

COSTELLO & MAINS, P.C.

By: Kevin M. Costello
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Attorneys for Plaintiff

NURI SURGICK,	:	UNITED STATES DISTRICT COURT
	:	DISTRICT OF NEW JERSEY
Plaintiff,	:	
	:	CIVIL ACTION
vs.	:	
	:	DOCKET NO:
EDUARDO DIAZ and JOHN DOES	:	
1-5 AND 6-10,	:	Electronically filed
	:	
Defendants.	:	COMPLAINT AND JURY DEMAND
	:	

Plaintiff, Nuri Surgick ("Plaintiff"), by way of Complaint against the defendants, says:

Preliminary Statement

1. This action is brought by plaintiff to remedy violations of his Constitutional Rights pursuant to 42 U.S.C. 1983. Pendent claims are also brought under the New Jersey Civil Rights Act.

Jurisdiction and Venue

2. Jurisdiction of the Court is invoked pursuant to 28 U.S.C. Sec. 1331.
3. Because plaintiff and defendants are residents of the district of New Jersey, venue is proper within this district pursuant to 28 U.S.C. Sec. 1391.

Identification of Parties

4. Plaintiff Nuri Surgick resides in the Borough of Clayton, Gloucester County, New Jersey.

5. Borough of Clayton is a municipality located in the State of New Jersey and the employer of defendant Diaz.

6. Individual defendant Eduardo Diaz is an adult individual who was, at all relevant times herein, employed as a Police Officer by the Borough of Clayton.

7. Defendants John Does 1-5 and 6-10, currently unidentified, are individuals and/or entities who, on the basis of their direct acts or on the basis of *respondeat superior*, are answerable to the plaintiff in this matter.

General Allegations

8. On or about November 7, 2013, plaintiff was riding his bicycle on North Delsea Drive in the Borough of Clayton on his way to work.

9. At or about 7:00 p.m., plaintiff was detained by police officers of the Borough of Clayton.

10. Plaintiff was then handcuffed and taken to the Police Department.

11. While in the custody of defendants at their Police Department, plaintiff was required to sit on a bench and was handcuffed to the wall behind him.

12. At or about 8:30 p.m., while plaintiff was handcuffed to the wall, defendant Diaz, with an open hand, slapped plaintiff in the face with his right hand.

13. Upon information and belief, the Borough of Clayton subsequently conducted an Internal Affairs investigation and concluded that defendant Diaz had violated the New Jersey Code of Criminal Justice.

14. Upon further information and belief, defendant Diaz pled guilty to criminal conduct associated with his hitting of the plaintiff.

15. Defendant Diaz was acting under color of law when he assaulted the plaintiff.

16. At all times herein, defendant Diaz was an agent and employee of defendant Borough of Clayton.

17. Plaintiff has rights protected by the United States Constitution against being subjected to excessive force.

18. Those rights are afforded to plaintiff by Fourth Amendment of the United States Constitution.

19. Specifically, the Fourth Amendment prohibits police officers from using more force than is reasonably necessary in the seizure of a person.

20. Similarly, plaintiff was deprived of his rights and privileges guaranteed to him under Article I, Paragraph 1 of the New Jersey Constitution.

21. Defendant Diaz used unnecessary force when he hit the plaintiff's face while plaintiff was seated and handcuffed to a wall.

22. The manner in which the force was used against plaintiff was unjustified and amounts to an assault.

23. The assault upon plaintiff deprived plaintiff of his rights under both the United States Constitution and New Jersey Constitution.

24. As a result of defendants' conduct, plaintiff has been caused to suffer physical harm, humiliation and upset.

25. The assault against plaintiff was undertaken with a willful and wanton disregard for the rights of plaintiff such that punitive damages are warranted.

COUNT I

42 U.S.C. 1983 – Diaz

26. Plaintiff hereby repeats and realleges paragraphs 1 through 25 as though fully set forth herein.

27. For the reasons set forth above, plaintiff has been deprived his constitutional privileges such that defendant is liable.

WHEREFORE, plaintiff demands judgment against the defendant jointly, severally and in the alternative, together with compensatory damages, punitive damages, interest, cost of suit, attorneys' fees, enhanced attorneys' fees, and any other relief the Court deems equitable and just.

COUNT II

New Jersey Civil Rights Act – Diaz

28. Plaintiff hereby repeats and realleges paragraphs 1 through 27 as though fully set forth herein.

29. For the reasons set forth above, plaintiff has been deprived his civil rights such that defendant is liable.

WHEREFORE, plaintiff demands judgment against the defendant jointly, severally and in the alternative, together with compensatory damages, punitive damages, interest, cost of suit, attorneys' fees, enhanced attorneys' fees, and any other relief the Court deems equitable and just.

Respectfully submitted,

COSTELLO & MAINS, P.C.

