

Echevarria, Moises v. P.O. Gene Hayes, P.O. R.J. DiBello and P.O. Keith Gormley
United States District Court
Civil Action No. 12-cv-04182-SDW-MCA

Napoleone, Joseph v. City of Clifton, John Does(s) 1-10, & XYZ Corp.(s) 1-10
Superior Court of New Jersey
Law Division: Passaic County - Docket No. L-188-15

Sharrock, Shawn v. Franco Graziadio, et al.
United States District Court
Docket No. 2:15-CV-01877-KM-MAH

VALLES, JENNIFER v. CITY OF CLIFTON, JAMES ANZALDI, MARK CENTURIONE,
JOHN and JANE DOES 1-10
United States District Court
Case No. 2:17-cv-02598-SDW-LDW

SAGGIO, SALVATORE v. CITY OF CLIFTON, JOHN DOE(S) 1-10, JANE DOE(S) 1-10, and
XYZ CORP(S) 1-10
Superior Court of New Jersey
Law Division: Passaic County
Docket No. PAS-L-3036-17

LANKFORD, JAQUICE v. CITY OF CLIFTON POLICE DEPARTMENT, OFFICER ALAN
FIORILLA, OFFICER THOMAS BUELL; OFFICER ANDREW ALVAREZ, OFFICER JUAN
VELEZ, JOHN DOES 1-10 (names being fictitious) SUED INDIVIDUALLY AND IN THEIR
OFFICIAL CAPACITIES
United States District Court
Civil Action No. 2:18-CV-06643

GRIFFIN, DESIREE v. CITY OF CLIFTON, CLIFTON P.D., JUSTIN VALLIER, PAUL
HASSELBERGER, JACK STIANCHE, ANDREW ALVAREZ, KEVIN COLLUCCI,
ANTHONY DIAZ, TIMOTHY KAMINSKI, JAMES DERCO and THOMAS RINALDI
Superior Court of New Jersey
Law Division: Passaic County
Docket No. PAS-L-1600-18

LEVY, JESSENIA v. CITY OF CLIFTON, CLIFTON POLICE DEPARTMENT and DARREN
BRODIE
Superior Court of New Jersey
Law Division: Passaic County
Docket No. PAS-L-2078-18

Trainer, Steven v. Clifton Police Department Detectives Robert Anderson, Wayne Stine, Steven Farrell; Lodi Police Department Detectives Justine Bertone and Vincent Martin
United States District Court
Civil Action No. 2:12-cv-02409-SDW-MCA

Zigarelli, Michael v. City of Clifton and Mark Centurione
United States District Court
Civil Action No. 2:19-cv-12632

Horne, Donell v. City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department; Police Officer Ryan Maloney, Police Officer Kincherlow, Police Officer C. Phillips, Police Officer Velez, Police Officer Gonzalez, Police Officer Buell, ABC Corp. 1-3 and John Doe 1-10 (names being fictitious)
United States District Court
Civil Action No. 2:18-cv-13096

Kester, Darren v. City of Clifton and Nancy Ferrigno in her official capacity as records custodian for the City of Clifton
Superior Court of New Jersey
Law Division: Passaic County
Docket No. PAS-L-2218-19

TOMANEK, ROBERT v. COUNTY OF PASSAIC, TOWNSHIP OF CLIFTON, CLIFTON POLICE DEPARTMENT, POLICE OFFICER ROBERT TILLIE and POLICE OFFICER ESLY PANDURO
Superior Court of New Jersey
Law Division: Passaic County - Docket No. L-222-12

TUZZOLINO, JOANN and GEORGE TUZZOLINO v. CITY OF CLIFTON POLICE DEPARTMENT, CITY OF CLIFTON, COUNTY OF PASSAIC, STATE OF NEW JERSEY, POLICE OFFICER FAVIO TOYOS, POLICE OFFICER GENE HAYES, "ABC CORPORATION" and/or "JOHN DOE 1" and/or JOHN DOE 2" (the last three being fictitious designations)
Superior Court of New Jersey
Law Division: Passaic County - Docket No. PAS-L-82-12

MARK BEKIER vs. CITY OF CLIFTON and JOHN DOE
Superior Court of New Jersey
Law Division: Passaic County - Docket No. PAS-L-1022-12

TUMMINELLI, MICHELLE v. GERALD EULO, JR., CITY OF CLIFTON, CLIFTON POLICE DEPARTMENT, P.O. PAUL HASSELBERGER, P.O. MOHAMAD DROUBI, AMERICAN COMMERCE INS. CO., JOHN DOE (1-10) and XYZ CORP. (1-10), fictitiously named
Superior Court of New Jersey
Law Division: Passaic County - Docket No. PAS-L-1352-12

WALLACE, ARTHUR v. CITY OF CLIFTON POLICE DEPARTMENT and SEAN CONNOR
Superior Court of New Jersey
Law Division: Passaic County - Docket No. L-4214-13

HARRISON, SARAH F. v. LUCAS GUNTHER and/or JOHN DOE 1-10 (said names being unknown and fictitious), ABC Corp., Inc. (said corporation being unknown and fictitious), CITY OF CLIFTON, COUNTY OF PASSAIC, STATE OF NEW JERSEY and PROGRESSIVE INSURANCE COMPANY and/or ABC INSURANCE CORP. 1-10 (said insurance company being unknown and fictitious)
Superior Court of New Jersey
Law Division: Passaic County - Docket No. PAS-L-1817-15

MATHOS, TONY v. ASALIK BRONSON, HASSAN HOLMES, COUNTY OF PASSAIC, P.C. SHERIFF'S DEPT., SHERIFF OFFICERS SPINA, POGOZERSKI & LINCOLN, CITY OF CLIFTON, CLIFTON POLICE DEPT., SGT. INGARGIOLA, OFFICERS VARGA, MILLER, KATZ & BURGESS, CITY OF PASSAIC, PASSAIC POLICE DEPT., OFFICER RAYMOND RODRIGUEZ, JOHN DOES 1-25, DAVID DOES 1-20 & ABC CORPS 1-10 (fictitiously named)
Superior Court of New Jersey
Law Division: Passaic County - Docket No. PAS-L-1246-16

GLAVAN, CHRISTIAN v. JOHN KAVAKICH, CLIFTON POLICE DEPARTMENT and the CITY OF CLIFTON, JOHN DOES
Superior Court of New Jersey
Law Division: Bergen County - Docket No. BER-L-2143-16

LUCIANO, ANGELICA v. THE SHANNON ROSE IRISH PUB, THE DOHERTY GROUP, INC., DOHERTY ENTERPRISES, INC., DONEGAL'S IRISH PUB, LLC, DOHERTY FOOD SERVICE OF CLIFTON, LLC, DOHERTY MANAGEMENT SERVICES, LLC, ROBERT MURPHY, CITY OF CLIFTON, NJ, ROSARIO DOMICOLO, JOSEPH SMITH (fictitious person who committed an assault and battery upon the Plaintiff whose true identity is presently unknown), JOHN DOES 1-V, JOHN ROES 1-V and ABC CORP. (fictitiously named)
Superior Court of New Jersey
Law Division: Passaic County - Docket No. PAS-L-912-18

DIAZ, HEILY, a minor by her g/a/l TULIO DIAZ v. MILDRED DIAZ, WILFREDO VALENTIN, CITY OF CLIFTON, CITY OF CLIFTON POLICE DEPARTMENT, COUNTY OF PASSAIC, STATE OF NJ and JOHN DOE (1-10)

Superior Court of New Jersey

Law Division: Passaic County - Docket No. PAS-L-131-19

DIAZ, MILDRED v. WILFREDO VALENTIN, CLIFTON POLICE DEPARTMENT, CITY OF CLIFTON, COUNTY OF PASSAIC, STATE OF NEW JERSEY and JOHN DOE (1-10)

Superior Court of New Jersey

Law Division: Passaic County - Docket No. PAS-L-66-19

DERKA, ZSOLT v. CLIFTON POLICE DEPT., CITY OF CLIFTON, JOMARCELL URENA, JOHN CUSACK, JAIME VELASQUEZ, DANIELA TELLO, ABC CORPS. 1-10 and JOHN DOES "A-D" (fictitious names representing unknown individuals)

Superior Court of New Jersey

Law Division: Passaic County - Docket No. PAS-L-2567-19

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DESIREE GRIFFIN,

Plaintiff,

vs.

CITY OF CLIFTON, a MUNICIPAL
 CORPORATION OF THE STATE OF NEW
 JERSEY, CLIFTON POLICE DEPARTMENT
 JUSTIN VALLIER, PAUL HASSELBERGER
 JACK STIANCHE, ANDREW ALVAREZ,
 KEVIN COLLUCCI, ANTHONY DIAZ,
 TIMOTHY KAMINSKI, JAMES DERCO, and
 THOMAS RINALDI,

Defendants.

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION - PASSAIC COUNTY
 DOCKET NO. PAS-L-

Civil Action

COMPLAINT

Plaintiff, DESIREE GRIFFIN, residing at 62 Piaget Avenue, Clifton,
 New Jersey, complaining of the defendants says that:

FIRST COUNT

1. At all times stated herein, defendant, CITY OF CLIFTON, was
 and still is a municipal corporation of the State of New Jersey.

2. At all relevant times stated herein, defendant, CLIFTON
 POLICE DEPARTMENT, was an agency of the defendant, CITY OF CLIFTON, and
 defendants, JUSTIN VALLIER, PAUL HASSELBERGER JACK STIANCHE, ANDREW
 ALVAREZ, KEVIN COLLUCCI, ANTHONY DIAZ, TIMOTHY KAMINSKI, JAMES DERCO,
 and THOMAS RINALDI, were employed by the CLIFTON POLICE DEPARTMENT in
 various capacities as police officers, including certain defendants
 being supervisory or senior to the plaintiff.

3. In or about February 2013, plaintiff, DESIREE GRIFFIN, was hired by the defendants, CITY OF CLIFTON and CLIFTON POLICE DEPARTMENT, as a public safety telecommunicator (dispatch department) and in her capacity for such employment, defendants were all superior to the plaintiff in her capacity as a dispatcher and, as such, controlled the working environment of the plaintiff.

