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TOWNSHIP CLERK
TWP. OF WEST MILFORD

Attorney(s): John V. McDermott, Jr., Esq.
Attorney Id No.: 013421975
Law Firm: John V. McDermott, Jr., Esq.
Address: 14 Church Street, Suite 1
Vernon, New Jersey 07462

Telephone No.: (973) 764-6313
Fax No.: (973) 764-0299
E-mail: jvmcdlaw14@yahoo.com
Attorney(s) for Plaintiff(s): Michael D. Fantuzzi

Michael D. Fantuzzi

Plaintiff(s)

vs.

TOWNSHIP OF WEST MILFORD, POLICE CHIEF TIMOTHY STORBECK,
Individually and In & In his capacity as Police Chief for the West Milford
Police Department, LT. ROBERT R. CONGLETON, Ptm. STEPHEN M.
HERZOG, Sgt. JAMES H. DEVORE and OFFICER ANTHONY W.
PARRELLO

Defendant(s)

SUPERIOR COURT OF NEW JERSEY

CIVIL DIVISION

SUSSEX COUNTY

DOCKET NO.: SSX-L-476-15

CIVIL ACTION

Summons

FROM THE STATE OF NEW JERSEY

To the Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is provided and available in the Civil Division Management Office in the county listed above or online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$ 175.00 and completed Case Information Statement) if you want the court to hear your defense.

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

If you cannot afford an attorney, you may call the Legal Services Office in the county where you live or the Legal Services of New Jersey statewide hotline at 1-888-LSNJ-LAW (576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is provided and available online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.

Dated: July 29, 2015

/s/ Michelle M. Smith

Michelle M. Smith

Clerk of the Superior Court

Name of Defendant to be Served: Township of West Milford Clerk, Ms. Antoinette Battaglia

Address of Defendant to be Served: c/o Township of West Milford, 1480 Union Valley Road, West Milford, NJ 07480

Directory of Superior Court Deputy Clerk's Offices County Lawyer Referral and Legal Services Offices

ATLANTIC COUNTY

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

BERGEN COUNTY

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

BURLINGTON COUNTY

Deputy Clerk of the Superior Court
Central Processing Office
Attn: Judicial Intake
First Floor, Courts Facility
49 Rancocas Road
Mt. Holly, NJ 08060
LAWYER REFERRAL
(609) 261-4862
LEGAL SERVICES
(609) 261-1088

CAMDEN COUNTY

Deputy Clerk of the Superior Court
Civil Processing Office
Hall of Justice, First Floor
101 South Fifth Street, Suite 150
Camden, NJ 08103
LAWYER REFERRAL
(856) 482-0618
LEGAL SERVICES
(856) 964-2010

CAPE MAY COUNTY

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

CUMBERLAND COUNTY

Deputy Clerk of the Superior Court
Civil Case Management Office
60 West Broad Street, P.O. Box 10
Bridgeton, NJ 08302
LAWYER REFERRAL
(856) 696-5550
LEGAL SERVICES
(856) 691-0494

ESSEX COUNTY

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

GLOUCESTER COUNTY

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

HUDSON COUNTY

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

HUNTERDON COUNTY

Deputy Clerk of the Superior Court
Civil Division
65 Park Avenue
Flemington, NJ 08822
LAWYER REFERRAL
(908) 236-6109
LEGAL SERVICES
(908) 782-7979

MERCER COUNTY

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

MIDDLESEX COUNTY

Deputy Clerk of the Superior Court
Middlesex Vicinage
Second Floor - Tower
56 Paterson Street, P.O. Box 2633
New Brunswick, NJ 08903-2633
LAWYER REFERRAL
(732) 828-0053
LEGAL SERVICES
(732) 249-7600

MONMOUTH COUNTY

Deputy Clerk of the Superior Court
Court House
P.O. Box 1269
Freehold, NJ 07728-1269
LAWYER REFERRAL
(732) 431-5544
LEGAL SERVICES
(732) 866-0020

MORRIS COUNTY

Morris County Courthouse
Civil Division
Washington and Court Streets
P.O. Box 910
Morristown, NJ 07963-0910
LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 285-6911

