

Borough of Butler

TO: Taeho Kim

FROM: Mary O'Keefe, Borough Clerk *MO'K*

DATE: June 1, 2020

RE: Open Public Records Act Request – Police Involved Lawsuits 2012-2019

The Borough of Butler and Official Records Custodian, Mary O'Keefe received your Open Public Records Act (OPRA) request on May 29, 2020. As such, the seven (7) business day deadline to respond to your request is June 9, 2020. This response to your request is being provided to you on the first business day after the custodian's receipt of said request.

Your request was as follows:

1. A list of all lawsuits and cases in which any officer of the police department was involved between 2012 and 2019. For each lawsuit/case, please provide the date (month and year) of the alleged incident at issue, whether the alleged incident was excessive force, settlement amount (if any), and final compensation amount ruled (if any).
2. Please provide copies of the complaint in any lawsuits and cases described in above.

The following records are being provided in their entirety and are responsive to your request.

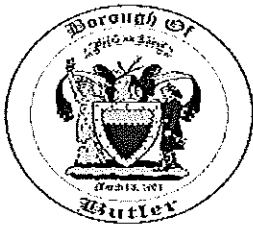
1. Superior Court Morris County Complaint MRS-L-1300-18 Dylan J. Howard v. Butler Police Department, Jorge Reyes, Scott T. Ricker, Kyle G. Fontanazza and Scott Sinopoli Incident Date March 31, 2016, claim was for excessive force, no settlement amount for this case, as it is still pending. [2 pages]
2. United States District Court District of New Jersey Complaint Dylan J. Howard vs. Borough of Butler Police Dept., Ptl. Jorge Reyes, B.P.D., Lt. Scott T. Ricker, B.P.D., Ptl. Kyle G. Fontanazza B.P.D., Ptl. Scott Sinopoli, B.P.D. [6 pages] Case is still pending.
3. Superior Court Morris County Complaint Cindy Kulik Administratrix for the Estate of Louis Terrulli deceased and Georgette Terrulli, Cindy Kulik, Michael Terrulli, Louis Terrulli, Jr. Doreen Mugavero vs. Daniel J. Garcia, Tribeca Automotive, Inc. State of New Jersey, County of Morris, Borough of Butler, Butler Police Department, New Jersey Department of Transportation, Route 23 Automall, LLC and Route 23 Ford, John Does 1-10 (being fictitious designations), and ABC Corporations 1-10 (being fictitious designations) [10 pages] Case is still pending.

One Ace Road, Butler, New Jersey 07405

Borough Offices: (973) 838-7200 x. 226
Fax: (973) 838-3762

Public Works: (973) 838-0063

Police: (973) 838-4100
Fax (973) 838-3454



Borough of Butler

These records are being transmitted to you via email, as per your request. Pursuant to N.J.S.A. 47:1A-5.b., there is no cost associated with this request.

If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the Borough of Butler to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (GRC) by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ, 08625, by e-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The GRC can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.

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Dylan Howard Pro Se
830640-D
43 John Street
Morristown, NJ 07960

Superior Court of New
Jersey Law Division Morris
County Civil Part
Docket No: MRS-L-1360-18

DYLAN J. HOWARD,
Plaintiff,

v.

BUTLER POLICE DEPARTMENT

JORGE REYES

SCOTT T. RICKER

KYLE G. FONTANAZZA

SCOTT SINOPOLI

Defendants,

Civil Action

COMPLAINT

2016 FEB -5 PM 2:49

Plaintiff, Dylan Howard, residing at 43 John Street, City of Morristown County of Morris.

State of New Jersey, complaining of defendant, states as follows:

1. On March 31st, 2016, above named Defendants, took part in official misconduct specifically by entering Howard's residence without a warrant or probable cause and using unlawful force by firing upon and striking Plaintiff multiple times in the torso. Furthermore all police issue microphones were purposely turned off violating due procedure, this action is clear indication of breach of protocol under the color of law. Prior to the incident all defendants falsified sworn statements and reports pertaining to the occurrence. Personal vendetta was prevalent between the Plaintiff and Defendants.