4. At the time of the incidents complained of plaintiff, DESIREE GRIFFIN, an African American female, was employed by defendants, as aforesaid, and during plaintiff's term of employment with the defendants experienced a hostile work environment, which included sexual harassment, racial discrimination and gender discrimination, manifested and perpetuated by the conduct of the various defendants and others, at various times, including plaintiff's supervisors, which included, but was not limited to the following incidents:

a. Commencing in June or July of 2013, defendant, JAMES DERCO, in his capacity as Dispatch Supervisor, informed the plaintiff that he had been receiving complaint from others regarding her job performance. During follow up at headquarters, in speaking to the Desk Sergeant, plaintiff ascertained that no such complaints had been made about her and that she was performing satisfactorily;

b. On or about September 14, 2013, defendant, JAMES DERCO, sent a text advising the plaintiff about a further complaint coming

from co-workers, which complaint was subsequently denied by her co-workers when inquiry was made;

c. At some period early in plaintiff's employment, she was called to the office by defendant, THOMAS RINALDI, and inquiry was made as to whether plaintiff had requested another dispatcher to say "baby daddy" over the police radio channel, which inquiry or allegation was denied by the plaintiff;

d. On or about May 7, 2014, plaintiff's shift supervisor, dispatcher Farrini, referred to plaintiff as "old yeller" as she was leaving;

e. On or about April 4, 2014, defendant, JACK STIANCHE, referred to plaintiff as "Shaniqua," which comment was made in the presence of other individuals in the dispatch room;

f. In the fall of 2015, on two separate occasions, defendant, ANDREW ALVAREZ, made comments to the plaintiff referencing her jeans as "being painted on";

g. During the fall of 2014, defendant, PAUL HASSLEBERGER, made various comments to the plaintiff regarding her hairstyle, which was in braids, stating that "thank God I didn't wear my hair like that today";

h. In or about January 2016, defendant, PAUL HASSLEBERGER, made another comment regarding the plaintiff's hairstyle being in braids to the effect that "look at that hair, thank God I didn't wear my hair like that today";

i. On any number of occasions commencing in March of 2016 through May of 2016, defendant, PAUL HASSLEBERGER, would kick the plaintiff's chair, which ultimately resulted in plaintiff speaking to him in his office;

j. In or around May of 2016, defendant, ANDREW ALVAREZ, referenced plaintiff's jeans as "being painted on," which comment was made in front others;

k. In or about May of 2016, defendant, JUSTIN VALLIER, addressed plaintiff as "Lil' Kim" during the roll call;

l. Defendant, KEVIN COLLUCCI, would frequently come into the dispatch room at the start of plaintiff's shift and would make a negative comment regarding plaintiff's clothing, which conduct persisted for approximately two years;

m. On or about June 6, 2016, defendant, PAUL HASSLEBERGER, made comments about plaintiff's yellow shirt in front of a lineup of officers, which was greatly upsetting to the plaintiff and which was stated in the presence of others;

n. On or about June 6, 2016, defendant, JUSTIN VALLIER, entered the dispatch room and again addressed plaintiff as "Lil' Kim" and further shook the rear of plaintiff's chair, repeatedly calling her "Lil' Kim";

o. As a result of the above, on or about June 6, 2016, plaintiff reported that she was being exposed to a hostile work environment as a result of her gender and race, which was conduct

on the part of the various defendants violated the City's sexual harassment policy;

p. As part and parcel of the hostile work environment eluded to above, another police officer stated to the plaintiff during the spring of 2017 that because of the way her hair was styled, she looked like "Milli Vanilli," which comment upset plaintiff and caused an immediate apology from the officer;

q. On or about September 18, 2017, defendant, CITY OF CLIFTON, through its authorized representatives, admitted in correspondence to the plaintiff that she had been subject to a violation of the City's sexual harassment policy, which encompasses harassment and a discriminatory environment;

r. Defendant, CITY OF CLIFTON, advised plaintiff that it would be taking appropriate action to address the problems which plaintiff had been experiencing;

s. Plaintiff was on disability leave between June of 2016 and January of 2017 for a medical issue. Following plaintiff's return to employment in January of 2017, plaintiff's work environment worsened with regard to how she was treated by fellow officers respecting her assignments, files, cases, and printouts, which was part and parcel of her work assignment. In effect, the conduct to which she was exposed realistically eliminated plaintiff from performing her job. Such conduct on the part of the defendants lasted for several months into the 2017 time period;

t. During the fall of 2017, plaintiff was required to unnecessarily remain in the dispatch room because a subordinate had left early and the supervising officer would not require the other individual to come back;

u. During January of 2018, defendant, ANDREW ALVAREZ, entered the dispatch room and continually stared at the plaintiff while in the room and as she walked down the hall. Approximately a week later, plaintiff spoke to defendant, ANDREW ALVAREZ, and expressed to him how uncomfortable he had made her, which had included his comments about her jeans, and requested that he cease doing this;

v. On or about February 14, 2018, plaintiff was advised by another officer within the Police Department that she was the subject or "target" of an Internal Affairs complaint, which statement was completely untrue and upset the plaintiff;

w. Plaintiff is the only African American employed by defendants, CITY OF CLIFTON and CLIFTON POLICE DEPARTMENT, in the dispatch room and, upon information and belief, defendants, CITY OF CLIFTON and CLIFTON POLICE DEPARTMENT, only employ one African American female police officer, which actions constitute an element of discrimination exhibited by defendants;

5. The aforesaid harassing and discriminatory conduct towards plaintiff by defendants occurred because of plaintiff's gender and race.

But for plaintiff's gender and race, the harassing conduct toward plaintiff by defendants would not have occurred.

6. The harassing conduct faced by plaintiff was of such a nature that a reasonable woman would consider it unwelcome, severe and pervasive as to her conditions of employment with defendants.

7. The harassing conduct of defendants created an intimidating, hostile and offensive working environment so that plaintiff had to experience it and was continuously affected by it, which has gone unabated.

8. The harassing conduct of defendants, including their agents, supervisors, representatives and/or employees, toward plaintiff was extremely severe and pervasive so as to make a reasonable woman believe that her conditions of employment and her environment were hostile, intimidating and offensive.

9. Defendants also refused and failed to effectively enforce their policy of sexual harassment and discrimination which was supposedly in place.

10. As a result of said harassing conduct, plaintiff has been caused to suffer various economic losses, emotional anguish, emotional distress, mental anguish, pain and suffering, inconvenience, anxiety, physical distress, uncertainty, career and family disruption, adjustment problems, and other damages.

11. The alleged conduct of the defendant, CLIFTON POLICE DEPARTMENT, was part and parcel of a culture within said Department which

has existed over a significant number of years and has gone unabated and has been the subject of other complaints and/or lawsuits.

WHEREFORE, plaintiff, DESIREE GRIFFIN, hereby demands judgment for damages against the defendants, CITY OF CLIFTON, a MUNICIPAL CORPORATION OF THE STATE OF NEW JERSEY, CLIFTON POLICE DEPARTMENT JUSTIN VALLIER, PAUL HASSELBERGER JACK STIANCHE, ANDREW ALVAREZ, KEVIN COLLUCCI, ANTHONY DIAZ, TIMOTHY KAMINSKI, JAMES DERCO, and THOMAS RINALDI, individually, jointly and severally, for (1) compensatory damages, (2) punitive damages, (3) interest, (4) attorneys' fees and costs of suit on the First Count.

SECOND COUNT

1. Plaintiff, DESIREE GRIFFIN, repeats and re-alleges each and every allegation contained in the First Count.

2. As a result of the sexual, racial and gender harassment aforesaid, plaintiff properly and dutifully notified appropriate representatives of the City of Clifton and the Clifton Police Department regarding the behavior of the various individual defendants.

3. Following the appropriate, timely and proper notice of the plaintiff to various officials, representatives of the CITY OF CLIFTON and the CLIFTON POLICE DEPARTMENT failed to properly or adequately take effective action to eliminate and/or correct the hostile work environment of the plaintiff as required by the policy of the defendants.

4. In addition thereto, following plaintiff's notification to said officials, plaintiff's work environment deteriorated in retaliation

for and as a result of said complaints and because of defendants' failure to take proper and corrective action.

WHEREFORE, plaintiff, DESIREE GRIFFIN, hereby demands judgment for damages against the defendants, CITY OF CLIFTON, a MUNICIPAL CORPORATION OF THE STATE OF NEW JERSEY, CLIFTON POLICE DEPARTMENT JUSTIN VALLIER, PAUL HASSELBERGER JACK STIANCHE, ANDREW ALVAREZ, KEVIN COLLUCCI, ANTHONY DIAZ, TIMOTHY KAMINSKI, JAMES DERCO, and THOMAS RINALDI, individually, jointly and severally, for (1) compensatory damages, (2) punitive damages, (3) interest, (4) attorneys' fees and costs of suit on the Second Count.

THIRD COUNT
RETALIATION

1. Plaintiff, DESIREE GRIFFIN, repeats and re-alleges each and every allegation contained in the First and Second Counts.

2. As a result of the sexual, racial and gender harassment aforesaid, plaintiff properly and dutifully notified appropriate representatives of defendants, CITY OF CLIFTON and CLIFTON POLICE DEPARTMENT, regarding the behavior of the various individual defendants.

3. Following the appropriate, timely and proper notice of the plaintiff to various officials, representatives of defendants, CITY OF CLIFTON and CLIFTON POLICE DEPARTMENT, failed to properly or adequately take effective action to eliminate and/or correct the hostile work environment of the plaintiff as required by the policy of the defendants.

4. In addition thereto, following plaintiff's notification to said officials, plaintiff's work environment deteriorated further, which

action on the part of defendants constituted a retaliation as a result of said complaints and because of defendants' failure to take proper and corrective action.

WHEREFORE, plaintiff, DESIREE GRIFFIN, hereby demands judgment for damages against the defendants, CITY OF CLIFTON, a MUNICIPAL CORPORATION OF THE STATE OF NEW JERSEY, CLIFTON POLICE DEPARTMENT JUSTIN VALLIER, PAUL HASSELBERGER JACK STIANCHE, ANDREW ALVAREZ, KEVIN COLLUCCI, ANTHONY DIAZ, TIMOTHY KAMINSKI, JAMES DERCO, and THOMAS RINALDI, individually, jointly and severally, for (1) compensatory damages, (2) punitive damages, (3) interest, (4) attorneys' fees and costs of suit on the Third Count.

FOURTH COUNT
CIVIL CONSPIRACY

1. Plaintiff, DESIREE GRIFFIN, repeats and re-alleges each and every allegation contained in the First through Third Counts.

2. Defendants, CITY OF CLIFTON, a MUNICIPAL CORPORATION OF THE STATE OF NEW JERSEY, CLIFTON POLICE DEPARTMENT JUSTIN VALLIER, PAUL HASSELBERGER JACK STIANCHE, ANDREW ALVAREZ, KEVIN COLLUCCI, ANTHONY DIAZ, TIMOTHY KAMINSKI, JAMES DERCO, and THOMAS RINALDI, acted in concert to engage in the improper actions and misconduct alleged by an agreement between them, either express or implied, to inflict wrong and/or injury against plaintiff for the reasons stated above.

3. The civil conspiracy alleged herein is not representative of a complete recitation of all the facts but is representative of the improper conduct and conspiracy committed against the plaintiff.

4. As a result of the conduct of the defendants, and others, their respective improper actions and misconduct constitute the tort of civil conspiracy, thereby causing the damages alleged.

5. Furthermore, defendants, CITY OF CLIFTON and CLIFTON POLICE DEPARTMENT, are responsible for the actions of the individually-named defendants and others under the doctrine of respondeat superior.

WHEREFORE, plaintiff, DESIREE GRIFFIN, hereby demands judgment for damages against the defendants, CITY OF CLIFTON, a MUNICIPAL CORPORATION OF THE STATE OF NEW JERSEY, CLIFTON POLICE DEPARTMENT JUSTIN VALLIER, PAUL HASSELBERGER JACK STIANCHE, ANDREW ALVAREZ, KEVIN COLLUCCI, ANTHONY DIAZ, TIMOTHY KAMINSKI, JAMES DERCO, and THOMAS RINALDI, individually, jointly and severally, for (1) compensatory damages, (2) punitive damages, (3) interest, (4) attorneys' fees and costs of suit on the Fourth Count.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands trial by jury on all of the above issues.

THE EPSTEIN LAW FIRM, P.A.
Attorneys for Plaintiff

/s/ Barry D. Epstein
BY: _____
BARRY D. EPSTEIN

Dated: May 15, 2018

CERTIFICATION

I hereby certify that, pursuant to Rule 4:5-1: (1) the within matter in controversy is not the subject of any other action pending in any other court or arbitration; (2) no other action or arbitration proceeding is contemplated; and (3) no other necessary party to be joined in the subject litigation is presently known.

/s/ Barry D. Epstein

BARRY D. EPSTEIN

Dated: May 15, 2018

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 (201) 845-5962
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JESSENIA LEVY,

Plaintiff,

vs.

CITY OF CLIFTON, a municipal
 corporation of the State of New
 Jersey, CLIFTON POLICE DEPARTMENT
 and DARREN BRODIE,

Defendants.