OCEAN COUNTY

Deputy Clerk of the Superior Court
118 Washington Street, Room 121
P.O. Box 2191
Toms River, NJ 08754-2191
LAWYER REFERRAL
(732) 240-3666
LEGAL SERVICES
(732) 341-2727

PASSAIC COUNTY

Deputy Clerk of the Superior Court
Civil Division
Court House
77 Hamilton Street
Paterson, NJ 07605
LAWYER REFERRAL
(973) 278-9223
LEGAL SERVICES
(973) 523-2900

SALEM COUNTY

Deputy Clerk of the Superior Court
Attn: Civil Case Management Office
92 Market Street
Salem, NJ 08079
LAWYER REFERRAL
(856) 935-5629
LEGAL SERVICES
(856) 691-0494

SOMERSET COUNTY

Deputy Clerk of the Superior Court
Civil Division
P.O. Box 3000
40 North Bridge Street
Somerville, NJ 08876
LAWYER REFERRAL
(908) 685-2323
LEGAL SERVICES
(908) 231-0840

SUSSEX COUNTY

Deputy Clerk of the Superior Court
Sussex County Judicial Center
43-47 High Street
Newton, NJ 07860
LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 383-7400

UNION COUNTY

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

WARREN COUNTY

Deputy Clerk of the Superior Court
Civil Division Office
Court House
413 Second Street
Belvidere, NJ 07823-1500
LAWYER REFERRAL
(908) 859-4300
LEGAL SERVICES
(908) 475-2010

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Sussex County Law Division

JOHN V. McDERMOTT, JR., ESQ.
Attorney ID No. 013421975
14 Church Street, Suite 1
Vernon, NJ 07462
(973) 764-6313
Attorney for Plaintiff Michael D. Fantuzzi

Plaintiff

MICHAEL D. FANTUZZI

vs.

Defendant

TOWNSHIP OF WEST MILFORD,
POLICE CHIEF TIMOTHY STORBECK,
Individually and in and in his capacity
as Police Chief for the West Milford Police
Department, LIEUTENANT ROBERT R.
CONGLETON, PATROLMAN STEPHEN
M. HEROG, SARGEANT JAMES H.
DEVORE and OFFICER ANTHONY
W. PARRELLO members of the West
Milford Police Department

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – SUSSEX COUNTY

Docket No. SSX-L-476-15

CIVIL ACTION

COMPLAINT AND DEMAND
FOR JURY TRIAL

Plaintiff MICHAEL D. FANTUZZI, residing at 8 Sanoset Road, Highland Lakes, in the Township of Vernon, County of Sussex, State of New Jersey, by way of Complaint against all of the defendants says.

GENERAL FACTUAL ALLEGATIONS

1. Plaintiff Michael D. Fantuzzi, hereinafter referred to as "Plaintiff", is an individual residing in the Township of Vernon, County of Sussex, State of New Jersey.

2. Defendant West Milford Township, hereinafter referred to as the "Township," is a municipal corporation organized under the laws of the State of New Jersey, having offices at 1480 Union Valley Road, West Milford, New Jersey, that maintained and was responsible for all employees, officers, and agents of the West Milford Police Department.

3. West Milford Police Department hereinafter referred to as "Police Dept." is a governmental unit of the Township charged with the law enforcement and safety responsibilities within the Township of West Milford and is responsible for law enforcement within its jurisdiction as well as the hiring, supervising, training and retention of its police officers, detectives, patrolmen and civilian employees.

4. At all times relevant herein, the Township was and is liable for the acts of its agents, servants and/or employees acting within the scope of their employment.

5. Defendant, Police Chief Timothy C. Storbeck hereinafter referred to as the "Chief", was at all times relevant herein the Police Chief of the West Milford Police Department and, as such, was responsible for the harm caused to Plaintiff.

6. Defendant Lieutenant, Robert R. Congleton herein referred to as "Lt. Congleton" was at all times relevant herein, a high-ranking and superior officer of the West Milford Police Department, who participated in the activities that caused harm to the Plaintiff.