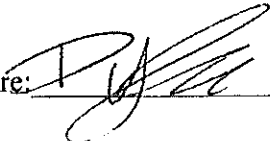
The defendants in this action resides at 10 High Street, Butler, in the County of Morris, State of New Jersey.

2. Plaintiff is entitled to relief from defendants under the above facts.

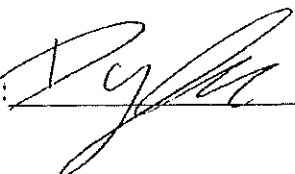
3. The harm that occurred as a result of defendant's acts include:

1. Partial (right) lung removal
2. Partial liver removal
3. Partial stomach removal
4. Removal of gall bladder
5. Permanent nerve damage

Wherefore, plaintiff requests judgment against defendant for damages, together with attorney, if applicable, costs of suit, and other relief as the court may deem proper.

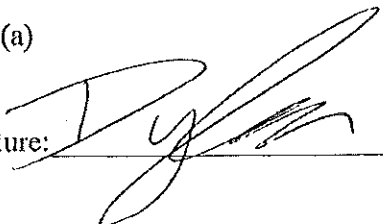
Dated: 7/14/18 Signature: 

CERTIFICATION OF NO OTHER ACTIONS

Dated: 7/14/18 Signature: 

JURY DEMAND

The plaintiff demands trial by a jury on all of the triable issues of this complaint, pursuant to New Jersey Court Rules 1:8(b) and 4:3-1(a)

Dated: 7/14/18 Signature: 

Dylan J. Howard
43 John St. - 15 Cindy Ln.
Morristown, NJ 07960 Oakridge, NJ
47499/ SBI# 830640D

U.S. DISTRICT COURT
DISTRICT OF NEW JERSEY
JAN 19 2016

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

_____) CIVIL ACTION

DYLAN J. HOWARD,)

PLAINTIFF,)

Civil Case No. _____

VS.)

BOROUGH OF BUTLER POLICE DEPT.)

Complaint under the
Civil Rights Act
42 U.S.C. 1983

PTL. JORGE REYES B.P.D.)

LT. SCOTT T. RICKER B.P.D.)

PTL. KYLE G. FONTANAZZA B.P.D.)

PTL. SCOTT SINOPOLI B.P.D.)

DEFENDANTS,

A. Jurisdiction

Jurisdiction is invoked pursuant to 28 U.S.C. 1343 (a)(3) and 42 U.S.C. 1983.

B. Parties

1. Plaintiff: This complaint alleges that the civil rights of Plaintiff, Dylan Howard, who presently resides at Morris County Correctional Facility, were violated by the actions of the above captioned defendants. The actions were directed against Plaintiff in the Borough of Butler on March 31st 2016.

Defendants:

1. Defendant Ptl. Jorge Reyes resides in Morris County, and is employed as a police officer. This defendant is sued in his individual and official capacity.

Defendant broke official protocol by specifically not wearing body microphone and exercising excessive deadly force by firing upon and striking plaintiff with his firearm. Prior to the incident defendant falsified written statements of the occurrence while in uniform.

2. Defendant Lt. Scott T. Ricker resides in Morris County, and is employed as a police officer. This defendant is sued in his individual and official capacity.

As the supervising officer Ricker allowed, controlled, and conducted breach of protocol and official misconduct while overseeing under ranking officers, all while acting as commanding officer under sworn oath and affirmation.

3. Defendant Kyle G. Fontanazza resides in Morris County, and is employed as a police officer. This defendant is sued in his individual and official capacity.

Defendant knowingly participated in the breach of official protocol and official misconduct and submitted falsified statements and reports prior to the incident.

4. Defendant Scott Sinopoli resides in Morris County, and is employed as a police officer. This defendant is sued in his individual and official capacity.

Defendant knowingly participated in the breach of official protocol and official misconduct and submitted falsified statements and reports prior to the incident.