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION - PASSAIC COUNTY
 DOCKET NO. PAS-L-

Civil Action

COMPLAINT

Plaintiff, JESSENIA LEVY, residing at 16 Holly Street, Clifton,
 New Jersey, complaining of the defendants says that:

FIRST COUNT

1. At all times stated herein, defendant, CITY OF CLIFTON, was
 and still is a municipal corporation of the State of New Jersey.

2. At all relevant times stated herein, defendant, CLIFTON
 POLICE DEPARTMENT, was an agency of the defendant, CITY OF CLIFTON, and
 defendant, DARREN BRODIE, was employed by the CLIFTON POLICE DEPARTMENT.
 Defendant, DARREN BRODIE, was superior officer to the plaintiff, holding
 the title of lieutenant and was plaintiff's supervisor on her shift.

3. On or about July 20, 2016, plaintiff, JESSENIA LEVY, was hired
 by the defendants, CITY OF CLIFTON and CLIFTON POLICE DEPARTMENT, as a
 patrol officer and in her capacity of such employment, defendant, DARREN
 BRODIE, was superior to the plaintiff in her capacity as a patrol officer
 and, as such, controlled the working environment of the plaintiff.

4. At the time of the incidents complained of plaintiff, JESSENIA LEVY, a Hispanic female, was employed by defendants as aforesaid, and during plaintiff's term of employment with the defendants experienced a hostile work environment, which included sexual harassment, racial discrimination and gender discrimination, manifested and perpetuated by the conduct of the defendant, DARREN BRODIE, at various times, which included, but was not limited to the following incidents:

a. On or about March 8, 2018, plaintiff, along with other police officers of the Clifton Police Department, attended a Policeman's Benevolent Association ("PBA") convention in Atlantic City, New Jersey, and arrived there at approximately 4:00 p.m.;

b. Subsequent to plaintiff's arrival at Harrah's Resort Atlantic City, she and other police officers were in attendance at a pub at the Tropicana Casino & Resort Atlantic City, where they met up with other co-workers of their PBA. As plaintiff was leaving, defendant, DARREN BRODIE, joined their group and they walked downstairs towards a restaurant. At all relevant times herein, defendant, DARREN BRODIE, was the watch commander and supervisor on plaintiff's shift and was considered to be her mentor;

c. At said time and place, defendant, DARREN BRODIE, decided to seat himself next to the plaintiff for the dinner. During this period, plaintiff felt a touch on her thigh. When she

inquired whether he was touching her, his response was that the seats were so close;

d. Subsequent to the dinner, plaintiff, others and defendant, DARREN BRODIE, indicated that they were going to participate in three-card poker. At that point, plaintiff went to a craps table with a co-worker. While at the craps table, plaintiff felt a thrust on her rear end, at which point she turned around and saw that it was defendant, DARREN BRODIE, who was talking to a fellow officer. At that point, plaintiff inquired as to who did that and then turned around. At that point, defendant, DARREN BRODIE, approached plaintiff and whispered in her ear "You know that was me." Plaintiff attempted to dismiss the said defendant's conduct;

e. Thereafter, plaintiff and others arrived at a bar and defendant, DARREN BRODIE, was also in attendance. During that period of time, plaintiff advised a co-worker that she was concerned about defendant, DARREN BRODIE's, conduct;

f. The group in attendance were all sitting near each other, at which time defendant, DARREN BRODIE, walked up behind the plaintiff in very close proximity to her and asked her why plaintiff put in for a day off the following night, to which she responded that she was seeing her boyfriend;

g. Thereafter, defendant, DARREN BRODIE, advised that he did not like it when she took off especially because he took overtime to see her;

h. Plaintiff then overheard defendant, DARREN BRODIE, tell another officer that he paid \$100 to sleep with his wife and would pay \$500 for the plaintiff;

i. While plaintiff continued to speak to a fellow officer, defendant, DARREN BRODIE, again came over, this time leaning very close to her and saying to her that "You know I love you, right," "you're the best," and "I came here for you." During the course of making these statements into her ear, plaintiff felt the defendant's penis rub on her knees and he then asked her to buy him a drink. She again felt the defendant rubbing himself on her, at which time she realized that the defendant had attained an erection;

j. During this period, defendant, DARREN BRODIE, was still leaning over the plaintiff in very close proximity so as to make her feel uncomfortable, at which point the plaintiff said she wanted to leave;

k. During that time, defendant, DARREN BRODIE, standing in front of the plaintiff said "If you guys don't come back, I will kick you in the dick and she will be out of car 1." He repeated to essentially say the same thing a number of times;

1. Plaintiff reported this to her co-worker and friend, Scott Gibson, as to how she was feeling. Scott Gibson advised plaintiff that he tried to tell defendant, DARREN BRODIE, to cease his conduct or "chill out," to which he said "I paid my wife \$100 to f...k me and I'll pay her \$500." Plaintiff overheard said comment; and

m. Thereafter, plaintiff further overheard defendant, DARREN BRODIE, state "she'll be happy when I put my d...k in her ass".

5. On or about March 12, 2018, plaintiff was advised by Sgt. Hayes in a telephone call that he had to report the incident(s) involving defendant, DARREN BRODIE, and would be speaking to the captain.

6. Upon information and belief, the matter was reported to the Passaic County Prosecutor's Office.

7. Thereafter, plaintiff received a telephone call from a representative of the Passaic County Prosecutor's Office with respect to whether criminal charges should be pursued.

8. On or about March 13, 2018, plaintiff advised Douglas Johnson, the Personnel Officer for the City of Clifton, that she was uncomfortable and afraid to return to work.

9. On or about March 15, 2018, plaintiff received a telephone call from the Clifton Police Department Chief, who stated in a sarcastic voice, "Well none of this occurred here," which made plaintiff feel that what had occurred did not matter. He further stated that because

plaintiff was now on a medical leave, he did not believe she was fit for duty and she would be sent for an evaluation.

10. Upon information and belief, following the reporting of the incident(s) referenced above, defendant, DARREN BRODIE, was placed on leave or suspended with pay.

11. As a result of the effect of the defendant's actions on plaintiff, she was required to go on disability for a period of time through approximately May 1, 2018.

12. Plaintiff has been advised that everyone in the Police Department knows what had transpired and, upon her return, she has felt uncomfortable, isolated and many people do not talk to her. The atmosphere is different.

13. As an example of the type of conduct which has occurred since her return, in or about the early part of May, when plaintiff signed up for the "Click It or Ticket" seatbelt campaign, notations were made alongside her name which has further contributed to her level of discomfort and distress.

14. The aforesaid harassing and discriminatory conduct towards plaintiff by defendant, DARREN BRODIE, occurred because of plaintiff's gender. But for plaintiff's gender, the harassing conduct toward plaintiff by defendant would not have occurred.

15. The harassing conduct faced by plaintiff was of such a nature that a reasonable woman would consider it unwelcome, severe and pervasive as to her conditions of employment with defendants.

16. The harassing conduct of defendant, DARREN BRODIE, created an intimidating, hostile and offensive working environment so that plaintiff had to experience it and was continuously affected by it, which has gone unabated.

17. The harassing conduct of defendants, including their agents, supervisors, representatives and/or employees, toward plaintiff was extremely severe and pervasive so as to make a reasonable woman believe that her conditions of employment and her environment were hostile, intimidating and offensive.

18. Defendants also refused and failed to effectively enforce their policy of sexual harassment and discrimination which was supposedly in place.

19. As a result of said harassing conduct, plaintiff has been caused to suffer various economic losses, emotional anguish, emotional distress, mental anguish, pain and suffering, inconvenience, anxiety, physical distress, uncertainty, career and family disruption, adjustment problems, and other damages.

20. Upon information and belief, plaintiff is one of three Hispanic women employed by the Clifton Police Department and there are only six women employed in entirety by the Clifton Police Department.

21. The alleged conduct of the defendant, CLIFTON POLICE DEPARTMENT, was part and parcel of a culture within said Department which has existed over a significant number of years and has gone unabated and has been the subject of other complaints and/or lawsuits.

22. Defendants, CITY OF CLIFTON and CLIFTON POLICE DEPARTMENT, are responsible for the conduct of defendant, DARREN BRODIE, and others.

WHEREFORE, plaintiff, JESSENIA LEVY, hereby demands judgment for damages against the defendants, CITY OF CLIFTON, a municipal corporation of the State of New Jersey, CLIFTON POLICE DEPARTMENT and DARREN BRODIE, individually, jointly and severally, for (1) compensatory damages, (2) punitive damages, (3) interest, (4) attorneys' fees and costs of suit on the First Count.

SECOND COUNT

1. Plaintiff, JESSENIA LEVY, repeats and re-alleges each and every allegation contained in the First Count.

2. As a result of the sexual and gender harassment aforesaid, plaintiff properly and dutifully notified appropriate representatives of the City of Clifton and the Clifton Police Department regarding the behavior of the defendant, DARREN BRODIE.

3. Following the appropriate, timely and proper notice of the plaintiff to various officials, representatives of the CITY OF CLIFTON and the CLIFTON POLICE DEPARTMENT failed to properly or adequately take effective action to eliminate and/or correct the hostile work environment of the plaintiff as required by the policy of the defendants.

4. In addition thereto, following plaintiff's notification to said officials, plaintiff's work environment deteriorated in retaliation for and as a result of said complaints and because of defendants' failure to take proper and corrective action.

WHEREFORE, plaintiff, JESSENIA LEVY, hereby demands judgment for damages against the defendants, CITY OF CLIFTON, a municipal corporation of the State of New Jersey, CLIFTON POLICE DEPARTMENT and DARREN BRODIE, individually, jointly and severally, for (1) compensatory damages, (2) punitive damages, (3) interest, (4) attorneys' fees and costs of suit on the Second Count.

THIRD COUNT
RETALIATION

1. Plaintiff, JESSENIA LEVY, repeats and re-alleges each and every allegation contained in the First and Second Counts.

2. As a result of the sexual and gender harassment aforesaid, plaintiff properly and dutifully notified appropriate representatives of defendants, CITY OF CLIFTON and CLIFTON POLICE DEPARTMENT, regarding the behavior of the defendant, DARREN BRODIE.

3. Following the appropriate, timely and proper notice of the plaintiff to various officials, representatives of defendants, CITY OF CLIFTON and CLIFTON POLICE DEPARTMENT, failed to properly or adequately take effective action to eliminate and/or correct the hostile work environment of the plaintiff as required by the policy of the defendants.

4. In addition thereto, following plaintiff's notification to said officials, plaintiff's work environment deteriorated further, which action on the part of defendants constituted a retaliation as a result of said complaints and because of defendants' failure to take proper and corrective action.

WHEREFORE, plaintiff, JESSENIA LEVY, hereby demands judgment for damages against the defendants, CITY OF CLIFTON, a municipal corporation of the State of New Jersey, CLIFTON POLICE DEPARTMENT and DARREN BRODIE, individually, jointly and severally, for (1) compensatory damages, (2) punitive damages, (3) interest, (4) attorneys' fees and costs of suit on the Third Count.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands trial by jury on all of the above issues.

THE EPSTEIN LAW FIRM, P.A.
Attorneys for Plaintiff

/s/ Barry D. Epstein
BY: _____
BARRY D. EPSTEIN

Dated: June 22, 2018

CERTIFICATION

I hereby certify that, pursuant to Rule 4:5-1: (1) the within matter in controversy is not the subject of any other action pending in any other court or arbitration; (2) no other action or arbitration proceeding is contemplated; and (3) no other necessary party to be joined in the subject litigation is presently known.