7. Defendant Patrolman Stephen M. Herzog, hereinafter referred to as "Ptl. Herzog", was at all times relevant herein, an officer of the West Milford Police Department, who participated in the activities that caused harm to the Plaintiff.

8. Sergeant James Devore, hereinafter referred to as "Sgt. Devore", was at all times relevant herein, a superior officer of the West Milford Police Department, who participated in the activities that caused harm to the Plaintiff and is liable for that harm.

9. Officer Anthony W. Parrello, hereinafter referred to as "Officer Parrello", was at all times relevant herein, a police officer of the West Milford Police Department, who participated in and is liable for the harm caused to the Plaintiff.

10. At all times relevant herein, defendants Township and Chief were and are vicariously liable for the acts of its agents, servants and/or employees acting within the scope of their employment.

11. On October 25, 2013 plaintiff filed a Notice of Claim in accordance with N.J.S.A. 59:8-3 et seq. upon Antoinette Battoglia, West Milford Township Clerk giving notice to the events and incidents that occurred on July 29, 2013 for which plaintiff was asserting claims against the Township of West Milford, the West Milford Township Police Department and unknown members of the West Milford Department.

12. Said Notice of Claim was actually received, signed for, and acknowledged on October 25, 2013 by a representative of West Milford Township Clerk, Antoinette Battoglia.

13. Said Notice of Claim was given and received by the Township within the ninety (90) day time period as required by the New Jersey Tort Claims Act.

FIRST COUNT
Sec. 1983 UNLAWFUL DETENTION, SEIZURE,
UNLAWFUL SEARCH AND FALSE ARREST

14. Plaintiff repeats and realleges all of the allegations set forth in Paragraphs 1 through 13 above as if more fully set forth herein at length.

15. On or about July 29, 2013 at approximately 8:00A.M. plaintiff was employed by Generant Company, Inc., and was at work at its manufacturing facility located at 1865 Route 23 South, in the Township of West Milford, New Jersey.

16. While in the normal course of his daily and usual duties as an assembler for Generant, plaintiff was confronted by defendants Ptl. Herzog, Officer Parrello and Sgt. Devore who were at that time and place on duty as Township employees in the Police Department.

17. Defendant Ptl. Herzog, Officer Parrello and Sgt. Devore responded to a call from an unknown employee of Generant who reported to the police dispatcher that plaintiff "may have brought a gun to work ". Upon their arrival at Generant they were further told by the caller that the information he was giving to them was "third hand information" They were also told that "plaintiff was accused of video recording female employees on his cell phone." They were advised plaintiff "was being terminated as an employee" and Generant requested their "assistance in having him removed from the property."

18. The three defendant police officers confronted plaintiff in front of many other employees and required plaintiff to go outside with them. They asked plaintiff if he had any weapons and he advised them he did not. They then conducted a "pat down search for weapons" without his permission and found no weapons.

19. The three defendant police officers continued to detain the plaintiff against his will and without any reasonable basis and refused to allow him to leave. They continued to

interrogate the plaintiff more and he advised them that he owned and had permits for a revolver and a shotgun both of which were at his residence in Vernon, New Jersey. The three officers confirmed through dispatch that he had a permit for these two guns.

20. Despite confirmation of his lawful ownership of those guns they continued to detain him against his wishes and then initiated questioning of plaintiff about video recording of co-workers. Plaintiff confirmed he had done so with co-workers with whom he was friendly and those people were aware of the recordings.

21. Despite all of the above the three police officers continued to detain plaintiff and interrogate him against his will. Then Sgt. Devore and Officer Parrello asked to search plaintiff's car for weapons. Feeling intimidated by the officers and their persistent questioning and feeling that he could not freely leave, plaintiff gave permission for the search. Sgt. Devore and Officer Parrello then required plaintiff to accompany them to his vehicle. The two police officers turned plaintiff's vehicle inside out and found no guns as plaintiff told them he had none in the car.

22. The three police officers then required plaintiff to go look inside the building and they marched him inside in full view of other employees. The officers then searched plaintiff's locker and found only empty clothes hangers. Feeling as if he was under arrest and was not free to get in his car and leave, plaintiff consented to that search because he had no choice but to do so.