By: /s/ Kevin M. Costello
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Attorneys for Plaintiffs

Dated:

DEMAND FOR A TRIAL BY JURY

Plaintiff, by and through his above-signed counsel, hereby demands, pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, a trial by jury on all Counts in the above-captioned action.

COSTELLO & MAINS, P.C.

By: /s/ Kevin M. Costello
Kevin M. Costello

DESIGNATION OF TRIAL COUNSEL

Kevin M. Costello, Esquire, of the law firm of Costello & Mains, P.C., is hereby-designated trial counsel.

COSTELLO & MAINS, P.C.

By: /s/ Kevin M. Costello
Kevin M. Costello

DEMAND TO PRESERVE EVIDENCE

1. All defendants are hereby directed and demanded to preserve all physical and electronic information pertaining in any way to plaintiff's employment, to plaintiff's cause of action and/or prayers for relief, to any defenses to same, and pertaining to any party, including, but not limited to, electronic data storage, closed circuit TV footages, digital images, computer images, cache memory, searchable data, emails, spread sheets, employment files, memos, text messages and any and all online social or work related websites, entries on social networking sites (including, but not limited to, Facebook, twitter, MySpace, etc.), and any other information and/or data and/or things and/or documents which may be relevant to any claim or defense in this litigation.

2. Failure to do so will result in separate claims for spoliation of evidence and/or for appropriate adverse inferences.

COSTELLO & MAINS, P.C.

By: /s/ Kevin M. Costello
Kevin M. Costello

relevant to this action acted within the scope of their employment.

3. Defendant Borough of Clayton Police Department is a public entity duly organized and existing under, and by virtue of the laws of the State of New Jersey, which is responsible for providing police protection within the Borough of Clayton and performs all of the activities and services associated with police departments with its principal place of business at 125 N. Delsea Drive, Clayton, NJ 08312. At all times relevant to this Complaint, defendant Borough of Clayton Police Department acted by and through its duly authorized officials, agents, employees, and representatives, who at all times relevant to this action acted within the scope of their employment. Defendant Borough of Clayton Police Department through its authorized police officials, agents, employees and representatives developed policies relating to the proper and lawful use of force, the execution of lawful arrest, and apprehension of persons reasonably believed to be violating the law in the Borough of Clayton. All police officials, agents, employees and representatives responsible for developing the policies relating to the proper and lawful use of force, the execution of lawful arrest, and apprehension of persons reasonably believed to be violating the law in the Borough of Clayton were acting under color of state law and color their authority as police officials, agents, employees of the Borough of Clayton Police Department.

4. Defendant Borough of Clayton Police Chief Andrew Davis (hereinafter "Police Chief Davis") was at all times relevant to this Complaint, the Borough of Clayton Police Chief employed by the Borough of Clayton in its police department. Defendant Davis developed policies relating to the proper and lawful use of force, the execution of lawful arrests and apprehension of individuals reasonably believed to be violating the law in the Borough of Clayton. At all times relevant to this Complaint, Police Chief Davis was acting under color of

law of his authority as a police officer and police chief of the Borough of Clayton. He is sued in his official capacity. His business address is 125 N. Delsea Drive, Clayton, NJ 08312.

5. Defendant Borough of Clayton Patrol Officer Eduardo Diaz (hereinafter "Diaz") was at all times relevant to this Complaint a Borough of Clayton police officer employed by the Borough of Clayton in its police department. At all times relevant to this Complaint, Diaz was acting under color of law of his authority as a police officer of the Borough of Clayton. He is sued in his official and individual capacity. His business address is 125 N. Delsea Drive, Clayton, NJ 08312.

6. Defendant Borough of Clayton Police Officer James D. Langlois (hereinafter "Langlois") was at all times relevant to this Complaint a Borough of Clayton special police officer employed by the Borough of Clayton in its police department. At all times relevant to this Complaint, Diaz was acting under color of law of his authority as a police officer of the Borough of Clayton. He is sued in his official and individual capacity. His business address is 125 N. Delsea Drive, Clayton, NJ 08312.

7. Defendants John Does (1-10) are fictitious names used to designate as of yet unknown or unidentified parties to this action who are either police officers, and/or employees of defendants Borough of Clayton, and/or Borough of Clayton Police Department. Each of John Does (1-10) was acting within the scope of his/her employment, and with the full authority and authorization of defendant Borough of Clayton and Borough of Clayton Police Department. At all times relevant to this Complaint, each of defendants John Doe (1-10) police officers was acting under color law and color of authority as a police officer. Each of these John Doe (1-10) unknown individuals is legally responsible for the incident described in this Complaint, injuries, and damages set forth herein, and each of these John Doe (1-10) defendants legally caused the injuries and damages by reason of negligent, careless, deliberately indifferent, intentional,

willful, wanton conduct described herein. Defendants John Does (1-10) are sued individually and in their official capacities.