/s/ Barry D. Epstein

BARRY D. EPSTEIN

Dated: June 22, 2018

PASHMAN STEIN WALDER HAYDEN

A Professional Corporation
 Court Plaza South
 21 Main Street, Suite 200
 Hackensack, NJ 07601
 (201) 488-8200
 CJ GRIFFIN (#031422009)

Attorneys for Plaintiff,
Darren Kester

DARREN KESTER,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION: PASSAIC COUNTY
Plaintiff,	:	
	:	DOCKET NO.:
v.	:	
	:	
CITY OF CLIFTON and NANCY FERRIGNO in	:	<u>Civil Action</u>
her official capacity as records custodian for the	:	
City of Clifton,	:	VERIFIED COMPLAINT
	:	
Defendants.	:	
	:	

Plaintiff, Darren Kester, through his undersigned counsel, Pashman Stein Walder Hayden, A Professional Corporation, complains against the Defendants as follows:

1. This is an action alleging violation of the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1, *et seq.*, (“OPRA”) and the common law right of access to public records, seeking government records from the City of Clifton.

PARTIES

2. Plaintiff Darren Kester resides in Clifton, New Jersey.

3. Defendant City of Clifton (“Clifton”) is a public agency formed under the laws of New Jersey, with its primary place of business at 900 Clifton Avenue, Clifton, New Jersey, 07013.

4. Defendant Nancy Ferrigno is the City Clerk and statutory Custodian of Records for Defendant Clifton. The Custodian maintains an office at 900 Clifton Avenue, Clifton, New Jersey, 07013.

5. Defendant Clifton “ma[kes], maintain[s] or ke[eps] on file,” or “receive[s] in the course of . . . its official business” government records, and is thereby subject to the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 to -13.

VENUE & JURISDICTION

6. Venue is properly laid in Passaic County because Defendant Clifton is located in Passaic County and because the cause of action arose in Passaic County.

7. The Superior Court of New Jersey, Passaic County, has subject matter jurisdiction pursuant to N.J.S.A. 47:1A-6.

FACTUAL ALLEGATIONS

8. Plaintiff is a resident of Clifton, New Jersey and a Lieutenant in the Clifton Police Department.

9. Plaintiff is aware that Police Chief Mark Centurione sent an email to Captain Christopher Stabile on May 31, 2019 regarding Plaintiff.

10. Captain Stabile, who is Plaintiff’s direct boss, told him that Chief Centurione sent him an email about Plaintiff and told him that the email called Plaintiff “borderline insubordinate” and said that some of Plaintiff’s suggestions regarding the reassignment of an employee “farcical.” The email also contained a list of tasks that fell within Plaintiff’s responsibility.

11. Captain Stabile would not disclose to Plaintiff, but he did copy portions of it to a new email and sent that to Plaintiff.

12. On June 4, 2019, Plaintiff filed an OPRA request with Clifton seeking:

I seek all emails from Clifton Police Chief Mark Centurione to Clifton Police Captain Christopher Stabile on May 31, 2019 regarding Lt. Kester.

I seek all emails from Clifton Police Captain Christopher Stabile to Clifton Police Chief Mark Centurione on May 31, 2019 regarding Lt. Kester.

Pursuant to NJSA 47:1A-10, you have my consent to release this personnel record to me.

Search the City of Clifton's servers and private email accounts.

[Attached hereto as **Exhibit A** is a true and accurate copy of Plaintiff's June 4, 2019 OPRA request.]

13. After taking two extensions of time, Clifton denied Plaintiff's request on June 24, 2019. Specifically, Clifton stated:

Please be advised that the documents set forth below are exempt from disclosure under the deliberative process exemption enumerated in N.J.S.A. 47:1A-1.1 and also the personnel exemption enumerated in N.J.S.A. 47:1A-10.

N.J.S.A. 47:1A-1.1 exempts from the definition of "government record" documentary information that constitutes "inter-agency or intra-agency advisory, consultative, or deliberative material." The deliberative process privilege "permits the government to withhold documents that reflect advisory opinions, recommendations, and deliberations comprising part of a process by which governmental decisions and policies are formulated." *Educ. Law Ctr. v. New Jersey Dep't of Educ.*, 198 N.J. 274, 285 (2009). Moreover, with the exception of an individual's name, title, position, salary, payroll record, length of service, date of separation and the reason therefore, and the amount and type of any pension received, N.J.S.A. 47:1A-10 provides that personnel records and records relating to any grievances shall not be considered government records and shall not be made available for public access. Documents falling within these exemption categories include the following:

* All emails from Clifton Police Chief Mark Centurione to Clifton Police Captain Christopher Stabile on May 31, 2019 regarding Lt. Kester.

* All emails from Clifton Police Captain Christopher Stabile to Clifton Police Chief Mark Centurione on May 31, 2019 regarding Lt. Kester.

I note that while you waived your right to confidentiality under the personnel records exemption, that waiver is inapplicable to the deliberative process exemption. In addition, you cannot authorize the release of personnel records that relate to other employees.

Your request for disclosure under the common law right of access is also denied as the City's interest in non-disclosure clearly outweighs your interest in disclosure. The request seeks documentation that relates to the decision making process of the Police Department regarding administrative policy and personnel issues. It also seeks documentation that relates to grievances that were filed against City employees, disciplinary proceedings involving City employees, and matters that may result in litigation.

[Attached hereto as **Exhibit B** is a true and accurate copy of Clifton's OPRA denial letter.]

14. The requested email(s) contain no information that is pre-decisional or deliberative, or that relates to the formulation of policy. They are not advisory, consultative, or deliberative and, even if such privilege could apply, it was waived when Captain Stabile told Plaintiff what Chief Centurione's email said and sent him portions of it.

15. The requested records are email(s) criticizing Plaintiff and discussing his job duties. Pursuant to Section 10 of OPRA, he has a statutory right to obtain his own personnel records.

16. Further, the email(s) at issue are not the personnel records of any other employee and contain no information beyond what Plaintiff already knows as a supervisor in the Clifton Police Department who was making personnel decisions regarding the reassignment of the employee. Even if confidential information about another employee was discussed, such information could be redacted.

17. As of the date of this filing, Clifton has not produced the requested email(s).

FIRST COUNT
(Violation of OPRA)

18. Plaintiff repeats and incorporates by reference the allegations set forth in the preceding paragraphs as through fully set forth at length herein.

19. Pursuant to N.J.S.A. 47:1A-1, all government records must be “readily accessible” to the public unless specifically exempted by law.

20. The documents requested by Plaintiff are government records because they were “made, maintained or kept on file,” or “received in the course of . . . [Clifton’s] official business.” N.J.S.A. 47:1A-1.1.

21. The requested email(s) are Plaintiff’s personnel records and he has a right to access them. N.J.S.A. 47:1A-10.

22. The requested email(s) are not subject to the advisory, deliberative, or consultative privilege and, even if they were, that privilege has been waived.

23. The requested email(s) do not contain any personnel information about another employee other than that which Plaintiff is already aware of due to his role in the personnel decision-making regarding that employee.

24. If the emails contained personnel information about another employee that is not already known to Plaintiff and should not be known by Plaintiff, then that information should have been redacted so that Plaintiff could access the remainder of the record. N.J.S.A. 47:1A-5.

25. Accordingly, Defendants have violated OPRA by:

- a. Failing to make government records “readily accessible,” in violation of N.J.S.A. 47:1A-1;

- b. Failing to provide access to the requested public records “as soon as possible, but not later than seven business days after receiving the request,” in violation of N.J.S.A. 47:1A-5(i);
- c. Failing to prove that the denial of access is authorized by law, in violation of N.J.S.A. 47:1A-6; and
- d. Failing to grant access to portions of government records that are not exempt, in violation of N.J.S.A. 47:1A-5.

WHEREFORE, Plaintiff demands judgment against Defendants:

- (a) Declaring said actions of Defendants to be in violation of OPRA, N.J.S.A. 47:1A-1 et seq. for failing to grant access to the requested records, as required by OPRA;
- (b) Directing Defendants to release the requested records to Plaintiffs forthwith, with redactions if lawful;
- (c) Ordering Defendants to preserve the requested records pending resolution of these proceedings or as otherwise required by law;
- (d) Awarding counsel fees and costs pursuant to N.J.S.A. 47:1A-6; and
- (e) For such other relief as the Court may deem just and equitable.

SECOND COUNT
(Common Law Right of Access)

26. Plaintiff repeats and incorporates by reference the allegations set forth in the preceding paragraphs as though fully set forth at length herein.

27. Plaintiff has a right to review his own personnel records and emails by his superior that criticizes him.

28. Plaintiff's need for access to the requested records is greater than Defendants' need for secrecy.

29. Defendants' failure to disclose the requested records violated Plaintiff's common law right of access to public records.

WHEREFORE, Plaintiff demands judgment against Defendants:

- (a) Declaring said actions of Defendants to be unlawful and invalid;
- (b) Directing Defendants to release the requested records to Plaintiff forthwith;
- (c) Awarding counsel fees and costs; and
- (d) Granting such other relief as the Court may deem just and equitable.

PASHMAN STEIN WALDER HAYDEN
A Professional Corporation,
Attorneys for Plaintiff,
Darren Kester

Dated: July 15, 2019

By: /s CJ GRIFFIN

CERTIFICATION PURSUANT TO R. 4:5-1

Plaintiff, by his attorney, hereby certifies that the matter in controversy is not the subject of any other action pending in any Court and is likewise not the subject of any pending arbitration proceeding. Plaintiff further certifies that he has no knowledge of any contemplated action or arbitration regarding the subject matter of this action and that Plaintiff is not aware of any other parties who should be joined in this action.

PASHMAN STEIN WALDER HAYDEN
A Professional Corporation,
Attorneys for Plaintiff,
Darren Kester

Dated: July 15, 2019

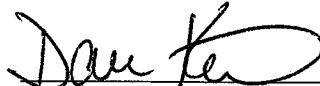
By: /s CJ GRIFFIN

VERIFICATION

I, Darren Kester, of full age, deposes and say:

1. I am a citizen of the State of New Jersey, Plaintiff in the foregoing Verified Complaint.
2. The allegations of the Verified Complaint above are true. The said Verified Complaint is made in truth and good faith and without collusion, for the causes set forth herein.
3. All documents attached to the Verified Complaint and Brief are true copies and have not been redacted, changed, modified, adjusted or otherwise altered in any manner by me or my agents unless so stated.

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.



Darren Kester

Dated: July 11, 2019

EXHIBIT A



CITY OF CLIFTON
OPEN PUBLIC RECORDS ACT REQUEST FORM
 900 CLIFTON AVE. CLIFTON, NJ 07013
 Telephone: 973-470-5829 Fax: 973-470-5264
 OPRA@CLIFTONNJ.ORG



Important Notice

The last page of this form contains important information related to your rights concerning government records. Please read it carefully.

Requestor Information – Please Print

First Name Darren MI _____ Last Name Kester

E-mail Address kester.darren@yahoo.com

Mailing Address _____

City _____ State _____ Zip _____

Telephone _____ FAX _____

Preferred Delivery: Pick Up ☐ US Mail ☐ On-Site Inspect ☐ Fax ☐ E-mail ☒

If you are requesting records containing personal information, please circle one: Under penalty of N.J.S.A. 2C:28-3, I certify that I **HAVE / HAVE NOT** been convicted of any indictable offense under the laws of New Jersey, any other state, or the United States.

Signature Darren Kester

Date June 4, 2019

Payment Information

Maximum Authorization Cost \$ _____

Select Payment Method

Cash ☐ Check ☐ Money Order ☐

Fees: Letter size pages - \$0.05 per page
 Legal size pages - \$0.07 per page
 Other materials (CD, DVD, etc) – actual cost of material
 Delivery: Delivery / postage fees additional depending upon delivery type.

Extras: Special service charge dependent upon request.