23. The three police officers, then marched plaintiff back outside and instructed him not to return to the premises. Plaintiff left the Generant premises and has never returned since then.

24. All of the aforesaid took several hours during which the aforesaid defendant police officers unlawfully detained, searched, interrogated and made it seem publicly that plaintiff was

arrested for having violated the law. Yet, plaintiff had not violated any laws of any kind whatsoever and the aforesaid police officers violated the plaintiff's civil rights and set forth above.

25. Then, at approximately 1:00P.M. that same day, defendant Ptl. Herzog contacted the Vernon, N.J. Police Department and advised that police department that plaintiff had unlawfully and criminally threatened someone. In fact, plaintiff had not done so.

26. Defendant Ptl. Herzog called plaintiff at that time and left a message on plaintiff's cell phone directing plaintiff to contact Ptl. Herzog. At approximately 3:15P.M. when plaintiff received defendant's Ptl. Herzog's voicemail message he called Ptl. Herzog. Ptl. Herzog then told him he was required to come to the West Milford Police Department and that if plaintiff did not do so, he would be arrested. Ptl. Herzog had no lawful reason or basis to do this.

27. Plaintiff arrived at the West Milford Police Department at approximately 5:00P.M. because he felt he would be arrested if he did not do so. Ptl. Herzog and Lt. Congleton falsely claimed plaintiff had threatened someone and then interrogated plaintiff and detained plaintiff without any lawful right or basis to do so.

28. Defendants Lt. Congleton, Sgt. Devore, Ptl. Herzog and Officer Parrello recklessly and with absolute disregard for plaintiff's rights and liberties persisted in their detention, personal searches, restraint, interrogation, and defamation of the plaintiff as aforesaid without any factual or legal basis whatsoever.

29. Defendants Lt. Congleton, Sgt. Devore, Ptl. Herzog and Officer Parrello made misstatements in their reports and wrongfully made it appear to the other employees at Generant that plaintiff had committed a criminal offense when in fact he had not done so and all of the defendant police officers were aware he had not done so.

30. At all times relevant to this action the defendants acted under of color of laws of the State of New Jersey and the Township of West Milford and/or in conspiracy with each other acted under the color of the laws of the State of New Jersey and under authority and custom and usage of the Township of West Milford.

31. At no time did defendants have any information or knowledge, credible belief, or factual or legal basis, that would establish probable cause to believe that plaintiff was involved in any criminal activity or criminal violations.

32. The action of defendants, including Lt. Congleton, Sgt. Devore, Ptl. Herzog and Officer Parrello in restraining searching, detaining, interrogating and publicly making it appear as if they were arresting plaintiff for criminal violations constituted willful misconduct and denied plaintiff of his right to be free from such unlawful personal searches restraint, detention, interrogation, and appearance of being arrested publicly.

33. Defendant Lt. Congleton, Sgt. Devore, Ptl. Herzog, and Officer Parrello did not reasonably believe that they had any factual or legal basis to do what they did to the plaintiff as set forth above.

34. Defendants Lt. Congleton, Sgt. Devore, Ptl. Herzog, and Officer Parrello recklessly disregarded the rights of the plaintiff, together and/or in combination with one or more other defendants did perform the aforesaid actions against the plaintiff without any basis whatsoever.

35. The aforementioned acts of these defendants deprived plaintiff of his right to be free from detention, interrogation, personal pat down search of his body, invasion of his privacy, search of his personal vehicle, search of his locker and the publication of false information to the Vernon Police Department that he had committed criminal threats in violation of law, despite the lack of reasonable factual and legal basis for same, all of which is in violation of Fourth and

Fourteenth Amendments to the United States Constitution, made actionable through 42 U.S.C. Section 1983.

36. As direct and proximate cause of the aforementioned acts, plaintiff was caused to sustain an extended loss of freedom and reputation, and suffered severe physical and emotional damages in connection with the deprivation of his constitutional rights.

37. Defendants Township and Chief are also liable and responsible to the plaintiff for the aforesaid actions of these other defendants on the basis of respondent superior and the failure to properly train, instruct, monitor, manage and advise the other defendants.

