Why? Because people sprinting from non-operating gas stations in “ski-masks” around 2:00 a.m. upon noticing Police cannot be considered as doing anything other than some late-night cardio? It cannot genuinely be disputed that Police agents will never hesitate for a moment’s notice to go ahead and conduct a brief pat-down search for their own protection and for the safety of the seizee if that agent comes across even the faintest whiff of suspicion, whether it stem from a light sneeze or the blink of an eye, but which nevertheless leads that agent to think that they could possibly be dealing with a suspect who might be armed or otherwise dangerous; circumstances and information surrounding a particular seizee of which are known by police are utterly insufficient and will almost never give rise to a suspicion reasonably suggesting that such a seizee might be armed or otherwise dangerous – if no pat-down search has occurred, at least not until discovery of fresh information immediately preceded by a search: No pat-down search – no reasonable suspicion of danger. Indeed, Police who reasonably suspect a seizee of being dangerous do not afford the suspect a luxury of being allowed to point weapons at them from close range for a few minutes while they contact and seek a supervising Police agent’s guidance on whether to remove any such weapon from the suspect’s possession. Forcenito only patted Auditor down after approximately 15 minutes into Auditor’s seizure because he was instructed to do so by a superior agent who notably had been on the scene for about four (4) minutes. Prior to O’Keefe’s arrival at the Exxon, O’Keefe’s knowledge of information surrounding this matter was limited to nothing more than Forcenito’s communications he relayed by phone. After learning of information depicting Auditor as having been seen fleeing from a gas station in a “ski-mask” around 2:00 a.m., O’Keefe did not develop or articulate any thought or implication affiliated with searching Auditor during that call. Instead, O’Keefe retained such information for approximately 10 minutes and did absolutely nothing whatsoever to further inquiry, suggestion, and/or commencement regarding a pat-down search of Auditor during that time. Padovano also retained the same aforementioned information as O'Keefe for the majority of those same 10 minutes; Padovano, however, likewise did absolutely nothing whatsoever to further inquiry, suggestion, and/or commencement regarding a pat-down search of Auditor during that time. O'Keefe moreover was unaware of additional information that Forcenito and Gill had acquired in his absence and considerably prior to his arrival at the Exxon (*i.e.*, knowledge of a Raceway and a sprint), but which information nevertheless failed to ever motivate either Forcenito or Gill to initiate a brief pat-down search of Auditor. O'Keefe likewise retained the same information for about three (3) minutes while he stood over Auditor without having done absolutely anything whatsoever to further inquiry, suggestion, and/or commencement regarding a pat-down search during that time. Martinez retained this information for about 10 minutes while he stood over Auditor, but also did absolutely nothing whatsoever to further inquiry, suggestion, and/or commencement regarding a pat-down search. In fact, Martinez left the Exxon before Auditor had even been patted-down, and Martinez never knew if Auditor had ever been patted-down. Any reasonable officer possessing the same information as Defendants under like circumstances, and who also caused about the same actions, omissions, and decision-making as Defendants (via declining to immediately pat Auditor down upon his seizure), would have most certainly been of the belief that there existed no objective basis to suspect Auditor of being armed or otherwise dangerous. At least five (5) WPF agents (Forcenito, Gill, Martinez, O'Keefe, and Padovano) had different quantities of information, but each Defendant nevertheless had information for a considerable period of time generally depicting Auditor as having been ran down after seen sprinting from a non-operating gas station in a "ski-mask" around 2:00 a.m. or so. Not one (1) of these

Defendants, however, did absolutely anything whatsoever to further the commencement of a pat-down search of Auditor on that information until 2:15 a.m.; it took all five (5) Police agents at least 10 minutes, respectively, before even inquiring into the mere concept of briefly patting Auditor down. And, if that is not even enough, right before Auditor was about patted-down, O'Keefe apprised Forcenito to forget WPF's pat-down procedures with Auditor because – he was and is not dangerous. Accordingly, under the circumstances, on the information known to any and/or all Defendants (at least prior to Auditor's pat-down (but in fact all times ever)), Defendants did not suspect, and had no reason to suspect, Auditor of any danger.

185. On or around July 18, 2018, Forcenito, acting pursuant to O'Keefe's instructions, patted Auditor's body down without reasonable suspicion or any cause suggesting Auditor has ever been dangerous; and, otherwise, unreasonably searched Auditor in violation of Auditor's rights secured by the Fourth and Fourteenth Amendments to the U.S. Constitution and, therefore, Forcenito and O'Keefe are responsible via § 1983.

186. Defendants interrogated Auditor in the purest form known to jurisprudence. Forcenito and/or Gill repeatedly asked Auditor the exact same question again and again comprising why he was "running from" a non-operating "gas station" around 2:00 a.m. in a 'ski-mask.' Defendants expressly asked Auditor questions for which any response he articulated would be used against him in any potential criminal case; every word and act prompted by Police was reasonably likely to elicit an inculpatory and exculpatory response from Auditor of which a prosecution might tend to introduce into evidence at a hearing or trial, along with any possible evidence discovered resulting from Auditor's response(s). Defendants used and relied upon responses derived from Auditor in an adverse, improper, and unlawful manner so to subject Auditor to undesirable and horrifying and illegal conditions in any event.

187. Auditor was 'in custody' the moment Forcenito commenced Auditor's interrogation after having ordered Auditor to halt. Auditor did not initiate contact with Police, but was instead ran down and commanded to stop and to subsequently get on the ground via being targeted for investigatory and ultimately accusatory purposes; Auditor did not freely or voluntarily submit to Police questioning, but was nonetheless barraged by the repetition of a single question prompted by Defendants again and again as they dismissed Auditor's demands for an attorney and expressions of silence; and, Auditor was held at a location around 2:00 a.m. of which could reasonably be described as analogous to somewhere on the surface of the moon due to it being totally devoid of any life or activity other than that of Police. Prior to Police contacting other Defendants, nobody knew of Auditor's location besides for the two (2) Police agents who stood over him while he lied on the ground. And, among other ensuing events, after Defendants had generally concluded Auditor's incommunicado interrogation, Defendants searched Auditor's person and property and thereafter involuntarily transported Auditor nearly 10 miles over roughly four (4) townships and threw him into a detention center.