Record Request Information: Please be as specific as possible in describing the records being requested. Also, please note that your preferred method of delivery will only be accommodated if the custodian has the technological means and the integrity of the records will not be jeopardized by such method of delivery.

I seek all emails from Clifton Police Chief Mark Centurione to Clifton Police Captain Christopher Stabile on May 31, 2019 regarding Lt. Kester.

I seek all emails from Clifton Police Captain Christopher Stabile to Clifton Police Chief Mark Centurione on May 31, 2019 regarding Lt. Kester.

Pursuant to NJSA 47:1A-10, you have my consent to release this personnel record to me.

Search the City of Clifton's servers and private email accounts.

Pursuant to OPRA and the common law right of access.

AGENCY USE ONLY

Est. Document Cost _____
 Est. Delivery Cost _____
 Est. Extras Cost _____
 Total Est. Cost _____
 Deposit Amount _____
 Estimated Balance _____
 Deposit Date _____

AGENCY USE ONLY

Disposition Notes
 Custodian: If any part of request cannot be delivered in seven business days, detail reasons here.

In Progress - Open _____
 Denied - Closed _____
 Filled - Closed _____
 Partial - Closed _____

AGENCY USE ONLY

Tracking Information

Tracking # _____ Total _____
 Rec'd Date _____ Deposit _____
 Ready Date _____ Balance Due _____
 Total Pages _____ Balance Paid _____

Records Provided

Custodian Signature _____

Date _____

1. All government records are subject to public access under the Open Public Records Act ("OPRA"), unless specifically exempt.
2. A request for access to a government record under OPRA must be in writing, hand-delivered, mailed, transmitted electronically, or otherwise conveyed to the appropriate custodian. N.J.S.A. 47:1A-5.g. The seven (7) business day response time does not commence until the records custodian receives the request form. If you submit the request form to any other officer or employee of the *City of Clifton*, that officer or employee must either forward the request to the appropriate custodian, or direct you to the appropriate custodian. N.J.S.A. 47:1A-5.h.
3. Requestors may submit requests anonymously. If you elect not to provide a name, address, or telephone number, or other means of contact, the custodian is not required to respond until you reappear before the custodian seeking a response to the original request.
4. The fees for duplication of a government record in printed form are listed on the front of this form. We will notify you of any special service charges or other additional charges authorized by State law or regulation before processing your request. Payment shall be made by cash, check or money order payable to the *City of Clifton*.
5. **You may be charged a 50% or other deposit when a request for copies exceeds \$25.** The *City of Clifton* custodian will contact you and advise you of any deposit requirements. You agree to pay the balance due upon delivery of the records. Anonymous requests in excess of \$5.00 require a deposit of 100% of estimated fees.
6. Under OPRA, a custodian must deny access to a person who has been convicted of an indictable offense in New Jersey, any other state, or the United States, **and** who is seeking government records containing personal information pertaining to the person's victim or the victim's family. This includes anonymous requests for said information.
7. By law, the *City of Clifton* must notify you that it grants or denies a request for access to government records within seven (7) business days after the agency custodian of records receives the request. If the record requested is not currently available or is in storage, the custodian will advise you within seven (7) business days after receipt of the request when the record can be made available and the estimated cost for reproduction.
8. You may be denied access to a government record if your request would substantially disrupt agency operations and the custodian is unable to reach a reasonable solution with you.
9. If the *City of Clifton* is unable to comply with your request for access to a government record, the custodian will indicate the reasons for denial on the request form or other written correspondence and send you a signed and dated copy.
10. Except as otherwise provided by law or by agreement with the requester, if the agency custodian of records fails to respond to you within seven (7) business days of receiving a request, the failure to respond is a deemed denial of your request.
11. 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 *City of Clifton* 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 PO 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 Council 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.
12. Information provided on this form may be subject to disclosure under the Open Public Records Act.

EXHIBIT B

Response to OPRA Request Dated June 4, 2019

Please be advised that the documents set forth below are exempt from disclosure under the deliberative process exemption enumerated in N.J.S.A. 47:1A-1.1 and also the personnel exemption enumerated in N.J.S.A. 47:1A-10.

N.J.S.A. 47:1A-1.1 exempts from the definition of “government record” documentary information that constitutes “inter-agency or intra-agency advisory, consultative, or deliberative material.” The deliberative process privilege “permits the government to withhold documents that reflect advisory opinions, recommendations, and deliberations comprising part of a process by which governmental decisions and policies are formulated.” Educ. Law Ctr. v. New Jersey Dep’t of Educ., 198 N.J. 274, 285 (2009). Moreover, with the exception of an individual’s name, title, position, salary, payroll record, length of service, date of separation and the reason therefore, and the amount and type of any pension received, N.J.S.A. 47:1A-10 provides that personnel records and records relating to any grievances shall not be considered government records and shall not be made available for public access. Documents falling within these exemption categories include the following:

- * All emails from Clifton Police Chief Mark Centurione to Clifton Police Captain Christopher Stabile on May 31, 2019 regarding Lt. Kester.
- * All emails from Clifton Police Captain Christopher Stabile to Clifton Police Chief Mark Centurione on May 31, 2019 regarding Lt. Kester.

I note that while you waived your right to confidentiality under the personnel records exemption, that waiver is inapplicable to the deliberative process exemption. In addition, you cannot authorize the release of personnel records that relate to other employees.

Your request for disclosure under the common law right of access is also denied as the City’s interest in non-disclosure clearly outweighs your interest in disclosure. The request seeks documentation that relates to the decision making process of the Police Department regarding administrative policy and personnel issues. It also seeks documentation that relates to grievances that were filed against City employees, disciplinary proceedings involving City employees, and matters that may result in litigation.

Thomas V. Hildner, Esq. (Attorney ID #248741969)

MANDELBAUM SALSBERG, PC

3 Becker Farm Road, Suite 105

Roseland, New Jersey 07068

Telephone No. (973) 736-4600

Telecopier No. (973) 325-7467

Attorneys for Plaintiff, Angelica Luciano

ANGELICA LUCIANO,

Plaintiff,

x SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: PASSAIC COUNTY

vs.

: DOCKET NO.

THE SHANNON ROSE IRISH PUB (a/k/a

: Civil Action

THE SHANNON ROSE IRISH PUB

CLIFTON), THE DOHERTY GROUP,

INC., DOHERTY ENTERPRISES, INC.,

DONEGAL'S IRISH PUB, LLC,

DOHERTY FOOD SERVICE OF

CLIFTON, LLC, DOHERTY

MANAGEMENT SERVICES, LLC,

ROBERT MURPHY, CITY OF CLIFTON,

N.J., ROSARIO DOMICOLO, JOSEPH

SMITH (FICTITIOUS PERSON WHO

COMMITTED AN ASSAULT AND

BATTERY UPON THE PLAINTIFF AND

WHOSE TRUE IDENTITY IS

PRESENTLY UNKNOWN), JOHN DOES

I – V and JOHN ROES I – V,

(FICTITIOUS PERSONS WHOSE TRUE

IDENTITY IS PRESENTLY UNKNOWN),

ABC CORP. I-V (FICTITIOUS ENTITIES

WHOSE TRUE IDENTITY IS

PRESENTLY UNKNOWN)

Defendants. x

Plaintiff, Angelica Luciano, residing at 32 Fremont Street, Bloomfield, Essex County, New

Jersey, by way of Complaint against the Defendants, says:

THE PARTIES

1. The Shannon Rose Irish Pub, (a/k/a/ The Shannon Rose Irish Pub Clifton) ("Shannon Rose") is a restaurant and tavern located at 98 Kingsland Road, Clifton, New Jersey (the "Premises" or "Establishment").
2. The Doherty Group, Inc. is a Florida corporation with its principal place of business located at 7 Pearl Court, Allendale, New Jersey.
3. Doherty Enterprises, Inc. is a New Jersey corporation with its principal place of business located at 7 Pearl Court, Allendale, New Jersey.
4. Donegal's Irish Pub, LLC is a New Jersey Domestic Limited Liability Company, located at 7 Pearl Court, Allendale, New Jersey.
5. Doherty Food Service of Clifton, LLC is a New Jersey Domestic Limited Liability Company located at 7 Pearl Court, Allendale, New Jersey.
6. Doherty Management Services, LLC is a New Jersey Limited Liability Company located at 7 Pearl Court, Allendale, New Jersey.
7. At all times mentioned herein, Shannon Rose was a licensed alcohol beverage server owned by the defendants, The Doherty Group, Inc., Doherty Enterprises, Inc., Donegal's Irish Pub, LLC, Doherty Food Service of Clifton, LLC, and/or Doherty Management Services, LLC (designated collectively herein as the "Doherty Defendants"). Upon information and belief, Doherty Food Service is the owner of the Shannon Rose's liquor license.
8. At all times mentioned herein, the Doherty Defendants owned, leased, occupied, operated, managed, inspected, controlled and/or maintained the Establishment.

9. At all times mentioned herein, the defendant, Robert Murphy ("Murphy"), was employed at Shannon Rose by the Doherty Defendants and/or ABC Corp. I – V, as a member of the Shannon Rose's security personnel.

10. At all times mentioned herein, the Doherty Defendants and/or ABC Corp. I – V, were vicariously liable for the negligent acts and omissions of their actual and apparent agents, servants and employees, including but not limited to defendant Murphy, as alleged herein.

11. The defendant Joseph Smith ("Smith") is a fictitious person whose true identity is presently unknown; Smith was a customer of Shannon Rose on March 18, 2016, and committed an aggravated assault and battery upon the plaintiff inside the Establishment, as alleged herein.

12. The City of Clifton is a municipal corporation organized under the laws of the State of New Jersey.

13. At all times mentioned herein, the defendant, Rosario Domicolo ("Domicolo"), was a member of the City of Clifton Police Department and was employed as a police officer by the City of Clifton. The City of Clifton is vicariously liable for the negligent acts and omissions committed by defendant Domicolo and its other agents, servants and employees.

14. Defendants John Does I - V are fictitious persons whose true identity is presently unknown and who were employed at all times mentioned herein by one or more of the Doherty Defendants, and/or ABC Corp. I – V, as bouncers, members of the Shannon Rose security staff, bartenders, or in other capacities at Shannon Rose.

15. Defendants John Roes I – V are employees and members of the Clifton Police Department whose true identity is presently unknown and who were on duty in the area of the Shannon Rose at all times mentioned herein.

16. The defendants ABC Corp. I-V are fictitious entities whose true identity is presently unknown and who at all times mentioned herein employed and/or were responsible for training, supervising and controlling Robert Murphy, the security personnel, the bouncers, the bartenders and/or other personnel employed at the Shannon Rose.

FIRST COUNT

17. At all times mentioned herein, the Doherty Defendants held themselves out to the public as individuals and/or entities which sought the patronage of the public and invited the public to the premises of the Shannon Rose.

18. At all times mentioned herein, The Doherty Defendants were individually and jointly responsible, as owners, lessees, occupants, operators and/or managers of Shannon Rose to make the Establishment safe for use by the customers and invitees of Shannon Rose.

19. On March 18, 2016, the plaintiff, Angelica Luciano, was present in the Establishment as a customer and business invitee of the Shannon Rose.

20. At approximately 1:00 a.m., the defendant, Robert Murphy, acting in the course of his employment at the Shannon Rose and within his authority, confronted Joseph Smith, who was in an intoxicated state, in a negligent and reckless manner, and during the course of this confrontation, Joseph Smith threw a bottle or other glass object at defendant Murphy which shattered and struck the plaintiff in her face, causing her to sustain facial lacerations resulting in permanent facial scarring, and other injuries.