WHEREFORE, plaintiff demands judgment against defendants Township, Chief, Defendants Lt. Congleton, Sgt. Devore, Ptl. Herzog, and Officer Parrello as follows:

- A. For compensatory damages;
- B. For punitive damages against the defendant police officers in their individually capacities;
- C. For attorney's fees and costs;
- D. For pre-judgment and post-judgment interest; and
- E. For such other & further relief as this court may deem just and proper.

SECOND COUNT
Sec. 1983 UNLAWFUL CUSTOM, PROACTIVE & POLICY

38. Plaintiff repeats and realleges all of the allegations of Paragraphs 1 through 37 of this complaint as if more fully set forth herein at length.

39. Defendant Township is vested by state law with the authority to make policy on the use of force, detention, seizure, interrogation, unreasonable searches and the restraint of one's freedom of speech and association, all in regard to police-citizen encounters.

40. At all times relevant hereto, defendants Chief, Lt. Congleton, Sgt. Devore, Ptl. Herzog, and Officer Parrello were acting under the direction and control of the defendant Township and were acting pursuant thereto as agents, servants and/or employees of the Township and the West Milford Police Department.

41. Acting under color of state law, the West Milford Police Department intentionally knowingly, recklessly and/or with deliberate indifference, failed to adequately screen, train, instruct, supervise, control, and/or discipline, on a continuing basis, the officers under its control, including defendants Chief, Lt. Congleton, Sgt. Devore, Ptl. Herzog, and Officer Parrello to refrain from: (1) unlawfully and maliciously, detaining, restraining, searching, interrogating and harassing citizens; (2) intentionally, recklessly and/or negligently misrepresenting the facts of police-citizen encounters; (3) falsifying police and/or other official records; (4) defaming innocent citizens by alleging to other police departments that residents of their municipality committed criminal threats; and (5) committing unlawful searches and seizures.

42. Despite having such notice, defendant Township, failed to employ any type of corrective or disciplinary measures against defendants Chief, Lt. Congleton, Sgt. Devore, Ptl. Herzog, and Officer Parrello.

43. Defendant Township, had knowledge of, or, had they diligently exercised their duties and obligations, should have known, that the Constitutional deprivations set forth above were likely to occur and, with deliberate indifference, did nothing to prevent such deprivations from occurring.

44. Defendant Township, had vested authority to prevent or aid in preventing the commission of said wrongs, and could have done so by reasonable diligence and intentionally, knowingly, recklessly and/or with deliberate indifference failed to do so.

45. Defendant Township, directly or indirectly, under color of state law approved or ratified the unlawful, deliberate, malicious, reckless and want on conduct of defendants Chief, Lt. Congleton, Sgt. Devore, Ptl. Herzog, and Officer Parrello as set forth above.

46. As a direct and proximate result of the acts and/or omissions of defendant Township, as set forth herein, plaintiff suffered lost income, and mental anguish in connection with the deprivation of his Constitutional right to be free from unreasonable searches and seizures, detentions, invasion of his privacy, unreasonable interrogations, and unreasonable restraints as guaranteed by the Forth and Fourteenth Amendments to the Constitution of the United States; Article 1, Section VII of the New Jersey Constitution; and N.J.S.A 10 :6-2(c), also known as the New Jersey Civil Rights Act.

WHEREFORE, plaintiff demands judgment against defendant Township as follow;

- A. For compensatory damages;
- B. For attorney's fee and costs of suit;
- C. For pre-judgment and post-judgment interest; and
- D. For such other and further relief as this count may deem just and proper.

THIRD COUNT
RESONDEAT SUPERIOR
(Against Defendant Township of West Milford)

47. Plaintiff repeats and realleges all of the allegations of Parahraphs1 through 46 of this complaint as if more fully set forth herein at length.

48. Defendant Township is liable to the plaintiff for the actions of each and every one of the individual defendants under the doctrine of respondent superior.

WHEREFORE, plaintiff demands judgment against defendant Township as follows:

FOURTH COUNT
FALSE ARREST/IMPROPER DENTENTION/
UNLAWFUL SEARCH

49. Plaintiff repeats and relleges each and every allegation of Paragraphs 1 through 48 of this complaint as if more fully set forth herein at length.