COUNT 1

42 U.S.C. 1983 Excessive Force

1. On or about March 25, 2018, plaintiff was operating a motor vehicle on S. Delsea Drive at or near its intersection with Hickory Lane in the Borough of Clayton and County of Gloucester.

2. At the same time and place as aforesaid, defendant Langlois was on duty as a special police officer of the Borough of Clayton.

3. On S. Delsea Drive, at or near its intersection with Hickory Lane in the Borough of Clayton, Langlois attempted a motor vehicle stop of plaintiff's vehicle.

4. Plaintiff stopped his vehicle at or near the border of Franklin Township and the Borough of Clayton on S. Delsea Drive.

5. Langlois approached plaintiff's vehicle and requested plaintiff's credentials.

6. At the same time as aforesaid, defendant Diaz was likewise on duty as a Borough of Clayton Police Officer.

7. While Langlois was speaking to plaintiff, he requested Diaz respond to the scene to assist him with the motor vehicle stop.

8. While Langlois spoke to plaintiff, plaintiff exited his vehicle and fled on foot into a corn field across from the vehicle stop.

9. At or about the same time plaintiff exited the vehicle, Diaz arrived at the scene and chased plaintiff into the field in his vehicle and later on foot.

10. Defendants Diaz and Langlois tackled plaintiff and brutally and without necessity to arrest him, beat him with their hands, fists and feet all over his body, including but not limited to his face, head, back and neck.

11. Defendants Diaz and Langlois continued to beat the plaintiff after he was handcuffed and subdued.

12. At all times relevant, defendants Diaz and Langlois were acting under color of law as police officers employed by the Borough of Clayton.

13. The conduct of defendants Diaz and Langlois as alleged above was conscious, shocking, intentional, willful and malicious and demonstrates defendants' deliberate indifference to the constitutionally protected rights of plaintiff.

14. As a direct and proximate result of the aforesaid actions of defendants, plaintiff suffered economic loss, emotional pain and suffering and grievous bodily injury including, but not limited to a fractured vertebrae, fractured rib and fractured eye orbital.

15. The aforesaid actions of defendants Diaz and Langlois as described above, violated clearly established law and constituted excessive use of force by these defendants depriving plaintiff of his right to be secure in his person against unreasonable search and seizure as guaranteed to plaintiff under the Fourth Amendment to the United States Constitution and his right not to be deprived of life, liberty and property without due process of law and to be accorded the equal protection of laws as guaranteed to him under the Fourteenth Amendment to the United States Constitution.

16. By reason of aforesaid violation of plaintiff's rights, plaintiff is entitled to damages under 42 U.S.C. sec. 1983.

WHEREFORE, plaintiff demands judgment against defendants, Diaz and Langlois jointly, severally and/or in the alternative for compensatory damages, punitive damages, interest, attorney fees, costs of suit, and any other such relief that the court may deem just and equitable.

COUNT 2

42 U.S.C. 1983 - Monell Claim - Defendants Borough of Clayton; Borough of Clayton Police Department; Police Chief Davis; John Does (1-10)

1. The above paragraphs are repeated and incorporated herein by reference as if set forth in full.

2. At all times relevant hereto, defendants Borough of Clayton, Borough of Clayton Police Department; Police Chief Davis, and John Does (1-10) were responsible for developing policies and procedures relating to the proper and lawful use of force and the execution of lawful arrests and apprehension of persons reasonably believed to be violating the law in the Borough of Clayton.

3. At all times relevant to this Complaint, defendants Borough of Clayton, Borough of Clayton Police Department; Police Chief Davis and John Does (1-10) were aware of, condoned, encouraged, and failed to deter or to stop a pattern, history and custom of defendants Diaz and Langlois from violating the civil rights of individuals within the boundaries of the Borough of Clayton.

4. Defendants Borough of Clayton, Borough of Clayton Police Department; Police Chief Davis, and John Does (1-10) intentionally, recklessly and/or negligently as a matter of policy and practice, failed to properly supervise, discipline, train, or otherwise sanction police officers who violated the rights of individuals, including the rights of plaintiff, thus encouraging, acquiescing the defendants Diaz and Langlois to engage in the unlawful and actionable conduct described above. Defendants Borough of Clayton, Borough of Clayton Police Department;

Police Chief Davis and John Does (1-10) had an official custom of deliberate indifference that caused the constitutional violations.

5. Defendants Borough of Clayton, Borough of Clayton Police Department, Police Chief Davis, and John Does (1-10), as a further matter of public policy and practice failed to properly train its police officers, including defendants Diaz and Langlois with respect to the constitutional, statutory and departmental limits of their authority.

6. Defendants Borough of Clayton, Borough of Clayton Police Department, Police Chief Davis, and John Does (1-10) were on actual notice of the need to train, supervise, discipline or terminate its defendant officers prior to the incident in question as other similar incidents may have occurred in the past.