21. Following this incident, Smith was ejected from the Establishment by Murphy and/or John Does I - V, security or other employees of the Doherty Defendants and/or ABC Corp. I - V, without obtaining any identification establishing Smith's true identity. Furthermore, said

defendants negligently failed to timely advise Police Officer Domicolo and or John Roes I – V, other members of the City of Clifton Police Department who were on duty in the area of the Shannon Rose, that Smith had committed an assault and battery upon the plaintiff, as a result of which, Joseph Smith was permitted to leave the Establishment and the area without ever being identified and without being apprehended.

22. Specifically, the Doherty Defendants, and/or ABC Corp. I – V, acting through their actual and apparent agents, servants and employees, included but not limited to defendants Murphy and John Does I-V, were negligent, inter alia, in the following manner:

- a. they created a dangerous condition in the Establishment;
- b. they violated their duty of reasonable care owed to their patrons and invitees in the Establishment to provide a reasonably safe place to do that which is within the scope of their invitation;
- c. they failed to have adequate and proper policies, procedures, rules and/or regulations in place regarding how to approach a patron who is acting improperly toward other patrons and invitees of the Establishment;
- d. they failed to employ an adequate number of properly trained security guards and/or personnel knowledgeable in the means and methods of addressing unruly or intoxicated patrons of the Establishment;
- e. they failed to adequately train and supervise their employees and/or contractors with respect to appropriate security practices;
- f. they failed to protect the plaintiff from the foreseeable physical harm caused by harmful acts of Joseph Smith;

- g. they failed to properly approach, communicate with and control Joseph Smith under the circumstances then existing;
- h. they created an unnecessary, physical confrontation with Joseph Smith resulting in his actions which injured the plaintiff;
- i. they failed to obtain the information necessary to identify Smith after he assaulted the plaintiff leaving the plaintiff without a remedy against Smith;
- j. they violated N.J.A.C 13: 2 – 23.6 in that they allowed, permitted or suffered on the licensed premises an act of violence and failed in their duty to protect their patrons in the licensed Premises;
- k. they failed to properly summon law enforcement personnel both to assist in controlling Smith's behavior inside the Establishment and in obtaining his identity after he committed an aggravated assault and battery upon the plaintiff.

23. The defendants Robert Murphy and John Does I – V were negligent, inter alia, in the following manner:

- a. they created a dangerous condition within the Establishment;
- b. they failed to protect the plaintiff from physical harm caused by the foreseeable harmful acts of Joseph Smith;
- c. they failed to properly approach and communicate with Joseph Smith under the circumstances then existing, enhancing the risk that he would cause physical harm to the plaintiff and others;
- d. they created an unnecessary physical confrontation with Joseph Smith resulting in his actions which injured the plaintiff;

- e. they failed to obtain the information necessary to identify Smith after he assaulted the plaintiff before ejecting him from the Establishment, leaving the plaintiff without a remedy against Smith;
- f. they failed to properly summon law enforcement personnel both to assist in controlling Smith's behavior inside the Premises and in obtaining his identity after he committed an assault and battery upon the plaintiff, leaving the plaintiff without remedy against Smith.

24. As a direct and proximate result of the negligence of the Doherty Defendants, Robert Murphy, John Does I – V and ABC Corp I - V, individually and jointly, the plaintiff, Angelica Luciano, sustained multiple, severe and permanent bodily and other injuries; severe anxiety and emotional distress; permanent facial scarring; great pain and suffering; has incurred and will in the future incur medical and other expenses in excess of \$19,000; has been and will in the future be compelled to refrain from normal pursuits as a result of the injuries she sustained; has suffered a loss of enjoyment of life; and will in the future continue to experience great pain and suffering, severe anxiety and emotional distress; loss of enjoyment of life; and further will in the future be forced to expend money for continuing medical care for her injuries.

WHEREFORE, the plaintiff, Angelica Luciano, demands judgment against the defendants The Shannon Rose Irish Pub (a/k/a The Shannon Rose Irish Pub Clifton), The Doherty, Group, Inc., Doherty Enterprises, Inc., Donegal's Irish Pub, LLC, Doherty Food Service of Clifton, LLC, Doherty Management Services, LLC, Robert Murphy, Joseph Smith, John Does I - V, and ABC Corp. I – V, individually and jointly, for damages, together with interest, costs of suit and attorney's fees.

SECOND COUNT

25. Plaintiff, Angelica Luciano, incorporates by reference each and every allegation of the First Count of this Complaint as if fully set forth herein at length.

26. On March 18, 2016, the Shannon Rose was a licensed alcoholic beverage server under a license owned by the defendant Doherty Food Service of Clifton, LLC and/or one of the other Doherty Defendants.

27. The Doherty Defendants, and/or ABC Corp. I – V, acting through their agents, servants and employees, were negligent by serving and/or permitting to be served alcoholic beverages to the defendant, Joseph Smith, while he was visibly intoxicated. The violent behavior of defendant, Joseph Smith, alleged herein, was a foreseeable consequence of the service of alcoholic beverages to him in his intoxicated state.

28. As a direct and proximate result of the negligence of the Doherty Defendants, and/or ABC Corp. I – V, acting through their agents, servants and employees, the plaintiff, Angelica Luciano, sustained multiple, severe and permanent bodily injuries; severe emotional anxiety and distress; permanent facial scarring; great pain and suffering; has incurred and will in the future incur medical and other related expenses in excess of \$19,000; has been and will in the future be compelled to refrain from normal pursuits as a result of the injuries she sustained; has suffered a loss of enjoyment of life; and will in the future continue to experience great pain and suffering, emotional distress; loss of enjoyment of life; and further will in the future be forced to expend money for continuing medical care for her injuries.

WHEREFORE, the plaintiff, Angelica Luciano, demands judgment against the defendants The Shannon Rose Irish Pub (a/k/a The Shannon Rose Irish Pub Clifton), The Doherty, Group, Inc., Doherty Enterprises, Inc., Donegal's Irish Pub, LLC, Doherty Food Service of Clifton,

LLC, Doherty Management Services, LLC, Robert Murphy, Joseph Smith, John Does I - V, and ABC Corp. I-V, individually and jointly, for damages, together with interest, costs of suit and attorney's fees.

THIRD COUNT

29. Plaintiff, Angelica Luciano, incorporates by reference each and every allegation of the First Count and Second Counts of this Complaint as if fully set forth herein at length.

30. On March 18, 2016, the defendants, Police Officer Rosario Domicolo and John Roes I – V, (other members of the Clifton Police Department) were on duty in the vicinity of the Shannon Rose and acting within the scope of their employment and authority.

31. On information and belief, the Doherty Defendants are alleging the assault and battery by defendant Joseph Smith upon the plaintiff was reported to Officer Domicolo and/or other members of the Clifton Police Department at or before the time defendant Joseph Smith was ejected from the Establishment and/or before he left the scene.

32. Officer Domicolo and/or John Roes I – V, despite being advised of the unlawful wrongful conduct of Joseph Smith, permitted Joseph Smith to leave the scene without questioning him and obtaining his identity, and as a result his true identity cannot be ascertained and the plaintiff has been deprived of her remedy against him.

33. Officer Domicolo and/or John Roes I – V were negligent, inter alia, in that he/they:
- a. breached their ministerial duty and obligation to properly investigate the assault and battery committed by Joseph Smith upon the plaintiff;
 - b. failed to question and properly identify Joseph Smith despite their knowledge that he had allegedly committed a serious criminal offense;

c. permitted Joseph Smith to leave the area of the Shannon Rose without ever questioning him or obtaining his proper identification;

34. The aforesaid obligations of the defendants, Officer Rosario Domicolo and John Roes I – V, were ministerial in nature and are not subject to immunity under the provisions of the New Jersey Tort Claims Act N.J.S.A. 59:1 – 1 et seq.

35. The negligent acts and omissions of Officer Domicolo and John Roes I – V alleged herein were palpably unreasonable.

36. Defendant City of Clifton is vicariously liable for the negligent acts and omissions of Officer Domicolo and John Roes I – V.

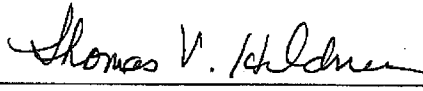
37. Plaintiff has timely filed an appropriate notice of claim with the City of Clifton and more than six months have elapsed since it was filed. Clifton has denied any liability to the plaintiff.

38. As a direct and proximate result of the negligent acts and omissions of the City of Clifton, Officer Rosario Domicolo and John Roes I – V, the plaintiff has been denied any remedy against defendant Joseph Smith for the permanent injuries and damages she sustained as a result of his assault and battery upon her as alleged herein.

WHEREFORE, the plaintiff, Angelica Luciano, demands judgment against the defendants, City of Clifton, N.J., Officer Rosario Domicolo and John Does I – V, individually and jointly, for damages, together with interest, costs of suit and attorney's fees

MANDELBAUM SALSBERG, PC
Attorneys for Plaintiff, Angelica Luciano

Date: March 15, 2018

By: 
THOMAS V. HILDNER

DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Thomas V. Hildner, Esquire, as her trial counsel in this matter pursuant to Rule 4:25-4.

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all issues in the within action.

DEMAND FOR ANSWERS TO INTERROGATORIES

Plaintiff demands that defendants timely answer Form C Uniform Interrogatories in accordance with R. 4:17-1.

NOTICE PURSUANT TO RULE 4:17-4(c)

Please take notice that the undersigned attorneys, counsel for plaintiff, do hereby demand, pursuant to Rule 4:17-4(c), that each party herein, serving pleadings and interrogatories and receiving answers thereto, serve copies of all such pleadings and answered interrogatories received from any party, including any documents, papers and other material referred to therein, upon the undersigned attorneys. Please take notice that this is a continuing demand.

CERTIFICATION

I certify, pursuant to *R. 4:5-1*, that to our knowledge and based upon the information available to us at this time, the matter in controversy is not the subject of any other action pending in any other Court or of pending arbitration proceedings and that no additional parties are known at this time who should be joined in the 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.

MANDELBAUM SALSBURG P.C.
Attorneys for Plaintiff, Angelica Luciano

By: Thomas V. Hildner
THOMAS V. HILDNER

Dated: March 15, 2018

LAW OFFICES OF GEORGE CHRISTOPOULOS, P.C.
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gchristopoulos@thegclawfirm.com
George Christopoulos, Esq. (ID No. 009232001)
Attorneys for Plaintiff(s)

HEILY DIAZ A MINOR BY HER
GUARDIAN AD LITEM TULIO DIAZ

Plaintiffs,

SUPERIOR COURT OF NEW JERSEY
PASSAIC COUNTY
LAW DIVISION

Docket No. PAS-L-

v.

MILDRED DIAZ, WILFREDO
VALENTIN, CITY OF CLIFTON, CITY
OF CLIFTON POLICE DEPARTMENT,
COUNTY OF PASSAIC, STATE OF
NEW JERSEY and JOHN DOE (1-10) a
person, corporation, sole proprietorship,
partnership, limited liability company,
and/or limited liability partnership whose
identity is presently unknown, jointly and
severally together with interest and costs
of suit.

CIVIL ACTION

Defendants,

COMPLAINT AND JURY DEMAND

The Plaintiff(s), HEILY DIAZ, A MINOR BY HER GUARDIAN AD LITEM
TULIO DIAZ residing in the City of Clifton, Passaic County, New Jersey by way of
Complaint against the Defendant(s), MILDRED DIAZ, WILFREDO VALENTIN, CITY OF
CLIFTON, CITY OF CLIFTON POLICE DEPARTMENT, COUNTY OF PASSAIC,
STATE OF NEW JERSEY and JOHN DOE (1-10) a person, corporation, sole proprietorship,
partnership, limited liability company, and/or limited liability partnership whose identity is
presently unknown, jointly and severally together with interest and cost of suit, say:

FIRST COUNT

1. The Plaintiff, HEILY DIAZ, resides in the City of Clifton, Passaic County, New Jersey.

2. Upon information and belief, Defendant, MILDRED DIAZ, resides in the City of Clifton, Passaic County, New Jersey.

3. Upon information and belief, Defendant, WILFREDO VALENTIN, resides in the City of Clifton, Passaic County, New Jersey.