50. The aforementioned acts of defendants in falsely detaining, unlawfully searching, improperly interrogating, unlawfully restraining the freedom of speech and freedom of association, and defaming the plaintiff were contrary to the common law and in violation of rights guaranteed by the constitution of the State of New Jersey.

51. As a direct and proximate cause of the aforementioned acts, plaintiff was caused to sustain an extended loss of freedom and reputation, and suffered severe physical and emotional damages in connection with the deprivation of his constitutional rights.

WHEREFORE, plaintiff demands judgment against defendants Township, Chief Storbeck, Lt. Congleton, Sgt. Devore, Ptl. Herzog, and Officer Parrello as follows:

- A. For compensatory damages;
- B. For punitive damages against the defendant police officers in their individually capacities;
- C. For attorney's fees and costs;
- D. For pre-judgment and post-judgment interest; and
- E. For such other & further relief as this court may deem just and proper.

FIFTH COUNT
VIOLATION OF THE NEW JERSEY CIVIL RIGHTS ACT (CRA)

52. Plaintiff repeats and realleges all of the allegations of Paragraphs 1 through 51 of this complaint as if more fully set forth herein at length.

53. The improper detention, unlawful restraint, unlawful searches, unlawful restriction on freedom of speech, unlawful restriction on freedom of association, and defamation by defendants, set forth at length above deprived plaintiff of his rights secured by the Constitution of the State of New Jersey, in violation of N.J.S.A. 10:6-1, et. seq. (CRA)

54. As a direct and proximate cause of the aforementioned acts, plaintiff was caused to sustain an extended loss of freedom and reputation and suffered severe physical and emotional damages in connection with the deprivation of his constitutional rights.

WHEREFORE, Plaintiff demands judgment against defendant Township, Chief Storbeck, Lt. Congleton, Sgt Devore, Ptl. Herzog and Officer Parrello as follows:

- A. For compensatory damages;
- B. For imposition of a civil penalty against each defendant pursuant to N.J.S.A. 10:6-2e.;
- C. For attorney's fees and costs pursuant to N.J.S.A. 10:6-2f;
- D. For pre-judgment and post-judgment interest; and
- E. For an injunction and/or other order directing all defendants to cease and desist from any and all further actions constituting violation of the CRA;
- F. For such other & further relief as this court may deem just and proper.

SIXTH COUNT
DEFAMATION

55. Plaintiff repeats and realleges all of the allegations of Paragraphs 1 through 54 of this complaint as if more fully set forth herein at length.

56. On July 29, 2013 at approximately 1:00P.M. defendant Ptl. Herzog called the Vernon Township Police Department by telephone and spoke to the Vernon Township Police Department dispatcher about the plaintiff.

57. During that call defendant Ptl. Herzog told the dispatcher that plaintiff threatened to physically harm someone contrary to the criminal statutes.

58. During that call defendant Ptl. Herzog further stated that plaintiff threatened to harm someone with a gun.

59. Defendant Ptl. Herzog intentionally made those statements without any factual basis and did so knowing those statements were not true and did so in a reckless and malicious manner with the intent to cause plaintiff harm and damages to his good name and reputation in the municipality where plaintiff resided.

60. Plaintiff never threatened to harm anyone with or without a gun and those defamatory statements made by defendant Ptl. Herzog were false and known to him to be false.

61. The aforesaid false statements did harm and damage the good name, standing and reputation of the plaintiff.

62. As a direct and proximate cause of the aforementioned acts, plaintiff was caused to suffer harm and damages to his reputation in the eyes of every Vernon Township Police Officer to whom these false statements were repeated.

WHEREFORE, plaintiff demands damages against defendant Ptl. Herzog as follows:

A. For compensatory damages;

- B. For nominal damages;
- C. For punitive damages against defendant Ptl. Herzog in his individual capacity;
- D. For attorney's fees and costs;
- E. For pre-judgment and post-judgment interest; and
- F. For such other and further relief as this court may deem just and proper.