188. Defendants did not Mirandize Auditor. Defendants never advised Auditor that he could speak with a lawyer prior to questioning or that he could have a lawyer present during interrogation; rather, Gill just said that Auditor "ha[d] the right to an attorney." Defendants never advised the indigent Auditor that a lawyer would absolutely be supplied to assist him if he had no money to hire a lawyer and/or that such a lawyer would be supplied to Auditor prior to questioning if he so desired; rather, Gill just said that there was a possibility that "one could be appointed to" Auditor if he could not afford "one." Defendants never clarified the meaning of "one" and Gill's language likewise suggested the existence of restrictions on Auditor's access to "one." Defendants never advised Auditor that anything he said could or would be 'used,' applied, or deployed

against him; rather, Gill just said that anything Auditor said could and would be "held," kept, contained, and/or possessed against him. Additionally, Gill was not even focused on the American being held incommunicado as he articulated the foregoing sentences within eight (8) seconds. Defendants did not advise Auditor of *Miranda* warnings or reasonably convey the rights set out by *Miranda* under an incommunicado interrogation setting.

189. Despite Defendants' failure to perform the only (but absolute) prerequisite to have lawfully interrogated Auditor, Auditor nevertheless unequivocally invoked his rights of counsel and silence at least five (5) times. Auditor expressly requested and/or demanded to see and consult with an attorney four (4) consecutive times, saying, "I want an attorney," and Auditor demanded to be allowed to call his attorney on his iPhone. Auditor did not, nor has he ever deliberately, voluntarily, knowingly, intelligently, or unequivocally waived, relinquished, and/or abandoned his rights of counsel and silence in the absence of any and all expressed and implied duress, coercion, trickery, and inducements. Auditor did not initiate further communication, exchanges, or conversations with Police after he invoked his rights of counsel and silence; Defendants, however, resumed, continued, and re-initiated further interrogation of Auditor again and again of each time after he invoked his rights or barred the State from lawfully interrogating him.

190. On or around July 18, 2018, O'Keefe, Forcenito, and Gill unjustifiably held Auditor incommunicado for a prolonged custodial interrogation in the absence of both *Miranda* warnings and presence of counsel after the right of counsel became affixed to Auditor's blood-life; and, otherwise unlawfully interrogated Auditor in violation of Auditor's rights secured by the Fifth and Fourteenth Amendments to the U.S. Constitution and, therefore, Forcenito, O'Keefe, Gill are responsible via § 1983.

191. Defendants ignored each and every one of Auditor's demands for an attorney (and/or Auditor's pleas for Defendants to cease their incommunicado custodial questioning) by either refusing to even acknowledge that Auditor had said anything whatsoever or, by just continuing to interrogate Auditor for information. Gill's acknowledgment of Auditor's third consecutive demand for an attorney (*i.e.*, saying, "Ok"), followed by Forcenito's and Gill's choice to simply re-initiate their interrogation efforts after about 15 seconds of silence, was a particularly intimidating and egregious dismissal of natural American rights. But, after Defendants informed Auditor that he could not contact his attorney and their decision to re-initiated and resumed their questioning of Auditor (or Defendants' dismissal of Auditor's fifth request for assistance of counsel), there was no basis to believe that Defendants were going to cease their interrogation efforts against Auditor until they elicited statements from him. And, more significantly, Defendants never Mirandized Auditor and, Defendants promised and guaranteed Auditor that anything he said neither would nor could ever be used or otherwise relied upon by government. Auditor was required to inform the State of the universe as a matter of law after he got immunity. Nothing that Auditor said during any time in connection with this matter can be used or relied upon by Defendants as information or evidence in this case – *nothing*.

192. Defendants arrested Auditor. Auditor was under arrest the moment the State recognized Auditor's identity. Otherwise, Auditor's seizure ensuing a foot-pursuit and following his yielding ripened into a *de facto* arrest during the progression of each respective listed act and/or somewhere during, among other shows, (a) Forcenito's show hands order; (b) Forcenito's initiation and commencement of Auditor's interrogation via questioning him about activities; (c) Gill's radioing of current conditions on the ground to WPF command center; (d) Auditor's invocation of his rights of counsel and silence, and Forcenito's dismissal of those rights via continuing to

question Auditor about activities; (e) Auditor's second invocation of his right to counsel and Forcenito's repetitive dismissal of that right; (f) Gill's arrival at the Exxon and subsequent order for Auditor to relocate and to get on the ground and Auditor's compliance; (g) Gill's supplemental support and perpetuation of Auditor's incommunicado custodial interrogation via questioning him about activities; (h) Forcenito's request to "send a boss;" (i) Auditor's third invocation of his right to counsel and the sequential dismissal of those rights by Forcenito and Gill via persisting in questioning Auditor about activities; (j) Auditor's fourth invocation of his right to counsel; (k) Gill's issuance of quasi-*Miranda* warnings; (l) Gill's advisement that a superior ranking Police agent had to "come out and … take it" from hereafter; (m) Forcenito's call and phone communications with O'Keefe; (n) O'Keefe's advisement that he was going to respond to the Exxon; (o) Forcenito's and Gill's seizure of Auditor's property and/or removing of Auditor from his iPhone; (p) Auditor's fifth invocation of his right to counsel via seeking to call his attorney; (q) Gill's and Forcenito's refusal to allow Auditor to consult with anyone and their subsequent continuation in questioning Auditor about activities; and/or (r) State issuance of immunity to Auditor in exchange for the universe, and everything else. *See Florida v. Royer* 460 U.S. 491 (1983); *cf. Sibron v. New York*, 392 U.S. 40, 67 (1968) (Arrest occurred the moment "the policeman grabbed Peters by the collar.") Defendants would have caused any reasonable innocent person under like circumstances to believe that they were under arrest the moment, (a) when they were held incommunicado by multiple Police agents for prolonged interrogation; (b) when they started begging for assistance of counsel and recognized soon thereafter that no help was ever coming as Police dismissed plea after plea; (c) when they received quasi-*Miranda* warnings; or (d) upon subsequently being stripped of their property or cell-phone. Defendants moreover utterly failed to diligently pursue the least intrusive lawful investigatory means available to dispel State