4. Upon information and belief, at all times mentioned herein, Defendant(s), WILFREDO VALENTIN, was an employee, agent and/or servant of the Defendant, CITY OF CLIFTON, performing his/her usual and customary duties.

5. Upon information and belief, at all times mentioned herein, Defendant(s), WILFREDO VALENTIN, was an employee, agent and/or servant of the Defendant, CITY OF CLIFTON POLICE DEPARTMENT, performing his/her usual and customary duties.

6. Upon information and belief, at all times mentioned herein, Defendant(s), WILFREDO VALENTIN, was an employee, agent and/or servant of the Defendant, COUNTY OF PASSAIC, performing his/her usual and customary duties.

7. Upon information and belief, at all times mentioned herein, Defendant(s), WILFREDO VALENTIN, was an employee, agent and/or servant of the Defendant, STATE OF NEW JERSEY, performing his/her usual and customary duties.

8. Upon information and belief, Defendant, JOHN DOE (1-10), a person, corporation, sole proprietorship, partnership, limited liability company, and/or limited liability partnership whose identity is unknown, is an entity that owned or caused to be operated any vehicle that contributed, either directly or indirectly, to the injuries sustained by Plaintiff as a result of an

automobile accident occurring on or about March 19, 2017, and/or is an entity potentially liable that is related in any way whatsoever to Plaintiff, a defendant, and/or John Doe.

9. On or about the 19th day of March 2017, the Plaintiff, HEILY DIAZ, A MINOR BY HER GUARDIAN AD LITEM TULIO DIAZ, was a passenger in a motor vehicle owned and operated by Defendant, MILDRED DIAZ, traveling westbound on Washington Avenue in the City of Clifton, Passaic County, New Jersey at or near the intersection of Washington Avenue and Main Avenue driving through a green traffic light at the aforesaid intersection.

10. At the time and place aforesaid, the Defendant, WILFREDO VALENTIN was the operator of a motor vehicle owned by the Co-Defendant(s), CITY OF CLIFTON, CITY OF CLIFTON POLICE DEPARTMENT, COUNTY OF PASSAIC, and/or STATE OF NEW JERSEY, traveling southbound on Main Avenue in the City of Clifton, Passaic County, New Jersey, at or near the intersection of Main Avenue and Washington Avenue driving through a red traffic light at the aforesaid intersection.

11. That at all times mentioned herein, Defendant, WILFREDO VALENTIN, was an employee, agent and/or servant of the Defendant(s), CITY OF CLIFTON, CITY OF CLIFTON POLICE DEPARTMENT, COUTNY OF PASSAIC, and/or STATE OF NEW JERSEY, performing his/her usual and customary duties, and acting in his/her capacity thereof.

12. That at the above time and place aforesaid, Defendants, WILFREDO VALENTIN and JOHN DOE (1-10), a person, corporation, sole proprietorship, partnership, limited liability company, and/or limited liability partnership whose identity is unknown, who was operating the said vehicle as am agent, employee, servant of the Defendants, CITY OF CLIFTON, CITY OF CLIFTON POLICE DEPARTMENT, COUNTY OF PASSAIC, and/or

STATE OF NEW JERSEY, failed to keep their respective vehicles under reasonable and proper control and so carelessly, grossly negligently, palpably unreasonably, recklessly, intentionally and negligently operated their vehicles, among other things, failing to obey traffic signals, signs, directions, rules of the road, failing to keep proper look out, failing to stop, speeding and being otherwise inattentive, during the course of his employment, agency, and/or service of the Defendant(s). CITY OF CLIFTON, CITY OF CLIFTON POLICE DEPARTMENT, COUNTY OF PASSAIC, and/or STATE OF NEW JERSEY, so as to cause their respective vehicles to violently collide with and strike the Plaintiff's vehicle.

13. At the above time and place, the Plaintiff, HEILY DIAZ, A MINOR BY HER GUARDIAN AD LITEM TULIO DIAZ, in no way contributed to the happening and cause of the aforementioned accident in that she was a passenger in a vehicle owned and operated by Defendant, MILDRED DIAZ, who was driving through a green traffic light through the intersection of Washington Avenue and Main Avenue and as Defendant, WILFREDO VALENTIN, failed to reasonably and properly control said intersection prior to entering and driving through said intersection.

14. As a direct and proximate result of the negligent, intentional, grossly negligent, palpably unreasonable, careless and reckless acts and/or omissions of Defendants, MILDRED DIAZ, WILFREDO VALENTIN, CITY OF CLIFTON, CITY OF CLIFTON POLICE DEPARTMENT, COUNTY OF PASSAIC, STATE OF NEW JERSEY and JOHN DOE (1-10), a person, corporation, sole proprietorship, partnership, limited liability company, and/or limited liability partnership whose identity is unknown, Plaintiff, HEILY DIAZ, A MINOR BY HER GUARDIAN AD LITEM TULIO DIAZ, was caused to suffer severe and permanent injuries, as more particularly defined and set forth in N.J.S.A. 39:6A-8a and has suffered great

pain, shock, and mental anguish and was, and still is, incapacitated and will be permanently disabled.

15. A Notice of Claim was served upon the Defendant, CITY OF CLIFTON, on or about April 17, 2017 via certified mail return receipt requested pursuant to N.J.S.A. 59:8-4.

16. A Notice of Claim was served upon the Defendant, CITY OF CLIFTON POLICE DEPARTMENT, on or about April 17, 2017 via certified mail return receipt requested pursuant to N.J.S.A. 59:8-4.

17. A Notice of Claim was served upon the Defendant, COUNTY OF PASSAIC, on or about April 27, 2017 via certified mail return receipt requested pursuant to N.J.S.A. 59:8-4.

18. A Notice of Claim was served upon the Defendant, STATE OF NEW JERSEY, on or about April 27, 2017 via certified mail return receipt requested pursuant to N.J.S.A. 59:8-4.

19. More than 18 months have passed since the service of Plaintiff's Notice of Claim and Plaintiff's claim remains unsatisfied.

WHEREFORE, the Plaintiff, HEILY DIAZ, A MINOR BY HER GUARDIAN AD LITEM TULIO DIAZ, demands judgment for damages against the Defendants, MILDRED DIAZ, WILFREDO VALENTIN, CITY OF CLIFTON, CITY OF CLIFTON POLICE DEPARTMENT, COUNTY OF PASSAIC, STATE OF NEW JERSEY and JOHN DOE (1-10), a person, corporation, sole proprietorship, partnership, limited liability company, and/or limited liability partnership whose identity is presently unknown, jointly and severally together with interest and costs of suit.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4 Plaintiff hereby designates George Christopoulos, Esq. as trial counsel.

PERSONAL IDENTIFIER CERTIFICATION PURSUANT TO R. 4:5-1

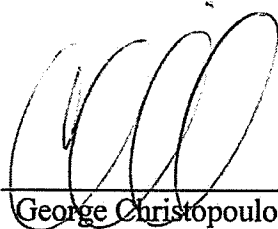
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

JURY DEMAND

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

CERTIFICATION

In accordance with Rule 4:5-1, I hereby certify that the matter in controversy is not the subject of any other action pending in any court nor of a pending arbitration proceeding and that no such action or arbitration is contemplated. I further certify that I am unaware of any other person who should be joined in this litigation whose identity I can currently ascertain. I certify that the foregoing statements made by me are true to the best of my information, knowledge and belief. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

A handwritten signature in black ink, appearing to be 'G. Christopoulos', written over a horizontal line.

George Christopoulos, Esq.
Attorney for Plaintiff(s)

DATED: January 11, 2019

Andrew Maciak, D.C.

*... healing injuries naturally
Specializing in Auto Accident Injuries*

Master Certification
in Cervical Acceleration/
Deceleration Trauma
(SRISD)

October 4, 2018

Board Certified in MUA
(American Board of
Chiropractic Specialists)

RE: DIAZ, HEILY

DOA: 03/19/2018

Fellow of the Royal
College of Chiropractic
Medicine
(Royal College of
Physicians and Surgeons
of USA)

On 8/20/18 Ms. Diaz was evaluated, in the presence of her mother, with regards to injuries arising from a motor vehicle accident of 3/19/17.

Board Certified
(American Rehabilitation
Association)

History of injury

Board Certified
(Academy of Integrative
Pain Management)

Ms. Diaz was a 14 year old female, at the time, who was a rear seat passenger of a sport utility vehicle, driven by her mother Mildred Diaz. Apparently the driver proceeded across an intersection when the light turned green but was suddenly struck by a police car, against the left side of the vehicle, causing the car to spin around several times before coming to a stop. The patient did not lose consciousness. She reports that the airbags deployed. She remembers striking the left side of her head and the left hand against the door. Her immediate pain was that of left hand, middle and index finger.

Board Certified (American
Board of Disability
Analysts)

Board Certified Forensic
Examiner (American
Board of Forensic
Examiners)

Fellow of the American
College of Forensic
Examiners

Ambulance arrived on the scene and she was taken to the emergency room at Saint Joseph Hospital. X-rays of the left hand were taken and found negative for fractures. She was prescribed ibuprofen and was subsequently released.

Board Eligible
Chiropractic Orthopedist
(NYCC)

Certified, Rating of
Physical Impairment for
Disability Evaluation
(NYCC)

The following day the patient began to experience soreness in her body, headaches and neck pain.

Certified Chiropractic
Insurance Consultant
(NYCC)

History of treatment

Certified Independent
Chiropractic Examiner
(NYCC)

The patient reports seeking an initial evaluation with her own pediatrician. She also was evaluated by an orthopedist and underwent chiropractic treatment and physical therapy. Unfortunately patient was unable to provide specific name of the pediatrician, orthopedist, or the chiropractor. She noted undergoing physical therapy in Patterson, NJ at Living Wellness Clinic. The patient also underwent psychological pain and trauma evaluation, performed by Deborah L Davis, PhD. An MRI study of the cervical spine was performed at the request of her chiropractor.

RE: DIAZ, HEILY
DOA: 03/19/2017

Page 2 of 3

Chief complaints

On 8/20/18 the patient complained of minimal neck pain and stiffness and pain in the left wrist region, which she experiences about two times per month. She also reported recently experiencing pain behind the left knee and the left ankle. The patient stated she has finished her treatment, as it relates to her motor vehicle accident of 3/19/17, approximately five months ago.

Physical examination

Range of motion of a cervical spine was found within normal limits. There was no spasm or tenderness detected upon palpation of the posterior cervical musculature. Upper extremity gross motor testing was found to be within normal limits. There were no positive findings for disc pathology and/or nerve compression. Examination of the left hand and the lower extremity was unremarkable.

Records

Unfortunately minimal amount of records was presented for my review, with the exception of the initial hospital records, MRI study of the cervical spine and psychological evaluation reports by Dr. Davis.

MRI study of the cervical spine was performed on 2/10/18 at the request of S. Hajo, DC. The reading radiologist's impression was that of C4/ C5 disc bulge with compression of anterior thecal sac and partial effacement of anterior subarachnoid space. I have not been provided with the actual disc and cannot comment on its veracity.

Based on the initial psychological a valuation, by Dr. Davis, the patient sustained a post traumatic stress disorder, with predominant features anxiety including intrusive thoughts, negative mood, avoidance symptoms and arousal symptoms.