C. Causes of Action

Count 1: The following civil rights have been violated: 4th Amendment Right- Unreasonable Search, 5th Amendment Right- Due Process 8th Amendment Right- Cruel and Unusual Punishment 14th Amendment- Deprivation of life and liberty

Supporting Facts:

Reyes responded to Howard's residence while not on patrol and off duty and entered the residence without a warrant or permission and under false pretences. Upon entering the structure Reyes and Ricker entered Howard's bedroom, Reyes preceded to fire his service weapon striking Howard 4 times in the torso. Reyes, Ricker, Fontanazza, and Sinopoli all failed to secure the crime scene properly and tampered with evidence by contaminating and removing objects from the residence. Reyes, Ricker, Fontanazza, and Sinopoli broke protocol by not activating police issued body microphones before responding to Howard's residence. Reyes, Ricker, Fontanazza, and Sinopoli all falsified their written statements and reports by claiming that Ann King (Grandmother to Howard and resident at residence where incident occurred) granted permission to enter the residence. Defendants had a personal vendetta against Howard stating that they are "very familiar with Howard and that he has been known to run from them". Reyes had previously investigated a car burglary earlier in the day of a fellow police officers' wife's vehicle and suspected Howard was a person of interest. Reyes and Ricker specifically broke multiple aspects of due apprehension and investigative protocol, along with professional training and their oath of duty to protect and serve.

Count 2: The following civil rights has been violated: 4th Amendment Right- Unreasonable Search, 5th Amendment Right- Due Process, 8th Amendment Right- Cruel and Unusual Punishment 14th Amendment- Deprivation of life and liberty

Supporting Facts:

Ricker responded to Howard's residence and entered Howard's home without permission or a warrant. Ricker then guided his under ranking officers to Howard's bedroom and witnessed Reyes use excessive force with intent to kill without probable cause. Ricker then tampered with the crime scene without permission or authority. Ricker took part in an illegal entry of a home without reason and later covered up mistakes his officers made while under his direct supervision.

Sinopoli and Fontanazza both took part in covering up and illegal entry all four defendants took part in, specifically by falsifying written statements regarding the incident.

D. Previous Lawsuits and Administrative Relief

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts involved in this case? XXX NO
2. Have you previously sought and exhausted all forms of available relief from the proper administrative officials regarding the acts alleged in Part C above? XXX YES

If your answer is "YES", briefly describe how relief was sought and the results. If your answer is "NO", briefly explain why administrative relief was not exhausted.

Mr. Howard has filed a complaint through Internal Affairs concerning the incident. No results came from this approach.

E. Request for Relief

Plaintiff requests that this court grant the following relief:

1. An injunction preventing defendant(s):

Prevent defendants to further initiate in official misconduct and should be relieved of duty as police officers. As well as paying for damages done by their hands under their official capacity.

2. Damages in the sum of \$950,000.00- Medical expenses

3. Punitive damages in the sum of \$9,500,000.00- Permanent Disability

4. Other: 150,000.00- Wrongful Imprisonment, research and legal processes, loss of employment and wages.

F. Demand for Jury Trial

Plaintiff demands a trial by: **XXX JURY**

G. Consent to Magistrate Judge Jurisdiction

In order to induce the just, speedy and inexpensive determination of section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment of these cases

to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. 636©, thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial and the entry of final judgment by indicating your consent below.

Choose only one of the following:

☒ Plaintiff consents to magistrate judge jurisdiction as set forth above.

Date



Signature of Plaintiff

JAE LEE LAW, P.C.
Shane Alexander Sullivan (021442012)
2050 Center Avenue, Suite 120
Fort Lee, NJ 07024
Telephone: (201) 346-3800
Facsimile: (201) 346-3822
Attorney for Plaintiff, *Estate of Louis Terrulli*

CINDY KULIK, as Administratrix Ad
Prosequendum of the Estate of Louis Terrulli,
deceased, and GEORGETTE TERRULLI,
CINDY KULIK, MICHAEL TERRULLI,
LOUIS TERRULLI JR., DOREEN
MUGAVERO,

Plaintiffs,

v.