7. By reason of aforesaid violation of plaintiff's rights, plaintiff is entitled to damages under 42 U.S.C. sec. 1983.

WHEREFORE, plaintiff demands judgment against defendants Borough of Clayton, Borough of Clayton Police Department, Police Chief Andrew Davis, John Does (1-10) jointly, severally and/or in the alternative for compensatory damages, punitive damages, interest, attorney fees, costs of suit, and any other such relief that the court may deem just and equitable.

COUNT 3

N.J.S.A. sec. 10:6-1 - New Jersey Civil Rights Act

1. The above paragraphs are repeated and incorporated herein by reference as if set forth in full.

2. This cause of action arises under the New Jersey Civil Rights Act, N.J.S.A. sec. 10:6-1, *et. seq.*

3. The aforesaid actions of defendants Diaz and Langlois as described above, violated clearly established law and constituted excessive use of force by these defendants

depriving plaintiff of his right to be secure in his person against unreasonable search and seizure as guaranteed to plaintiff under the Fourth Amendment to the United States Constitution and is right not to be deprived of life, liberty and property without due process of law and to be accorded the equal protection of laws as guaranteed to him under the Fourteenth Amendment to the United States Constitution and further a violation of the New Jersey Constitution Article 1, Sec. 7 guaranteeing plaintiff the right to be secure in his person against unreasonable searches and seizures and excessive force during the course of arrest by police officers.

4. As a direct and proximate result of the aforesaid actions of defendants, plaintiff suffered economic loss, emotional pain and suffering, and grievous bodily injury including, but not limited to a fractured vertebrae, fractured rib and fractured eye orbital.

5. By reason of aforesaid violation of plaintiff's rights, plaintiff is entitled to damages under N.J.S.A. sec. 10:6-1, *et. seq.*

WHEREFORE, plaintiff demands judgment against all defendants jointly, severally and/or in the alternative for compensatory damages, punitive damages, interest, attorney fees, costs of suit, and any other such relief that the court may deem just and equitable.

COUNT 4

State Law – Common Law Negligent Failure to Train, Supervise, Discipline, or Assign Law Enforcement Officers

1. The above paragraphs are repeated and incorporated herein by reference as if set forth in full.

2. At all times relevant to this Complaint, defendants Borough of Clayton, Borough of Clayton Police Department, Police Chief Andrews and John Does (1-10) were aware of, condoned, encouraged, and failed to deter or to stop the above-described pattern, history and custom of defendants Diaz and Langlois from violating the civil rights of citizens within the boundaries of the Borough of Clayton.

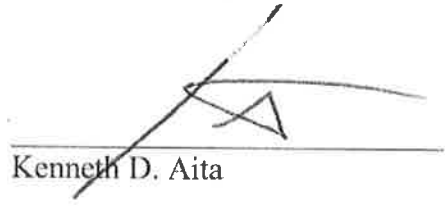
3. At all times relevant to this Complaint, defendants Borough of Clayton, Borough of Clayton Police Department, Police Chief Andrews and John Does (1-10) negligently failed to properly supervise, discipline, train, or otherwise sanction police officers who violated the rights of citizens, including the rights of plaintiff, thus encouraging, acquiescing to defendants Diaz and Langlois to engage in the unlawful and actionable conduct described above.

4. At all times herein mentioned, defendants Diaz, Langlois, Police Chief Andrews and John Does (1-10) were acting as the agents, servants, and/or employees of the defendants, Borough of Clayton and Borough of Clayton Police Department and therefore their acts are attributable to both defendants Borough of Clayton and Borough of Clayton Police Department.

5. Defendants, Borough of Clayton, Borough of Clayton Police Department, Police Chief Davis and John Does (1-10) were on actual notice of the need to train, supervise, discipline or terminate its defendant officers prior to the incident in question as other similar incidents may have occurred in the past.

WHEREFORE, plaintiff demands judgment against defendants Borough of Clayton, Borough of Clayton Police Department, Police Chief Davis and John Does (1-10), jointly, severally and/or in the alternative for compensatory damages, punitive damages, interest, attorney fees, costs of suit, and any other such relief that the court may deem just and equitable.

AITA LAW, LLC



Kenneth D. Aita

Dated: March 20, 2020

CERTIFICATION

I certify pursuant to Rule 4:5-1 that I know of no other proceeding pending or that are contemplated in any court or arbitration proceeding that concerns this subject matter and know of no other parties that need to be joined with this action. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

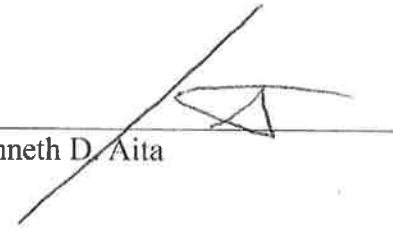
JURY DEMAND

Plaintiff demands a jury trial as to all issues.