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fantasies. Notwithstanding the indicative reasonable person arrest test, other factors supporting Auditor's seizure having ripened into a *de facto* arrest almost immediately after being seized include: (a) Defendants intimately knew Auditor; (b) Auditor's seizure ensued a foot-pursuit; (c) Auditor had no warrants; (d) Auditor received quasi-*Miranda* warnings; (e) Auditor was placed under custodial interrogation; (f) Auditor was not suspected of being armed or otherwise dangerous; (g) Auditor has no criminal record in New Jersey and basically never committed any crime; (h) no civilian had recently reported any nearby criminal activity and no police had recently discovered any fresh or unreported nearby criminal activity; (i) Auditor was refusing to speak to Defendants and Auditor likewise barred Defendants from lawfully interrogating him; (j) there were no nearby potential or actual victims or witnesses of possible crime; (k) Defendants seized Auditor's iPhone; (l) Auditor's residence and place of employment were located about three (3) blocks away from his place of seizure in a town he has lived in for decades; (m) Auditor was indigent and had no means to flee; (n) Defendants prohibited Auditor from contacting anybody (including an attorney); (o) Defendants refused to let Auditor document their activities by seizing Auditor's iPhone, and Defendants refused to activate and document their own activities with a recording device of which was currently attached to one of their persons; and, most significantly, (p) Defendants did not immediately go over to the Raceway, CVS, or Bagel Chateau, or venture about or around any other small or nearby business (including the Exxon), or diligently launch any other lawful investigatory effort within the area's close proximity, or even tried to discover *any additional fact* after Auditor had been seized and interrogation had failed. As Justice Stevens has observed: If unknown actors exercise their "right to remain silent after being stopped, ... the stop [is un]likely to lead to probable cause to make an arrest" for "'an[y] type of crime.'" *Wardlow*, 528 U.S., at 129 & n.2 (J. Stevens, concurring & dissenting) (citation omitted). Defendants' voluntary pursuit and seizure safely brought in for a landing by Auditor, followed by Auditor's subsequent acts of casually turning around, slowly approaching Forcenito while removing his Giants mask, and easygoing inquiry into whether "[he was] being detained" (*as if nothing had **even happened***), was *prima facie* evidence of ***nothing** because* – Defendants merely *saw Auditor **running around in Westfield!*** Again, although really of no relevance here: Flight and disruptive police chases can certainly "constitute reasonable suspicion," *Id.*, at 123, n.1 (C.J. Rehnquist), but moving is still legal, and unprovoked flight is not even *per se* suspicious. *Id.*, at 126-131 (Stevens, J.); *see also Bonner*, 363 F.3d at 217 *accord Navedo*, 694 F.3d at 472. An American's lawful response to police pursuit and subsequent exercise of their "right to ... stay put and remain silent in the face of police questioning" does not serve as justification for prolonging an intrusion for further incommunicado interrogation. *Id.*, at 125 (C.J. Rehnquist). Staying "put and remain[ing] silent" is, "by its very nature, ... quite consistent with" everyone's "right to go about" their "business," and enjoyment of this right (or "'refusal to cooperate'") "'without more, does not furnish the minimal level of objective justification needed for a detention or seizure.'" *Ibid* (quoting *Florida v. Bostick*, 501 U.S. 429, 437 (1991)). Auditor moreover was cooperating: Auditor was asking for an attorney. Additionally, Auditor's mask became factually meaningless after Defendants recognized Auditor's identity. Indeed, Forcenito did not inform O'Keefe over the phone that he suspected any type of criminal activity in being afoot (because there was none); Forcenito did not articulate any basis of knowing what Auditor was doing (primarily because Forcenito and Gill had seen nothing other than Auditor running around town); Forcenito did not request a canine, warrant, or any like investigatory assistance; and Forcenito did not seek any investigative guidance, and O'Keefe did not provide or offer any guidance in relation to what type of investigatory avenue (if any) had to at least be pursued while Auditor was under seizure.

Rather, Forcenito basically contacted WPF for no other reason than to report that Auditor had been found. Defendants held Auditor for more along a defined line of what could be categorized as curiosity or reporting purposes instead of true investigatory purposes of which were nevertheless implicated. Defendants could not lawfully obtain information from Auditor's body or mind. Defendants had no use for Auditor's actual person (*e.g.*, witness identification). And Defendants had no means to quickly or ever establish a probability of anything, other than perhaps with the means of driving around an entire city in search of unreported specks of crime, and even that type of investigatory avenue will almost never establish probability. O'Keefe 'saying' that he was going to respond to the Exxon is of no import at all; an order issued by O'Keefe prescribing to hold Auditor would also be of no import either. Auditor was not talking and barred any lawful interrogation efforts. Forcenito and Gill could not just sit around and do nothing but hold Auditor until O'Keefe could mosey on over to the Exxon so he could look at Auditor. Police "intrusion is aggravated, not mitigated, if the officer's entire justification" is premised on someone "mov[ing] from one place to another – as he or she has a right to do (***and do rapidly***)." *Id.*, at 127, n.1 (Stevens, J.) (bold emphasis added). It has also further and consistently been recognized that unless a detainee wishes to 'answer' questions during a stop, "he must … be released." *Berkemer v. McCarty*, 468 U.S. 420, 439-440 (1984). At a bare minimum, Forcenito and Gill were required to immediately pursue some investigative avenue other than interrogation the moment interrogation failed so to have even possibly served as a potential basis as to justify prolonging Auditor's seizure; Forcenito's and Gill's failure to do so, and Defendants' subsequent refusal to release Auditor and ensuing application of further interrogation efforts against Auditor was arbitrary and unduly intrusive and likewise unnecessarily extended the length of Auditor's seizure of which was already unreasonable nevertheless.