SEVENTH COUNT
NEGLIGENCE – COMMON LAW

63. Plaintiff repeats and realleges all of the allegations of Paragraph 1 through 62 as if more fully set forth herein at length.

64. Defendants, in furtherance of their employment as police officers, were negligent in detaining, searching, restraining, interrogating, confronting, defaming, harassing, restricting plaintiff's, freedom of speech and freedom of association, and freedom to go wherever the plaintiff chose and were further negligent in failing to comply with standards, guidelines, statutes, caselaw, and regulations set forth by the Attorney General of the State of New Jersey, the Courts of the State of New Jersey, and regulations prescribed by the Passaic County Prosecutor and regulations set forth by the Township and the West Milford Police Department.

65. The defendant Township is charged with the responsibility of prescribing the powers of members of the West Milford Police Department, for ensuring that all members of the West Milford Police Department are properly trained and comprehend the legal limits of their powers, and for adopting rules and regulations for the governing of the West Milford Police Department.

66. At all times relevant to this action the defendant Township maintained a reckless and grossly inadequate set of procedures, standards, criteria, guidelines, training disciplining and/or supervisory review of members of its police department.

67. Under the doctrine of respondent superior, the Township is liable for its agents and employees' negligent torts, actions and missions.

WHEREFORE, plaintiff demands judgment against all defendants as follows:

- A. For compensatory damages;
- B. For attorney's fee and costs of suit;
- C. For pre-judgment and post-judgment interest; and
- D. For such other and further relief as this court may deem just and proper.

EIGHT COUNT
INVASION OF PRIVACY – PLACING PLAINTIFF
IN A FALSE LIGHT

68. Plaintiff repeats and realleges all of the allegations of Paragraph 1 through 67 as if more fully set forth herein at length.

69. On July 29, 2013 when the defendant Ptl. Herzog called the Vernon Township Police Dispatcher he could have done so and achieved his reasons for making that call without giving any false publicity to plaintiff and without invading plaintiff's privacy.

70. Despite the foregoing defendant Ptl. Herzog gave unnecessary and unwanted publicity to plaintiff that was an invasion of plaintiff's privacy because it placed the plaintiff in a false light before the public by making false statements about the plaintiff.

71. The false light in which defendant Ptl. Herzog placed the plaintiff would be highly offensive to any reasonable person.

72. Defendant Ptl. Herzog had knowledge of and acted in reckless disregard as to the falsity of the publicized matter and the false light in which he placed the plaintiff during that telephone call.

73. As a direct proximate cause of that telephone call by Ptl. Herzog, plaintiff was caused to suffer harm and damages to the plaintiff's peace of mind, and in not being made to appear before the public in and objectionable false light, otherwise than as he is.

WHEREFORE, plaintiff demands judgment against defendant Ptl. Herzog as follows:

- A. For compensatory damages;
- B. For punitive damages against Ptl. Herzog in his individual capacity;
- B. For attorney's fee and costs of suit;
- C. For pre-judgment and post-judgment interest; and
- D. For such other and further relief as this court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury as to all issues.

CERTIFICATION PURSUANT TO R. 4:5-1

I hereby certify that the matter in controversy herein is not the subject of any other action now pending in court or in arbitration or contemplated. I further certify that I am not aware of other parties who should be joined in this action at this time. .

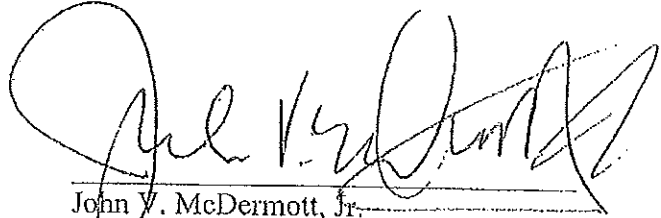
DESIGNATION OF TRIAL COUNSEL PURSUANT TO R. 4:5-1(c)

Plaintiff designates John V. McDermott, Jr., Esq. as the attorney responsible for the prosecution and trial of this case.