DESIGNATION OF TRIAL COUNSEL

Kenneth D. Aita, Esquire is hereby designated as trial counsel pursuant to R. 4:25-4

AITA LAW, LLC


Kenneth D. Aita

Dated: March 20, 2020

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Attorneys for Plaintiffs

Estate of Autumn Pasquale
Anthony Pasquale
Natalie Pasquale
A.J. Pasquale
566 Sun Haven Dr.
Clayton NJ 08312

Plaintiffs,

v.

Franklin Municipal Township
1571 Delsea Drive
Franklinville, NJ 08322

and

Township of Monroe
125 Virginia Avenue
Williamstown, NJ 08094

and

Borough of Glassboro
Glassboro Borough Hall
1 South Main Street
Glassboro, NJ 08028

and

New Jersey State Police
Mail Code 501-04
P.O. Box 420
501 East State Street

: **IN THE SUPERIOR COURT OF NEW**
: **JERSEY**
:
: **GLOUCESTER COUNTY**
:
: **LAW DIVISION**
:
: **CIVIL ACTION**
: **No. GLD-L-1474-14**
:
: **JURY TRIAL DEMANDED**

Trenton, NJ 08625

and

Gloucester County
Administration Building
2 South Broad Street
P.O. Box 337
Woodbury, NJ 08096

and

Gloucester County Prosecutor's Office
Gloucester County Administration Building
2 South Broad Street
P.O. Box 337
Woodbury, NJ 08096

and

Borough of Clayton
Municipal Building
125 North Delsea Drive
Clayton, NJ 08312

and

Elk Township
667 Whig Lane Road
Monroeville, NJ 08343

and

City of Burlington
City Hall Municipal Offices
525 High Street
Burlington, NJ 08016

and

New Jersey State Police
Strategic Investigations Unit – South
101 Haddon Avenue, Suite 11, 5th Floor
Camden, NJ 08102

and

Officer Eduardo Diaz
125 N. Delsea Dr.
Clayton, NJ 08312

and

Officer James Mayo
125 N. Delsea Dr.
Clayton, NJ 08312

and

Officer Mark Connick
125 N. Delsea Dr.
Clayton, NJ 08312

John Does (1-99) and ABC Corporation(s)

Defendants.

COMPLAINT

Introduction

This case involves the tragic death of a child, Autumn Pasquale. Autumn disappeared from her family home, and was reported missing to law enforcement by her family on October 20, 2012. Her body was found on October 22, 2012. In searching for her, law enforcement did not follow appropriate procedures as they should have been trained to do, including canvassing the immediate area. Law enforcement failed Autumn. When a well known former law enforcement investigator Joseph Nicholas volunteered to help law enforcement, they refused his help. When Joseph Nicolas then investigated and actually found the perpetrators and the potential whereabouts of Autumn, again law enforcement did not meet with him to investigate

his findings. This case seeks answers and remedies regarding these, and other shortcomings and damages for the untimely death of Autumn Pasquale.

Background

1. Plaintiffs in this matter are the Estate of Autumn Pasquale, Anthony Pasquale as Administrator, and on his own behalf and his living children.
2. Defendants are Franklin Municipal Township, Township of Monroe, Borough of Glassboro, New Jersey State Park Police Headquarters, Gloucester County, Gloucester County Prosecutor's Office, Borough of Clayton, Elk Township, New Jersey State Police, Officer Eduardo Diaz, Officer James Mayo, Officer Mark Connick and John Does (1-99) and ABC Corporations, unknown parties.
3. Defendants collectively are governmental entities and law enforcement officials involved in the search for Autumn Pasquale between October 20, 2012, until her body was discovered on October 22, 2012, (collectively the "Governmental Entities.")
4. The Child Abduction Response Team ("CART") is a multi-disciplinary approach to responding to missing or abducted children. It has been proven to be an effective method of efficiently and effectively operating a search and rescue of missing children, and has been adopted by law enforcement throughout the country.
5. Defendant Governmental Entities knew or should have known of the CART in and before October, 2012.
6. Defendant Governmental Entities knew or should have known that effect search and rescue methods and training in those methods were available in and before October, 2012.
7. Among the well recognized and established methods of search and rescue of missing and abducted children, is the fundamental principle that the child is most likely still

within the neighborhood last seen in, and that a spiral search of that area should be conducted as quickly as possible.

8. In and before October of 2012, Defendant Governmental Entities failed to implement appropriate training in search and rescue methods for missing and abducted children.

9. In and before October of 2012, Defendant Governmental Entities failed to implement appropriate search and rescue methods for missing and abducted children.

10. In and before October of 2012, there was an obvious need in the jurisdictions of the Governmental Entities for training and implementation of appropriate search and rescue for missing and abducted children plans.

11. On Saturday morning, October 20, 2012, Anthony Pasquale reported his daughter Autumn missing to Clayton Police Officer Diaz.