Cf. In re Barnard, 455 F.2d 1370, 1373 (D.C. Cir. 1971), *Ahern v. O'Donnell*, 109 F.3d 809, 817 (1st Cir. 1997), *Glass v. Mayas*, 984 F.2d 55, 58 (2d Cir. 1993), *Gooden v. Howard-County*, Md, 954 F.2d 960, 968 (4th Cir. 1992) (en banc), *Bailey v. Kennedy*, 349 F.3d 731, 741 (4th Cir. 2003), *Cantrell v. City of Murphy*, 666 F.3d 911, 923, n.8 (5th Cir. 2012), *Monday v. Oullette*, 118 F.3d 1099, 1102 (6th Cir. 1997), *McKinney v. George*, 726 F.2d 1183, 1187 (7th Cir. 1984), *Harris v. Pirch*, 677 F.2d 681, 686 (8th Cir. 1982), *Maag v. Wessler*, 960 F.2d 773, 775 (9th Cir. 1991), *Pino v. Higgs*, 75 F.3d 1461, 1467-1468 (10th Cir. 1996), *Roberts v. Spielman*, 643 F.3d 899, 905 (11th Cir. 2011) *with Doby v. Decrescenzo*, 171 F.3d 858, 871-872 (3d Cir. 1999) (Relying on *McCabe v. Life-Line Ambulance Service*, 77 F.3d 540, 553 (1st Cir. 1996) to conclude that seizure supported by warrant issued by independent county administrator pursuant to Pennsylvania Mental Health Procedures Act was a 'special need' for which probable cause was not required).[36]

193. Millions of Americans run around in masks in America every year and on October 31.

194. There are many videos posted on the internet and on YouTube showing many different individuals deliberately manufacturing police chases with cars and motorcycles and are depicted as fleeing from police at high speeds throughout heavily active areas; those videos ultimately end in depicting the individuals succeeding in out-running police.[37] Here, however, this was a Police pursuit (notably at a time where nobody was around or generally even awake), and Auditor immediately ceased all movement upon an explicit State signal to "stop" (and Auditor in fact yielded to the State's show prior to that signal) and did nothing unlawful. The Police recognize

[36] Did Madison envision a 'special need' to unreasonably seize Americans when writing the Fourth Amendment? Why does the domestic Military know what's best for civilians anyway?
[37] *See, e.g.*, Failsandfights. "BIKERS VS COPS – Motorcycle Police Chase Complication #16 FNF." *YouTube*, 3 Aug 2018, https://www.youtube.com/watch?v=3kzGCQLWu6Q.

in the Report that this matter involved a "pursuit," and the Police acknowledge in the Report that Defendants merely "pursued" Auditor. Auditor did not force any Defendant to pursue him; the pursuit was moreover highly illegal. Defendants voluntarily performed all their actions and decisions of pursuing Auditor on their own free will.

195. The State holding Auditor under seizure so as to conduct a lengthy and large-scale criminal investigation refutes any notion of the existence of an emergency present implicating the health and well-being of Auditor. Defendants' will of allowing Auditor to remain un-handcuffed during this matter (including over the course of an approximately 50-minute-long criminal investigation) also infers that there was no emergency present suggesting Auditor to be a danger to Police, himself, or others. There was no cause showing that Auditor was reasonably or probably at the time and/or ever going to be unable to control himself or Defendants. Although Defendants were surely in a position of power and intimidation, Auditor nonetheless elicited a confession and obeyed every single order Defendants directed at Auditor. No extraordinary developments not prompted by Police had transpired about Defendants' fruitless investigatory seizure of which could have even justified the mere instigation of an allegedly ensuing seizure associated with aspects of the Law. Auditor does not become dangerous because police might choose to unlawfully brutalize or otherwise harm Auditor for being free or for exercising his freedoms. In fact, if Auditor had not been exercising his freedom to film during this matter, Defendants would have unlawfully harmed and injured Auditor even further by, for example, choosing to commit perjury concerning the events occurring immediately ensuing Auditor's seizure. Defendants would have certainly relied on the falsified Police Report and testified that Auditor fled from Defendants and never asked for an attorney but instead just blurted out anything and everything Defendants wanted him to say. Gill moreover would have altered the

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language he used in his attempted Mirandizing under penalty of perjury; Gill would have undoubtedly fluffed-up one of the worst attempted Mirandizings in the history of jurisprudence into a passable Mirandizing. Additionally, Auditor would have never been able to discover Defendants' illegalities and cover-up if he had not been exercising his freedom to film. Since information known by Defendants failed to prompt a suspicion to reasonably suggest Auditor of being slightly dangerous, there was insufficient factual matter to establish a substantial chance of Auditor probably being uncontrollably dangerous of considerable magnitude. Auditor did not become dangerous because accusing Auditor of danger was convenient for Defendants. Defendants only accused Auditor of danger because no Police could link him to any crime, and because Defendants knew that Auditor can apparently see through the very eyes of Police.

196. Defendants refuse to provide Auditor any assistance when requested and, even when Auditor is stealthily able to obtain WPF assistance, Defendants retaliate right back at him for obtaining that assistance. (*e.g.*, Riley). Defendants apprise Auditor that he is a loser with no reputation; Defendants continuously lie straight to Auditor's face and document many more lies implicating Auditor; Defendants viciously pound on solid glass windows in response to Auditor's mere presence; and, among many other factors, Defendants were currently Defendants in two (2) pending Federal lawsuits being prosecuted by Auditor. Defendants had no legal standing or jurisdiction and were in no U.S. Constitutional capacity to make or be involved with making any remote decision implicating Auditor as of this point, let alone enjoy any lawful capacity to accuse Auditor of being a danger to himself.

197. O'Keefe, on behalf of himself and all Defendants, provided a confession and admitted to the fact that Defendants knew that Auditor was engaged in normal and lawful "First Amendment" activity performed by "a thousand before [him]."

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198. Defendants utilized and relied upon information expounding their voluntary doings and the unconstitutional circumstances they freely and voluntarily subjected Auditor of which information Defendants elicited from Auditor by issuing him immunity, among other compulsive means, to serve as the basis for their prolonged encampment of Auditor.