DANIEL J. GARCIA, TRIBECA
AUTOMOTIVE, INC., STATE OF NEW
JERSEY, COUNTY OF MORRIS,
BOROUGH OF BUTLER, BUTLER POLICE
DEPARTMENT, NEW JERSEY
DEPARTMENT OF TRANSPORTATION,
ROUTE 23 AUTOMALL, LLC and ROUTE
23 FORD, JOHN DOES 1-10 (being fictitious
designations), and ABC CORPORATIONS 1-
10 (being fictitious designations),
Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MORRIS COUNTY
DOCKET NO.: MRS-L

Civil Action

COMPLAINT, CERT. PURSUANT TO 4.
4:5-1; DEMAND FOR JURY TRIAL,
DESIGNATION OF TRIAL COUNSEL,
STATEMENT OF DAMAGES PURSUANT
TO R. 4:5-2

PARTIES

Plaintiff, Cindy Kulik, as the Administratrix of the Estate of Louis Terrulli, GEORGETTE
TERRULLI, CINDY KULIK, MICHAEL TERRULLI, LOUIS TERRULLI, JR., and DOREEN
MUGAVERO by way of Complaint against the Defendants says:

1. At all times material hereto, Plaintiffs' was and were a resident of the State of New
Jersey, residing at 93 Boonton Avenue, Kinnelon, New Jersey.

2. At all times material hereto, Defendant, Daniel J. Garcia, was a resident of the State of New York, with a residence located at 1850 Loring Place South, Apartment 2, Bronx, New York.
3. At all times material hereto, Defendant, Daniel J. Garcia operated a vehicle owned by Defendant, Tribeca Automotive, Inc. with an address located at 555 US Highway 1 South Suite 120, Iselin, New Jersey.
4. At all times material hereto, Defendant Route 23 Automall LLC and/or Route 23 Ford was an auto dealership, with a principal place of business located at 1301 NJ 23 in Butler, New Jersey.
5. At all times hereto, Defendant State of New Jersey, County of Morris, Borough of Butler, Butler Police Department owned, operated, maintained and controlled/patrolled the roads at or near 1301 NJ 23 in Butler, New Jersey.
6. At all times material hereto, Defendants John Does 1-10 were and/or individuals the identity, addresses and culpable conduct of said defendants being presently unknown. Plaintiff reserves the right to amend this Complaint upon obtaining knowledge of the identity, addresses and culpable conduct of the Defendants represented herein as John Does 1-10.
7. At all times material hereto, Defendants ABC Corporations 1-10 were and/or are fictitiously named corporations that exist under the laws of the State of New Jersey, the identity, addresses and culpable conduct of said defendants being presently unknown. Plaintiff reserves the right to amend this Complaint upon obtaining knowledge of the identity, addresses and culpable conduct of the Defendants represented herein as ABC Corporations 1-10.

8. All Defendants acted by and through their respective agents, servants, employees, officers, directors or others, actual and/or apparent, any and all of which were then and there acting within the course and scope of their employment, duties or agency, actual and/or apparent.

FACTS COMMON TO ALL COUNTS

9. Plaintiff herein incorporates paragraphs 1 through 8 as though the same were set forth herein at length.
10. This is an action brought by Cindy Kulik, Administratrix for the Estate of Louis Terrulli, deceased, arising out the February 28, 2018 death of her father, Louis Terrulli (D.O.B. March 12, 1935). Letters of Administration Ad Prosequendum of decedent were issued to Cindy Kulik by the Morris County Surrogate's Court.
11. Cindy Kulik, on behalf of her father, Louis Terrulli, in her capacity as Administratrix for his Estate, brings this claim for Wrongful Death, Pain and Suffering, Survival Action, negligence and palpably unreasonable conduct, expenses, losses and the loss of companionship and society they have been caused to suffer.
12. On or about February 28, 2018, the decedent, Louis Terrulli, was the owner and operator of a motor vehicle, which was traveling south on Route 23, in the Borough of Butler, in the County of Morris, in the State of New Jersey.
13. At the aforesaid time and place, Defendant, Daniel J. Garcia, was the operator of a motor vehicle, owned by Defendant, Tribeca Automotive, Inc., which was traveling south on Route 23, in the Borough of Butler, in the County of Morris, in the State of New Jersey.