12. Neither Officer Diaz nor the Clayton police implemented an appropriate approach to the report of Autumn's disappearance.

13. It was not until Sunday, October 21st, that the Child Abduction Recovery Team/CART was issued.

14. During the time Autumn was missing, someone familiar with the Pasquales contacted Joseph Nicholas about Autumn's disappearance.

15. Joseph Nicholas ("Nicholas"), a nationally recognized former law enforcement officer known for search and rescue of missing children, happens to live relatively nearby.

16. Nicholas, with the consent of the Pasquale family, volunteered his services to assist the Governmental Entities in the search for Autumn.

17. The Governmental Entities refused Nicholas' assistance.

18. Instead, the Governmental Entities, contrary to proper law enforcement and search and rescue procedures recognized at the time, organized thousands of volunteers to search an area miles from the Pasquale home.

19. No appropriate timely search was conducted by the Governmental Entities.

20. When the Governmental Entities refused Nicholas' help, he began his own search, using proper techniques.

21. Within a few hours, on Sunday October 21, 2012, Nicholas was in the home of the perpetrators, and had a reasonable suspicion that they were involved with Autumn's disappearance.

22. Upon information and belief there was a reasonable probability that Autumn Pasquale was alive at the time, the Governmental Entities and Nicholas was able to solve the crime.

23. Nicholas, as retired law enforcement, had no police power or authority to act upon his suspicion.

24. As a result, Nicholas attempted to report his findings and reasonable suspicion to the Clayton Police and the Gloucester County Prosecutor's Investigative Team.

25. The Clayton Police and the Gloucester County Prosecutor's Investigative Team again refused to meet or discuss the matter with Nicholas.

26. Anthony Pasquale was told Monday, October 22, 2012, that Autumn was found dead in a recycling bin near the perpetrators' home. A New Jersey State Trooper found Autumn, not Clayton Police.

27. If proper and adequate law enforcement techniques would have been employed in this matter, Autumn may have been discovered sooner, and a reasonable chance exists that she would have survived.

28. The improper search and rescue operation in this matter left Autumn Pasquale with a decreased chance of survival.

29. The improper search and rescue operation increased the risk of harm to Autumn Pasquale.

COUNT I
PLAINTIFFS VERSUS ALL DEFENDANTS
New Jersey Civil Rights Act N.J.S.A. 10:6-2
New Jersey Constitution Substantive Due Process: Special Relationship

30. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

31. At all times relevant hereto, Defendants had a special relationship with Plaintiffs, which imposed upon Defendants an affirmative duty to care for and protect Plaintiffs under the New Jersey State Constitution, Article 1, ¶1 substantive due process right.

32. Defendants breached that duty. Defendants' actions and omissions were a substantial departure from the exercise of reasonable professional judgment, practice, and standards, and amounted to deliberate indifference to Plaintiffs' rights and welfare.

33. The actions and inactions that resulted in this harm include, but are not limited to: the failure to provide Plaintiffs with equal and legal treatment.

34. By virtue of the foregoing, Defendants deprived Plaintiffs of various rights protected by the New Jersey State Constitution, Article 1, ¶1.

35. Defendants failed to ensure the safety and well-being of Plaintiffs, thus proximately causing substantial and unnecessary physical, emotional, financial, developmental, psychological, and/or psychiatric harm.

36. Defendants arbitrarily and capriciously deprived Plaintiffs of their due process rights in the absence of any countervailing state interest, and caused Plaintiffs substantial and unnecessary physical, emotional, developmental, financial, psychological, and/or psychiatric harm as a result.

37. Plaintiffs' substantive due process rights were clearly established constitutional rights at the time of Defendants' acts and omissions, and a reasonable individual would have known that their acts and omissions would violate these clearly established constitutional rights.

WHEREFORE, Plaintiffs demand judgment against Defendants as aforesaid, jointly and severally, in their personal and/or official capacity, plus interest, costs, attorney's fees and punitive damages.

COUNT II
PLAINTIFFS VERSUS ALL DEFENDANTS
New Jersey Civil Rights Act N.J.S.A. 10:6-2
New Jersey Constitution Substantive Due Process: State-Created Danger

38. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

39. The New Jersey State Constitution, Article 1, ¶1 guarantees Plaintiffs the substantive due process right to be free from state-created dangers.

40. Defendants violated this right by taking affirmative steps which placed the Plaintiffs at imminent and foreseeable risk of legal danger and harm.

41. The physical, emotional, developmental, financial, psychological, and/or psychiatric harm that Plaintiffs suffered after being placed was foreseeable, and directly, and proximately caused by defendants' unconstitutional acts and omissions.

42. Defendants acted with callous and willful disregard for Plaintiffs safety by allowing a dangerous and/or wrongful condition which led to injury to Plaintiffs.

43. At the time of Plaintiffs' injury, Defendants and Plaintiffs had a special relationship.

44. Defendants arbitrarily and capriciously deprived Plaintiffs of their due process rights in the absence of any countervailing state interest.