199. On or around July 18, 2018, O'Keefe, Forcenito, and Gill unjustifiably held Auditor incommunicado for a prolonged custodial interrogation lavished with promises and guarantees in suppression of Auditor's access to counsel, and impermissibly elicited, induced, and coerced involuntary statements from Auditor and compelled Auditor to express, all in violation of Auditor's rights secured by the First and Fourteenth Amendments to the U.S. Constitution, respectively, and, therefore, Forcenito, Gill, and O'Keefe are responsible via § 1983.

200. On or around July 18, 2018, O'Keefe, Forcenito, and Gill infringed Auditor's privacy and trespassed against and upon Auditor's person in pursuit of information, and involuntarily and unjustifiably elicited and extracted and held information acquired from Auditor's mind upon compelling Auditor to voice; and, otherwise, unreasonably 'searched' Auditor's 'person' and unreasonably 'seized' Auditor's hidden, protected, and privately stored information in violation of Auditor's rights secured by the Fourth and Fourteenth Amendments to the U.S. Constitution and, therefore, Forcenito, Gill, and O'Keefe are responsible under § 1983

201. During July of 2018, O'Keefe, Forcenito, Martinez, Gill, Freeman, Padovano, and the Doe(s) nonconsensually seized Auditor for law enforcement and investigatory purposes without reasonable suspicion or probable cause and, Defendants thereafter involuntarily propelled and forced Auditor into multiple detention facilities for days without justification or a hearing; and, otherwise, unreasonably seized Auditor in violation of Auditor's rights secured by the Fourth and Fourteenth Amendments to the U.S. Constitution and, therefore, Defendants are responsible

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via § 1983.

202. During July of 2018, O'Keefe, Forcenito, Martinez, Gill, Freeman, Padovano, and the Doe(s) and Town caused about acts and omissions of which directly and/or indirectly resulted in the intended and conscious confinement of Auditor in the absence of lawful justification; and, otherwise, falsely imprisoned Auditor and deprived Auditor of liberty without process of law in violation of Auditor's rights secured by the Fourteenth Amendment to the U.S. Constitution and, therefore, Defendants are responsible under § 1983 and the TCA.[38]

203. Forcenito 'searched' Auditor's property, iPhone, and/or 'effect' within the meaning of the Amendment. Forcenito violated Auditor's legitimate subjective expectation of privacy that society recognizes as objectively reasonable while trespassing upon a constitutionally protected area to gather information. Forcenito opened, operated, and/or manipulated Auditor's iPhone without consent via intentionally pressing its button to prompt responsive activity in attempt to find, locate, and/or reveal the power-down option or hidden image within Auditor's iPhone. *See, e.g., United States v. Bell*, No.: 15-10029, 2016 U.S. Dist. LEXIS 52651, 2016 WL 1588098 (C.D. Ill. Apr. 20, 2016) (Opening flip phone constitutes search); *cf. United States v. Musgrove*, 845 F. Supp. 2d 932, 949 (E.D. Wis. 2011) (Manipulating computer from screen saver mode in prompting display of previously hidden image constitutes search) *and United States v. Donald A. Hill.*, 795 F. Supp. 2d 1304, 1308 (M.D. Fla. 2011) (same).

204. On or around July 18, 2018, Forcenito, individually, and also thereafter acting pursuant to O'Keefe's suggestions and/or instructions, operated Auditor's iPhone without a warrant, consent, exigency, probable cause, reasonable suspicion, or legal justification; and, otherwise, unlawfully entered and/or occupied and unreasonably searched Auditor's effect or iPhone in violation of

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[38] Defendants have been on notice since *Me I.*

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Auditor's rights secured by the Fourth and Fourteenth Amendments to the U.S. Constitution and, therefore, Forcenito and O'Keefe are responsible via § 1983.

205. Padovano committed an unreasonable government intrusion by utilizing and calling the permanently restricted and/or always blocked cell-phone number connecting to Auditor's Mom.

206. On or around July 18, 2018, Padovano infiltrated the sanctity of Auditor's family by way of unreasonable government intrusion upon Auditor's Mom, and with a degree of wrongful culpability during an unpressurized environment of which provided ample time for careful deliberative judgment-making; and, otherwise, unjustifiably infringed upon Auditor's familial integrity and the privacies of Auditor's life in violation of Auditor's rights secured by the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution, and, therefore, Padovano is responsible via § 1983.

207. Auditor wore his mask for the purpose of auditing police and protesting, challenging, and/or expressing disapproval for every single governmental act of which has ever limited or attempted to suppress freedom, liberty, and acts, including its act of proposing the Bill. Auditor's expression was a symbolic act of which could potentially be the purest form of speech recognized and protected by the Amendment; Auditor appeared before the State and opposed it in the absence of any and all People. Auditor was not yelling or even speaking any words and was not causing any annoyance or disturbance to any people (primarily because no people were around or even awake). Auditor's act of breaking into a run during his expression rather than having simply chosen to express at walking pace is of no concern here; no one was around or generally even awake. Does the Amendment protect only those protests of which the protestors move no faster than 2.37 mph? Merely because the State disliked Auditor's audit and expression and

found it not to be of any benefit or use to it, holds no import on anything. The meaning of Auditor's speech is evident to whoever views it: The message is whatever you want it to be.

208. On or around July 18, 2018, O'Keefe, Forcenito, Martinez, Gill, Freeman, Padovano, and the Doe(s) and the Town unreasonably searched and seized Auditor's person and property, unlawfully interrogated, and falsely imprisoned and unjustifiably encamped and propelled Auditor into confinement in direct response to Auditor's exercise of his right to audit, protest, challenge, and express disapproval for government suppression of freedom, liberty, and/or acts, of which retaliatory striking was intended to frighten, deter, and punish Auditor for having exercised the same and which striking would moreover chill and silence a similarly situated individual of average or mere ordinary firmness from exercising the same as a result of confinement; and, otherwise abridged Auditor's speech and chilled Auditor's exercise of his right to audit and protest, challenge, and/or express disapproval for government by and through the effectuation of said acts undertaken in retaliation or in direct response to Auditor's exercise of the same, all in violation of Auditor's rights secured by the First and Fourteenth Amendments to the U.S. Constitution and, therefore, Defendants are responsible via § 1983.