CERTIFICATION PURSUANT TO R. 4:5-1(b)(3)

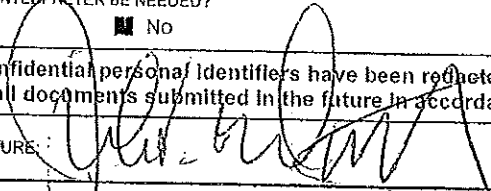
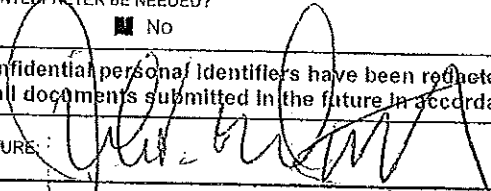
I certify that confidential personal identifiers have been redacted from documents now submitted to this court and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

Dated: July 27, 2015

A handwritten signature in black ink, appearing to read "John V. McDermott, Jr.", written over a horizontal line.

John V. McDermott, Jr.
Attorney for Plaintiff

Appendix XII-B1

 CIVIL CASE INFORMATION STATEMENT (CIS) Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed		FOR USE BY CLERK'S OFFICE ONLY	
		PAYMENT TYPE: ☐ CK ☐ CG ☐ CA	CHG/CK NO.
ATTORNEY / PRO SE NAME John V. McDermott, Jr.		TELEPHONE NUMBER (973) 764-6313	COUNTY OF VENUE Sussex
FIRM NAME (if applicable) John V. McDermott, Jr.		DOCKET NUMBER (when available)	
OFFICE ADDRESS 14 Church Street Vernon, NJ 07462		DOCUMENT TYPE Compliant	
		JURY DEMAND ☒ Yes ☐ No	
NAME OF PARTY (e.g., John Doe, Plaintiff) Michael D. Fantuzzi, II		CAPTION Township of West Milford, Police Chief Timothy Storbeck, indiv., & in capacity as Chief for West Milford Police Dept., Lt. Robert R. Congelton, Ptl. Stephen M. Herzog, Sgt. Devore & Officer Parrello	
CASE TYPE NUMBER (See reverse side for listing)	HURRICANE SANDY RELATED? ☐ YES ☒ NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? ☐ YES ☐ NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? ☐ Yes ☒ No		IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? ☐ Yes ☒ No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) ☐ NONE ☐ UNKNOWN	
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? ☐ Yes ☒ No		IF YES, IS THAT RELATIONSHIP: ☐ EMPLOYER/EMPLOYEE ☐ FRIEND/NEIGHBOR ☐ OTHER (explain) ☐ FAMILIAL ☐ BUSINESS	
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY?		☒ Yes ☐ No	
USE THIS SPACE TO ALERT THE COURT TO ANY ACCELERATED DISPOSITION		SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR	
RECEIVED & FILED JUL 28 2015 Sussex County Law Division			
 Do you or your client need any disability accommodations? ☐ Yes ☒ No		IF YES, PLEASE IDENTIFY THE REQUIRED ACCOMMODATION	
WILL AN INTERPRETER BE NEEDED? ☐ Yes ☒ No		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .			
ATTORNEY SIGNATURE: 			



CIVIL CASE INFORMATION STATEMENT (CIS)

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

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

Track I - 150 days' discovery

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

Track II - 300 days' discovery

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

Track III - 450 days' discovery

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

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

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

Multicounty Litigation (Track IV)

- | | |
|--|---|
| 271 ACCUTANE/ISOTRETINOIN | 289 REGLAN |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION |
| 278 ZOMET/AAREDA | 291 PELVIC MESH/GYNECARE |
| 279 GADOLINIUM | 292 PELVIC MESH/BARD |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 293 DEPUY ASR HIP IMPLANT LITIGATION |
| 282 FOSAMAX | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
| 285 STRYKER TRIDENT HIP IMPLANTS | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 286 LEVAQUIN | 297 MIRENA CONTRACEPTIVE DEVICE |
| 287 YAZ/YASMIN/OCELLA | 601 ASBESTOS |
| 288 PRUDENTIAL TORT LITIGATION | 623 PROPECIA |

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

Please check off each applicable category

☐ Putative Class Action

☐ Title 59