45. Plaintiffs' substantive due process rights to be free of state-created dangers were clearly established constitutional rights at the time of Defendants' acts and omissions, and a reasonable individual would have known that their acts and omissions would violate these clearly established constitutional rights.

WHEREFORE, Plaintiffs demand judgment against Defendants as aforesaid, jointly and severally, in their personal and/or official capacity, plus interest, costs, attorney's fees and punitive damages.

COUNT III
PLAINTIFFS VERSUS ALL DEFENDANTS
New Jersey Civil Rights Act N.J.S.A. 10:6-2
New Jersey Constitution Procedural Due Process

46. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

47. The foregoing actions and inactions of Defendants resulted in Plaintiffs being deprived of constitutionally protected interests without due process of law, which was a substantial factor leading to, and proximate cause of, the physical, emotional, developmental, financial, psychological, and/or psychiatric harm Plaintiffs have suffered.

48. Plaintiffs were vested, with certain state-created interests protected by the State's Due Process Clause, including the right to be free from physical, legal or psychological abuse.

WHEREFORE, Plaintiffs demand judgment against Defendants as aforesaid, jointly and severally, in their personal and/or official capacity, plus interest, costs, attorney's fees and punitive damages.

COUNT IV
PLAINTIFFS VERSUS ALL DEFENDANTS
New Jersey Civil Rights Act N.J.S.A. 10:6-2
Failure to Train

49. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

50. Defendant Governmental Entities developed and maintained a number of deficient policies and practices, and/or customs, regarding searches for missing children, which caused the deprivation of Plaintiffs' constitutional rights.

51. Defendant Governmental Entities failed to properly train their employees with regard to these deficient policies, practices, and/customs, for searching for missing children.

52. Defendant Governmental Entities' policies and customs encourage the law enforcement and investigators under their control, to believe they could violate the constitutional rights of Plaintiffs with impunity, and with the explicit or tacit approval of the Government Entity Defendants.

53. A direct and proximate result the aforementioned acts and omissions of the Governmental Entity Defendants, caused Plaintiffs substantial and unnecessary physical, emotional, developmental, financial, psychological, and/or psychiatric harm as a result.

WHEREFORE, Plaintiffs demand judgment against Defendants as aforesaid, jointly and severally, in their personal and/or official capacity, plus interest, costs, attorney's fees and punitive damages.

COUNT V
PLAINTIFFS VERSUS ALL DEFENDANTS
New Jersey Tort Claims Act Negligence

54. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

55. Plaintiffs have complied with the notice requirements of the Tort Claims Act.

N.J.S.A. 59:1-1 et seq.

56. Defendants owed numerous duties to Plaintiffs.

57. Defendants were negligent in there search and rescue operation and failure to provide training.

58. By their acts and omissions, Defendants violated the duty of care owed to Plaintiffs. Defendants acted with gross negligence and/or recklessly. Defendants' acts and omissions were outside of their scope of employment, and did not involve the mere exercise of professional judgment of discretion.

59. By their acts and omissions, Defendants proximately caused permanent injuries to Plaintiffs, including substantial physical, emotional, financial, developmental, psychological, and/or psychiatric harm. Defendants' acts and omissions were a material element and/or a substantial factor in bringing the harm about to the Plaintiffs. The harms sustained by Plaintiffs were reasonably foreseeable results of Defendants' acts and omissions.

60. By the foregoing, Defendants are liable for Plaintiffs' injuries pursuant to N.J.S.A. 59:1-1 et seq. Defendants are jointly and severally liable for the injuries sustained by the Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against Defendants as aforesaid, jointly and severally, in their personal and/or official capacity, plus interest, costs, attorney's fees and punitive damages.

COUNT VI
PLAINTIFFS VERSUS ALL DEFENDANTS
Willful Disregard-All Defendants

61. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

62. The conduct of Defendants was outrageous, wanton and willful, in reckless indifference to the rights, safety, and interest of Plaintiffs, and taken with conscious disregard of their duties and obligations.

63. Said conduct proximately caused the injuries to Plaintiffs.

WHEREFORE, Plaintiffs demand judgment against Defendants as aforesaid, jointly and severally, in their personal and/or official capacity, plus interest, costs, attorney's fees and punitive damages.

COUNT VII
PLAINTIFFS VERSUS ALL DEFENDANTS
N.J.S.A. 2A:31-1
New Jersey Wrongful Death Statute

64. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

65. There is at the time of the events herein set forth in the State of New Jersey, a Wrongful Death Statute designated as NJSA 2A:31-1 et seq.

66. Plaintiffs bring this action pursuant to the provisions thereof, for the benefit the next of kin and decedent. This action is commenced within two years of the death of the Decedent.