Facts

209. On or around July 29, 2018, 3:30 a.m., Auditor was located about the lobby of WPF headquarters. Kapka was inside the command center room. Kapka phoned other agents to alert such agents of Auditor's presence. Kapka and Auditor spoke and Kapka instructed Auditor to "get a life" in a nasty tone of voice. Auditor thereafter exited the lobby and remained outside near WPF headquarters. No civilian or anybody was located about the public or anywhere near this area, or generally even awake. Auditor then walked upon a WPF squad car and stood on its hood for a few seconds and subsequently began to remove himself. Auditor caused no damage

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to this vehicle. As Auditor was walking down off the vehicle, Kapka exited WPF headquarters. Successively, Kapka thoroughly examined the vehicle for specks while Auditor stood on the sidewalk away from the vehicle and watched. Kapka concluded that there were no new specks and concluded that Auditor had not caused any damage to the vehicle (primarily because it would be almost impossible to show that Auditor caused one (1) speck of the many specks). Next, Kapka approached Auditor and non-consensually grabbed, felt, and held Auditor's arm and pulled Auditor a few feet. Kapka advised Auditor that he would arrest Auditor if he ever saw Auditor standing about the public or its property ever again.

Summaries – Claims – Conclusions

210. On or around July 29, 2018, Kapka unreasonably searched and seized Auditor's person in violation of Auditor's rights secured by the Fourth and Fourteenth Amendments to the U.S. Constitution and, therefore, Kapka is responsible via § 1983.

Facts

211. On or around August 16, 2018, 9:45 p.m., Auditor was intoxicated and walking around downtown Westfield. Auditor does not believe that he was bothering or really even speaking to anyone, but Auditor was certainly not set on engaging the State.

212. WPF purportedly received a 9-1-1 call from a concerned citizen who reported that they observed somebody who perhaps somewhat resembled Auditor's physical appearance, "walking in the downtown area trying to sell college applications" and "appear[ed] to be intoxicated." Exhibit Ze. Auditor was definitely walking around town and was intoxicated, but Auditor was certainly not holding any papers or "sell[ing] college applications."

213. Martinez and WPF agents Joseph Natale and John Swiderski responded and approached Auditor. Auditor was slurring his words and informed the agents that he was intoxicated and

/S/
III

merely walking around downtown Westfield. The agents left Auditor alone soon thereafter.

214. Exhibit Ze notes that Auditor "d[id] not appear to be intoxicated;" this is a lie.

215. On or around Sunday, June 16, 2019, 12:00 p.m., Auditor peacefully entered Holy Trinity Catholic Church (located in Westfield) to attend mass. Auditor silently and casually approached the Tabernacle and somewhat near the alter, somewhere away from the Priest (Father Anthony) was delivering his speech. Around this time, an usher approached Auditor and asked him to sit in a pew to watch the remainder of the mass. Auditor obliged and accompanied the usher to a pew located about seven rows from the altar and sat down in the same. Around here, an unknown individual called WPF and complained of Auditor's movements. Soon thereafter, during mass and as Auditor was sitting in the aforementioned pew, three WPF police agents (Does) entered the Church and approached Auditor. These agents began questioning Auditor about the purpose of his reported movements, but Auditor did not respond; instead, Auditor either listened to Father Anthony deliver mass or sang Church hums in the face of State questioning. After the State received no response from Auditor over a few minute span, the State advised Auditor that he could either walk out of the Church or, otherwise, the agents would forcibly remove him from the pew and the Church. In response, Auditor stood up and exited the Church during mass. Once outside, these agents continued questioning Auditor about his alleged movements but, Auditor continued to remain silent in the face of Police questioning.[39] As a result, following approximately ten (10) minutes of questioning without having received any response, the State summoned a vehicle to transport Auditor to a camp and, a transport vehicle

[39] Additionally, ensuing the conclusion of Church services, while all the congregates where exiting Holy Trinity Church, Father Anthony approached Auditor, remained nearby during Police questioning, and continued to advise the State that Auditor is a great guy and that he also sings in the Church Choir.

arrived at the Church in predictable fashion; State personnel exited the vehicle with a movable gurney and approached Auditor and the other Police agents; a WPF agent lightly pushed Auditor onto the gurney; the State personnel strapped Auditor onto the gurney and moved him into the vehicle; a Police agent entered the vehicle; and then these agents transported Auditor to the Center by way of State convoy.

216. Upon reaching the Center, Auditor was removed from the State vehicle, wheeled into the Center, instructed to virtually strip naked and forced to dress in Center identification cloth, and was subsequently wheeled through two (2) large cold and heartless metal doors displaying 'not an exit' signs, and then pushed into a detention area.[40]

217. Successively, Auditor was interrogated by a State agent for information describing the events leading to the present matter.[41] Auditor advised this agent that (prior to being locked inside the detention area) he was casually and silently attending mass; that he approached the Tabernacle and an usher asked him to sit in a pew; that he sat down in a pew and listened to mass and participated in song; that he refused to respond to Police questioning; and that WPF (or the Government) has previously committed crimes against him. And, in response, despite Auditor's and his Mother's easygoing conveyances that Auditor was perfectly sound, the State told Auditor that he was going to be involuntarily transported to the Camp for further interrogation by a future-teller.[42]

218. Sometime around 8:00 p.m., Auditor was involuntarily transported from the Center to the Camp and afterward wheeled into a locked area within the Camp for questioning. And, after

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[40] As of here, Auditor had not said any word to any State agent.

[41] Auditor's Mother would join Auditor inside the detention area shortly thereafter.

[42] This State interrogating agent especially disliked that Auditor had informed her that Police had previously committed crimes against himself.

/S/
III

some brief questioning, Auditor was informed that he was going to be held at the Camp for further detention and control or adjustments.