14. At all times material hereto, Defendant Route 23 Automall LLC and/or Route 23 Ford was an auto dealership, with a principal place of business at 1301 NJ 23 in Butler, New Jersey.
15. At all times hereto, Defendant State of New Jersey, County of Morris, Borough of Butler, Butler Police Department owned, operated, maintained and controlled/patrolled the roads at or near 1301 NJ 23 in Butler, New Jersey.
16. At all times hereto, Defendants recklessly, willfully and wantonly acted, failed to act and engaged in a pattern of conduct which was palpably unreasonable by backing up their motor vehicle onto Route 23, in not providing any safety measures to prevent harm to other motor vehicles on Route 23, in creating a dangerous and hazardous condition, in repeatedly viewing this behavior and in not stopping said behavior and/or preventing said behavior and/or providing personnel to assist in mitigating the danger of this behavior.
17. At the aforesaid time and place, the Defendants, "John Does 1-10", (being fictitious designations), were the operators of motor vehicles owned by Defendants, "ABC Companies 1-10", (being fictitious designations), which were traveling south on Route 23, in the Borough of Butler, in the County of Morris, in the State of New Jersey.

FIRST COUNT

18. At the aforesaid time and place, Defendant Daniel J. Garcia, Tribeca Automotive, Inc., Route 23 Automall, LLC and Route 23 Ford owned, operated, maintained, repaired their motor vehicle and engaged in pattern of behavior in such a reckless, willful and wanton manner so as to strike Plaintiff's vehicle.
19. At the aforesaid time and place Defendants State of New Jersey, County of Morris, Borough of Butler, Butler Police Department owned, operated, maintained and

controlled/patrolled the roads at or near 1301 NJ Route 23 in Butler, New Jersey and engaged in a pattern of behavior that was reckless, willfull, wanton and palpably unreasonable such that resulted in Defendants Daniel J. Garcia, Tribeca Automotive Inc., Route 23 Automall LLC and Route 23 Ford motor vehicle striking plaintiff's motor vehicle and resulting in his death.

20. As a direct and proximate result of the combined negligence of the aforesaid defendants, individually, jointly or severally, the decedent Louis Terrulli suffered serious bodily injuries, pain and suffering and was caused to expire.
21. There is and at the time of the deaths set forth herein above, there was in force and effect in the State of New Jersey, a death statute known and designated as the Wrongful Death Act, N.J.S.A. 2A:31-1 et. seq. and the plaintiff brings this action pursuant to the provisions thereof for the benefit of the next of kin of the decedent.
22. This action is commenced within two years of the occurrence of the death of the decedent.

WHEREFORE, Cindy Kulik, Administratrix for the Estate of Louis Terrulli, deceased, demands judgment against Defendants jointly, severally and in the alternative, for compensatory damages, cost of suit, interest and a reasonable attorney's fee, and such other relief as the Court deems just and proper.

SECOND COUNT - WRONGFUL DEATH

23. Plaintiff herein incorporates paragraphs 1 through 22 as though the same were set forth herein at length.

24. Plaintiff, Cindy Kulik, Administratrix for the Estate of Louis Terrulli, deceased, brings this action on behalf of the survivors of the decedent under and by virtue of N.J.S.A. §2A:31-1 *et seq.*, Death by Wrongful Act (known as the "Wrongful Death Act").

25. Louis Terrulli, deceased, left surviving heirs at law the following persons:

Georgette S. Terrulli Wife

Cindy Kulik Daughter

Louis Terrulli Jr. Son

Doreen Mugavero Daughter

Michael Terrulli Son

26. Notwithstanding the duties imposed upon Defendants named herein, which shall be more fully described hereinafter, acting as shall be described and knowing full and well their respective duties to Plaintiff's decedent, Louis Terrulli, Defendants did act individually, jointly, severally, and/or in the alternative, in a reckless, willful, wanton, negligent and palpably unreasonable manner.

27. As a result of Defendants' reckless, willful, wanton, negligent and palpably unreasonable conduct, the dependents, heirs-at-law and/or next-of-kin of Louis Terrulli, deceased, were required to incur medical and funeral expenses in and about endeavoring to treat, care for and bury Plaintiff's decedent, all to their great damage and loss.