67. Plaintiffs were entitled to the Decedent's services and earnings until she became of age, as well as to the care, comfort and support with which said child would have been able to furnish during said period.

68. By reason of Defendants' wrongful conduct, Defendants have deprived Plaintiffs as the father, sister and brother of the Decedent, of the services, support and care and attention of the Decedent during her years of minority, and of the child's care, companionship, advice and guidance as they grow older.

69. The parents have also lost any direct financial contributions which would have been made by the child to her survivors after she became a wage earner. They also lost the value of the child's anticipated services to survivors such as household chores and care of siblings. They also lost in the future guidance and training which would have been offered by the Decedent to the survivors.

WHEREFORE, Plaintiffs demand judgment against Defendants as aforesaid, jointly and severally, in their personal and/or official capacity, plus interest, costs, attorney's fees and punitive damages.

ZEFF LAW FIRM, LLC

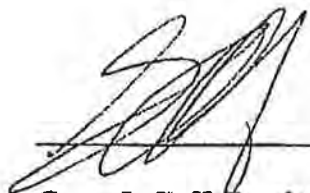
BY: _____

**Gregg L. Zeff, Esquire
Jennifer L. Prior, Esquire**

CERTIFICATION

I further certify pursuant to Rule 4:5-1 that I know of no other proceedings pending or that are contemplating in any court or arbitration preceding that concerns this subject matter and know of no other parties that need be joined with action.

DATED: October 21, 2014

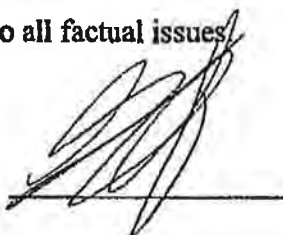
A handwritten signature in black ink, appearing to be 'Gregg L. Zeff', written over a horizontal line.

Gregg L. Zeff, Esquire
Attorney for Plaintiffs

DEMAND FOR JURY

Demand is hereby requested for jury trial as to all factual issues.

DATED: October 21, 2014

A handwritten signature in black ink, appearing to be 'Gregg L. Zeff', written over a horizontal line.

Gregg L. Zeff, Esquire
Attorney for Plaintiffs

TRIAL DESIGNATION

Pursuant to R. 4:5-1(c), Gregg L. Zeff, is designated as Trial Counsel for the above mentioned Plaintiffs.

DATED: October 21, 2014

A handwritten signature in black ink, appearing to be 'Gregg L. Zeff', written over a horizontal line.

Gregg L. Zeff, Esquire
Attorney for Plaintiffs



ESTATE OF AUTUMN PASQUALE, et
al.,

Plaintiffs,

v.

FRANKLIN MUNICIPAL TOWNSHIP, et
al.,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
GLOUCESTER COUNTY

DOCKET NO. GLO-L-1474-14

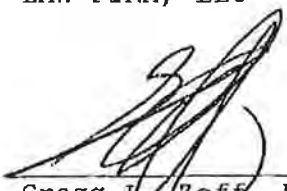
Civil Action

STIPULATION OF VOLUNTARY
DISMISSAL OF ALL CLAIMS WITH
PREJUDICE AND WITHOUT COSTS
OR ATTORNEY'S FEES

IT IS hereby stipulated and agreed by the parties, as evidenced by the below signatures of their respective counsel, that all claims asserted in this action by Plaintiffs Estate of Autumn Pasquale, Natalie Pasquale, and A.J. Pasquale; against Defendant New Jersey State Police (pled in the Complaint as "New Jersey State Police Strategic Investigations Unit"), Gloucester County, Gloucester County Prosecutor's Office, Township of Monroe, Township of Franklin, Borough of Glassboro, Township of Elk, Borough of Clayton, Borough of Clayton Police Officer Eduardo Diaz, Borough of Clayton Police Officer James Mayo, and Borough of Clayton Police Officer Mark Konnick, are hereby dismissed voluntarily by Plaintiffs, with prejudice, and without costs or attorney's fees awarded to any of the parties.

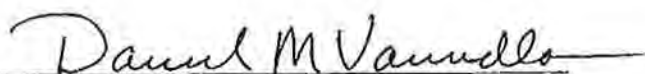
ZEFF LAW FIRM, LLC

By:


Gregg L. Zeff, Esq.
Attorney for Plaintiffs

ROBERT LOUGY
ACTING ATTORNEY GENERAL OF NEW JERSEY

By:


Daniel M. Vannella
Deputy Attorney General
Attorney for Defendant
New Jersey State Police

ARCHER & GREINER

By:


John C. Connell, Esq.
Attorney for Defendants Gloucester County
and Gloucester County Prosecutor's Office

BARKER, GELFAND & JAMES

By:


A. Michael Barker, Esq.
Attorney for Defendants Township of Monroe,
Township of Franklin, Borough of Glassboro,
Township of Elk, Borough of Clayton,
Eduardo Diaz, James Mayo, and Mark Konnick