219. On June 19, 2019, Auditor was released from State custody.

Summaries – Claims – Conclusions

220. Amid June of 2019, the Does seized and arrested[43] Auditor's person without exigency, probable cause, reasonable suspicion, or legal justification; and, otherwise, unreasonably seized Auditor's person in violation of Auditor's rights secured by the Fourth and Fourteenth Amendments to the U.S. Constitution and, therefore, the Does are responsible via § 1983 and TCA.

221. Town Police (including leadership (and/or the Does)) are oblivious to those rights and protections secured by the U.S. Constitution because the Town, Wayman, Battiloro, and Doe have failed to require themselves and train[44] all other Police agents or to study, familiarize, or learn the guarantees of the Amendments, such as, by, for example, completing a class and then passing a challenging written test from time to time surrounding the principles and protections of the Bill of Rights, of which failure to train and/or employ and require such obviously needed class and test on constitutional limitations of Policing and powers was reasonably foreseeable to result in a direct causal link to Defendants' infringement upon Auditor's rights; and, otherwise, violated Auditor's rights secured by the U.S. Constitution through an unlawful policy and custom and, thereafter, the Town, Wayman, Battiloro, and Doe are responsible via § 1983.

222. Defendants have an unconstitutional custom of lying about encounters with Auditor and documenting those lies in police reports about Auditor or manufacturing evidence; and, otherwise, violated Auditor's rights secured by the U.S. Constitution through an unlawful policy and

[43] The arrest herein occurred the moment the State required Auditor to exit the Church.

[44] *Green* was likewise dismissed presumably on settlement and involving Gill likely on a false arrest claim.

custom and, thereafter, the Town, Wayman, Battiloro, and Doe are responsible via § 1983.

223. The State violated and conspired to violate Auditor's rights secured by the U.S. Constitution and, thereafter, the State is responsible via § 1983.

224. Defendants have a custom and policy of violating Auditor's rights secured by the U.S. Constitutional and, therefore, the State is responsible via § 1983.

225. The Town has a failure to supervise, train, discipline, and poor hiring custom and policy (of which includes and involves leadership) of which failures include, among other failures, inability to guide warrant searches and proper administration of *Miranda* warnings and failure to advise agents that they cannot unleash police attack dogs on runners, of which failures attributed to a direct causal link in resulting in infringement upon Auditor's rights secured by the U.S. Constitution and, therefore, the State is responsible via § 1983.

226. The State terrorizes, oppresses, wrongs, and commit crimes as policy and custom against Auditor and, therefore, the State is responsible via § 1983.

227. The State violated Auditor's rights and acted and harmed Auditor while acting in an objectively unreasonable manner and with simple and invidious discriminatory animus, intent, improper motive, purpose, gross negligence, willfulness, incompetence, malice, bad faith, callousness, recklessness, and deliberate indifference.

228. Each Defendant acted with subjective knowledge of wrongful culpability; Defendants at least performed all actions and omissions with an aforethought of being prosecuted after the filing of *Me III* on July 5, 2018. *See, e.g.*, Footnote 30 herein.

229. As the direct and proximate cause of every respective State act and omission, Auditor was harmed and injured and has and is currently suffering and incurring loss and damages (*e.g.*, emotional distress, opportunity harm (employment and school), tarnished reputation, adverse

/S/
III

family and other social relationships, borderline homelessness, tremendous anxiety of having been taken daily, rapid ageing in appearance, obsession, addiction, extreme tiredness, and loss of enjoyment of life, among other harms and other tortures).

WHEREFORE, I, Auditor, Ronald Posyton, III, pray for this Almighty Power to enter judgment against the State on every respective claim, jointly and severally, as follows:

(a) For a declaration that Auditor's rights were violated on every respective claim;
(b) For any and all that may be deemed and/or is just or proper.

Respectfully Submitted,

Dated this 9th day of October 2019

Ronald Posyton, III
113 Sussex Street,
Westfield, NJ 07090
(908) 868-7797
ronposytoncollege@gmail.com

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS
Ronald H. Posyton, III

DEFENDANTS
Township of Westfield, et al

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

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

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

Attorneys *(If Known)*

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

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

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)* *(For Diversity Cases Only)*

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

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

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☒ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

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

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
42 USC 1983

Brief description of cause:
Deprivation of Civil Rights

VII. REQUESTED IN COMPLAINT:

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

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):
JUDGE
DOCKET NUMBER

DATE 10/9/19

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Pro se (Non Prisoner)
Consent & Registration Form to Receive Documents Electronically

Pursuant to Fed. R. Civ. P. 5(b), and Fed. R. Civ. P. 77(d), Local Civil Rule 5.2 and the Court's Electronic Case Filing Policies and Procedures, documents may be served through the court's transmission facilities by electronic means. Documents that are not permitted to be served electronically are pleadings that are to be served with process under Fed.R.Civ.P. 4.

I Ronald H. Posyton, III hereby consent to receive service of documents and notice of electronic filings via the Court's electronic filing system to the extent and in the manner authorized by the above rules and waiving the right to receive notice by first class mail pursuant to Fed.R.Civ.P. 5(b)(2)(D) and Fed.R.Civ.P. 77(d).

Pursuant to Local Civil Rule 10.1, I will promptly notify the Court if there is a change in my personal data, such as name, address, and/or e-mail address. I will promptly notify the Court to request cancellation of electronic service.

Litigants who have consented to receive documents electronically will be sent a **Notice of Electronic Filing** via e-mail. Upon receipt of the notice, they are permitted **one "free look"** at the document by clicking on the hyperlinked document number. The one "free look" will expire 15 days from the date the notice was sent. After the "free look" is used or expires, the document can only be accessed through PACER (**P**ublic **A**ccess to **C**ourt **E**lectronic **R**ecords.) It is recommended that litigants establish a PACER account. This can be accomplished by visiting the PACER web site at http://pacer.psc.uscourts.gov. PACER is an automated system that allows an individual to view, print, and download documents for a fee.