28. As a proximate result of Defendants' reckless, willful, wanton, negligent and palpably unreasonable conduct which shall be more fully described hereinafter, the decedent's surviving family, have lost the care, companionship, services and guidance of Louis Terrulli.

29. As a proximate result of Defendants' reckless, willful, wanton, negligent and palpably unreasonable conduct, strict liability, breach of warranty, misrepresentation, negligence, recklessness and/or carelessness, which shall be more fully described hereinafter, Plaintiff's decedent, Louis Terrulli, suffered a wrongful death with pecuniary losses to his dependents, heirs-at-law and/or next-of-kin, who also sustained other recoverable and asserted damages and losses.

WHEREFORE, Plaintiff, Cindy Kulik, Administratrix for the Estate of Louis Terrulli, deceased, demands judgment against the defendants individually, jointly, severally and in the alternative, for compensatory damages, cost of suit, interest, and attorneys fees, and other further relief as the Court may deem just and proper.

THIRD COUNT -- SURVIVAL ACTION

30. Plaintiff herein incorporates paragraphs 1 through 29 as though the same were set forth herein at length.

31. Cindy Kulik, Administratrix for the Estate of Louis Terrulli, deceased, also brings this action on behalf of the Estate of Louis Terrulli, under and by virtue of the New Jersey Statute Annotated, N.J.S.A. 2A: 15-3 (known as the New Jersey Survival Act and/or Executors and Administrators Act).

32. As proximate result of defendants' reckless, willful, wanton, negligent and palpably unreasonable conduct, which shall be more fully described hereinafter, Plaintiff's decedent, Louis Terrulli was caused to suffer severe and serious injuries to and about his person, great physical and/or emotional pain, suffering, disfigurement and trauma, and a

shock to the nerves and nervous system, which eventually led to or preceded his death on February 28, 2018.

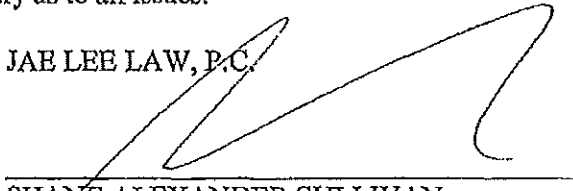
WHEREFORE, Cindy Kulik, Administratrix for the Estate of Louis Terrulli, deceased, demands judgment against the defendants jointly, severally and in the alternative, for compensatory damages, cost of suit, interest and a reasonable attorney's fee, and such other relief as the Court deems just and proper.

JURY DEMAND

Plaintiffs hereby demand a trial by jury as to all issues.

JAE LEE LAW, P.C.

BY:


SHANE ALEXANDER SULLIVAN
Attorney for Plaintiff

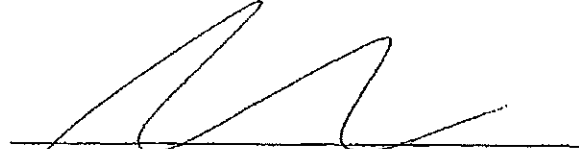
DATED: August 12, 2018

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Shane Alexander Sullivan, is hereby designated as trial counsel on behalf of plaintiffs.

JAE LEE LAW, P.C.

BY:


SHANE ALEXANDER SULLIVAN
Attorney for Plaintiff

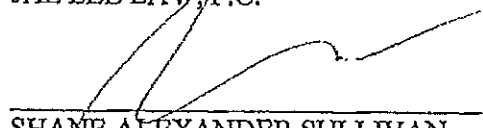
DATED: August 12, 2018

CERTIFICATION PURSUANT TO R. 4:5-1

I hereby certify that the facts contained in the within matter are not the subject of any other action pending in any other court or of a pending arbitration proceeding to the best of my knowledge or belief. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action. I also certify that the facts contained in the within matter are true and correct to the best of my knowledge and belief. If any of the statements made by me are willfully false, I am subject to punishment.

JAE LEE LAW, P.C.

BY:


SHANE ALEXANDER SULLIVAN
Attorney for Plaintiff

DATED: August 12, 2018