My e-mail address is: Ronposytoncollege@gmail.com

My case number is: TBD

Signature of Litigant

113 Sussex Street
Mailing Address

Westfield, NJ 07090
City, State, Zip Code

(908) 868-7797
Telephone Number

Date: 10/9/19

AO 239 (Rev. 01/15) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

UNITED STATES DISTRICT COURT

for the

District of New Jersey

Ronald H. Posyton, III *Plaintiff/Petitioner* v. Township of Westfield, et al., *Defendant/Respondent*	)))))	Civil Action No.

APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Long Form)

Affidavit in Support of the Application

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested. I declare under penalty of perjury that the information below is true and understand that a false statement may result in a dismissal of my claims.

Signed: [signature]

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: 10/9/19

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly income amount during the past 12 months		Income amount expected next month	
	You	Spouse	You	Spouse
Employment	$ 400 ~~4000~~	$	$ 0	$
Self-employment	$	$	$	$
Income from real property *(such as rental income)*	$	$	$	$
Interest and dividends	$	$	$	$
Gifts	$ 20	$	$ 100	$
Alimony	$	$	$	$
Child support	$	$	$	$

Retirement *(such as social security, pensions, annuities, insurance)*	$	$	$	$
Disability *(such as social security, insurance payments)*	$	$	$	$
Unemployment payments	$	$	$	$
Public-assistance *(such as welfare)*	$	$	$	$
Other *(specify)*:	$	$	$	$
Total monthly income:	$ [redacted]	$ 0.00	$ 100.00	$ 0.00

2. List your employment history for the past two years, most recent employer first. *(Gross monthly pay is before taxes or other deductions.)*

Employer	**Address**	**Dates of employment**	**Gross monthly pay**
7-Eleven	800 Central Avenue, Westfield, NJ	Nov of 2017 to Oct 2018	$ 1000
			$

3. List your spouse's employment history for the past two years, most recent employer first. *(Gross monthly pay is before taxes or other deductions.)*

Employer	**Address**	**Dates of employment**	**Gross monthly pay**
			$
			$
			$

4. How much cash do you and your spouse have? $ 200

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	**Type of account**	**Amount you have**	**Amount your spouse has**
7-Eleven Card		$ $1.00	$
Santandar Bank		$ 200	$
		$	$

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Assets owned by you or your spouse	
Home *(Value)*	$ N/A
Other real estate *(Value)*	$ N/A
Motor vehicle #*1* *(Value)*	$ N/A
Make and year: N/A	
Model: N/A	
Registration #: N/A	
Motor vehicle #*2* *(Value)*	$ N/A
Make and year: N/A	
Model: N/A	
Registration #: No/A	
Other assets *(Value)*	$ 1000 (e.g., clothes, bed, etc.)
Other assets *(Value)*	$

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	**Amount owed to you**	**Amount owed to your spouse**
N/A	$	$
	$	$
	$	$

7. State the persons who rely on you or your spouse for support.

Name (or, if under 18, initials only)	**Relationship**	**Age**
N/A		

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment *(including lot rented for mobile home)* Are real estate taxes included? ❐ Yes ❐ No Is property insurance included? ❐ Yes ❐ No	$ N/A	$
Utilities *(electricity, heating fuel, water, sewer, and telephone)*	$ N/A	$
Home maintenance *(repairs and upkeep)*	$ N/A	$
Food	$ N/A	$
Clothing	$ N/A	$
Laundry and dry-cleaning	$ N/A	$
Medical and dental expenses	$ N/A	$
Transportation *(not including motor vehicle payments)*	$ N/A	$
Recreation, entertainment, newspapers, magazines, etc.	$ 100	$
Insurance *(not deducted from wages or included in mortgage payments)*		
Homeowner's or renter's:	$ N/A	$
Life:	$ N/A	$
Health:	$ N/A	$
Motor vehicle:	$ N/A	$
Other:	$ N/A	$
Taxes *(not deducted from wages or included in mortgage payments) (specify):*	$ N/A	$
Installment payments		
Motor vehicle:	$ N/A	$
Credit card *(name)*:	$ N/A	$
Department store *(name)*:	$ N/A	$
Other:	$ N/A	$
Alimony, maintenance, and support paid to others	$ N/A	$

Regular expenses for operation of business, profession, or farm *(attach detailed statement)*	$ N/A	$
Other *(specify)*: already disclosed above	$	$
Total monthly expenses:	$ 100.00	$ 0.00

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

   ❒ Yes ☑ No If yes, describe on an attached sheet.

10. Have you spent — or will you be spending — any money for expenses or attorney fees in conjunction with this lawsuit? ❒ Yes ☑ No

    If yes, how much? $ ____________

11. Provide any other information that will help explain why you cannot pay the costs of these proceedings.

    I have a trust which the trustee will not allow moneys to be allocated to this action. I have no job and I have almost no money.

12. Identify the city and state of your legal residence.
    Westfield, NJ 07090

Your daytime phone number: (908) 477-1238

Your age: 24 Your years of schooling: 12

AO 240A (Rev. 01/09: NJ 06/17) Order to Proceed Without Prepaying Fees or Costs

UNITED STATES DISTRICT COURT
for the
DISTRICT OF NEW JERSEY

POSYTON, III

Plaintiff(s),

v.

TOWNSHIP OF WESTFIELD et al
Defendant(s).

ORDER ON APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES

Civil Action No. 2:19-cv-19013-JMV-JAD

Having considered the application to proceed without prepayment of fees under 28 U.S.C. §1915, **IT IS ORDERED** the application is:

☐ **GRANTED**, and

☐ The clerk is ordered to file the complaint,

☐ **IT IS FURTHER ORDERED**, the clerk issue a summons and the U.S. Marshal serve a copy of the complaint, summons and this order upon the defendant(s) as directed by the plaintiff(s). All costs of service shall be advanced by the United States.

☐ **DENIED**, for the following reasons:

☐ **IT IS FURTHER ORDERED**, the clerk is ordered to close the file. Plaintiff(s) may submit payment in the amount of **$400** within **14** days from the date of this order to reopen the case without further action from the Court.

ENTERED this day of , 2019 s/______________________________

Signature of Judicial Officer

John M. Vazquez, USDJ

Name and Title of Judicial Officer