Diagnosis

1. In my opinion the patient sustained a cervical deceleration injury (whiplash) secondary to motor vehicle crash of 3/19/17. Probable ligamentous injury.
2. C4/C5 disc injury. This injury have produced referred pain and symptoms into the upper extremity.
3. Mild Trumatic brain injury and concussion secondary to blunt force contact with side door.
4. Post concussion syndrome.

RE: DIAZ, HEILY
DOA: 03/19/2017

Page 3 of 3

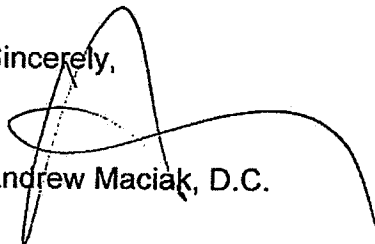
Comments and discussion

The kinematic and biomechanical effects of this collision produced a high comprehensive loading of the cervical spine combined with an element of neck extension. These forces would be consistent with disc injury and ligamentous injury in the neck. Once injured, the disc do not have the capacity to heal and continue to break down overtime. They are also significantly more susceptible to subsequent injury.

If Ms. Diaz obtains temporary relief from chiropractic care, she should avail herself of that treatment, at least on an as needed basis. In either case, my opinion is that she should not expect any improvement in her current physical condition. Her injuries are permanent and, with progression of degenerative changes, are likely only to worsen over time.

Sincerely,

Andrew Maciak, D.C.



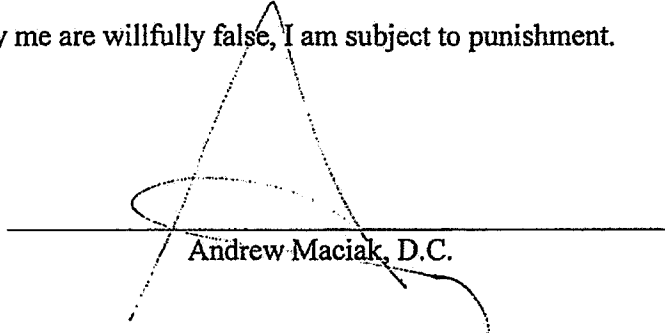
4. This certification is based upon the following objective clinical evidence:

MRI films, EMGs, as well as physical examination and findings listed in my report and records.

5. Any testing referred to above is not experimental in nature or dependent entirely upon subjective patient response.

I hereby 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.

Dated: 11/29/17



Andrew Maciak, D.C.

DeGRADO HALKOVICH, LLC
PAUL K. DEGRADO, ESQ. (019271996)
540 HUDSON STREET, 5th FLOOR
HACKENSACK, NEW JERSEY 07601
Tel: (201)-678-9007
Fax: (201)-678-2875
Attorneys for Plaintiff(s)

MILDRED DIAZ,

Plaintiff,

v.

WILFREDO VALENTIN, CITY OF CLIFTON,
CITY OF CLIFTON POLICE DEPARTMENT,
COUNTY OF PASSAIC, STATE OF NEW
JERSEY, and JOHN DOE (1-10), a person,
corporation, sole proprietorship, partnership,
limited liability company, and/or limited liability
partnership whose identity is presently unknown.

Defendant(s),

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION—PASSAIC COUNTY

Docket No. PAS-L-

CIVIL ACTION

COMPLAINT AND JURY DEMAND

The Plaintiff, MILDRED DIAZ, residing in the City of Clifton, County of Passaic, State of New Jersey, by way of Complaint against the Defendant(s), WILFREDO VALENTIN, CITY OF CLIFTON, CITY OF CLIFTON POLICE DEPARTMENT, COUNTY OF PASSAIC, STATE OF NEW JERSEY, and JOHN DOE (1-10), a person, corporation, sole proprietorship, partnership, limited liability company, and/or limited liability partnership whose identity is unknown, say:

FIRST COUNT

1. The Plaintiff, MILDRED DIAZ, resides in the City of Clifton, County of Passaic, State of New Jersey.

2. Upon information and belief, the Defendant, WILFREDO VALENTIN, resides in the City of Clifton, County of Passaic, State of New Jersey.

3. Upon information and belief, at all times mentioned herein, the Defendant(s), WILFREDO VALENTIN, was an employee, agent and/or servant of the Defendant, CITY OF CLIFTON, performing his/their usual and customary duties.

4. Upon information and belief, at all times mentioned herein, the Defendant(s), WILFREDO VALENTIN, was an employee, agent and/or servant of the Defendant, CITY OF CLIFTON POLICE DEPARTMENT, performing his usual and customary duties.

5. Upon information and belief, at all times mentioned herein, the Defendant(s), WILFREDO VALENTIN, was an employee, agent and/or servant of the Defendant, COUNTY OF PASSAIC, performing his usual and customary duties.

6. Upon information and belief, at all times mentioned herein, the Defendant(s), WILFREDO VALENTIN, was an employee, agent and/or servant of the Defendant, STATE OF NEW JERSEY, performing his usual and customary duties.

7. Upon information and belief, the Defendant, JOHN DOE (1-10), a person, corporation, sole proprietorship, partnership, limited liability company, and/or limited liability partnership whose identity is unknown, is an entity that owned or caused to be operated any vehicle that contributed, either directly or indirectly, to the injuries sustained by Plaintiff as a result of an automobile accident occurring on or about March 19, 2017, and/or is an entity potentially liable that is related in any way whatsoever to Plaintiff, a defendant, and/or John Doe.

8. On or about March 19, 2017, the Plaintiff, MILDRED DIAZ, was operating a motor vehicle traveling west on Washington Avenue, at or near the intersection of Washington Avenue and Main Avenue in the City of Clifton, County of Passaic, State of New Jersey, and proceeding

through a green light at the aforementioned intersection.

9. At the above time and place, the Defendant, WILFREDO VALENTIN, was the operator of a bus owned by the Defendant(s), CITY OF CLIFTON, CITY OF CLIFTON POLICE DEPARTMENT, COUNTY OF PASSAIC, and/or STATE OF NEW JERSEY, traveling south on Main Avenue, at or near the intersection of Main Avenue and Washington Avenue, in the City of Clifton, County of Passaic, State of New Jersey, and proceeding through a red light at the aforementioned intersection.

10. That at all times mentioned herein, the Defendant, WILFREDO VALENTIN, was an employee, agent and/or servant of the Defendant(s), CITY OF CLIFTON, CITY OF CLIFTON POLICE DEPARTMENT, COUNTY OF PASSAIC, and/or STATE OF NEW JERSEY, performing his usual and customary duties, and acting in his capacity thereof.

11. That at the above time and place, the Defendants, WILFREDO VALENTIN, and JOHN DOE (1-10), a person, corporation, sole proprietorship, partnership, limited liability company, and/or limited liability partnership whose identity is unknown, who was operating the said vehicle as an agent, employee, servant, of the Defendants, CITY OF CLIFTON, CITY OF CLIFTON POLICE DEPARTMENT, COUNTY OF PASSAIC, and/or STATE OF NEW JERSEY, failed to keep their respective vehicles under reasonable and proper control and so carelessly, recklessly, grossly negligently, intentionally, and negligently operated their vehicles, among other things, by failing obey traffic signals, signs, directions, rules of the road, failing to keep proper look out, failing to stop, speeding and being otherwise inattentive, during the course of his employment, agency, and/or service of the Defendant(s), CITY OF CLIFTON, CITY OF CLIFTON POLICE DEPARTMENT, COUNTY OF PASSAIC, and/or STATE OF NEW JERSEY, so as to cause their respective vehicles

to violently collide with and strike the Plaintiff's vehicle.

12. At the above time and place, the Plaintiff, MILDRED DIAZ in no way contributed to the happening and cause of the aforementioned accident in that she had the right of way as she was traveling through the intersection of Washington Avenue and Main Avenue, and insofar as Defendant, WILFREDO VALENTIN, failed to reasonably and properly control said intersection prior to entering same.

13. As a direct and proximate result of the negligent, intentional, grossly negligent, palpably unreasonable, careless and reckless acts and/or omissions of Defendants, WILFREDO VALENTIN, CITY OF CLIFTON, CITY OF CLIFTON POLICE DEPARTMENT, COUNTY OF PASSAIC, STATE OF NEW JERSEY, and JOHN DOE (1-10), a person, corporation, sole proprietorship, partnership, limited liability company, and/or limited liability partnership whose identity is unknown, Plaintiff, MILDRED DIAZ, was caused to suffer severe and permanent injuries, as more particularly defined and set forth in N.J.S.A. 39:6A-8a, and has suffered great pain, shock, and mental anguish and was, and still is, incapacitated and will be permanently disabled.

14. A Notice of Claim was served upon the Defendant, CITY OF CLIFTON, on or about April 17, 2017, via certified mail return receipt requested pursuant to N.J.S.A. 59:8-4.

15. A Notice of Claim was served upon the Defendant, CITY OF CLIFTON POLICE DEPARTMENT, on or about April 17, 2017, via certified mail return receipt requested pursuant to N.J.S.A. 59:8-4.

16. A Notice of Claim was served upon the Defendant, COUNTY OF PASSAIC, on or about April 27, 2017, via certified mail return receipt requested pursuant to N.J.S.A. 59:8-4.

17. A Notice of Claim was served upon the Defendant, STATE OF NEW JERSEY, on or

about April 27, 2017, via certified mail return receipt requested pursuant to N.J.S.A. 59:8-4.

18. More than 18 months have passed since the service of Plaintiff's Notice of Claim and Plaintiff's claim remains unsatisfied.

WHEREFORE, the Plaintiff, MILDRED DIAZ, demands judgment for damages against the Defendant(s), WILFREDO VALENTIN, CITY OF CLIFTON, CITY OF CLIFTON POLICE DEPARTMENT, COUNTY OF PASSAIC, STATE OF NEW JERSEY, and JOHN DOE (1-10), a person, corporation, sole proprietorship, partnership, limited liability company, and/or limited liability partnership whose identity is unknown, jointly and severally together with interest and costs of suit.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4 Plaintiff hereby designates Paul K. DeGrado as trial counsel.

JURY DEMAND

Plaintiff demands a trial by jury as to all issues herein.

CERTIFICATION PURSUANT TO R. 4.5-1

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 Rule 1:38-7(b).

CERTIFICATION PURSUANT TO R. 4.5-1

I certify that the matter in controversy is not the subject of any other action pending in any c

court nor of a pending arbitration proceeding and that no such action or arbitration is contemplated. I further certify that I am unaware of any other person who should be joined in this litigation whose identity I can currently ascertain. I certify that the foregoing statements made by me are true to the best of my information, knowledge and belief. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date:

By 
PAUL K. DeGRADO
Attorney for Plaintiff(s)

AMY L. PETERSON, P.C.
 By: Amy L. Peterson, Esq.
 NJ ID: 026911989
 128 Passaic Avenue
 P.O. Box 1690
 Passaic, New Jersey 07055
 (973) 773-8123
 Attorney for Plaintiff(s)

ZSOLT DERKA,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION: PASSAIC COUNTY
	:	
Plaintiff(s),	:	DOCKET NO.: PAS-L-
	:	
v.	:	CIVIL ACTION
	:	
CLIFTON POLICE DEPARTMENT,	:	
CITY OF CLIFTON, JOMARCELL	:	
URENA, JOHN CUSACK, JAIME	:	VERIFIED COMPLAINT
VELAZQUEZ, DANIELA TELLO,	:	
JOHN DOES A-D, (fictitious	:	
names representing	:	
unknown individuals) and ABC	:	
CORPORATIONS 1-5 (fictitious	:	
names representing unknown	:	
corporations)	:	
	:	
Defendant(s).	:	
	:	

The Plaintiff, ZSOLT DERKA, residing in the City of Clifton, County of Passaic,
 State of New Jersey, complaining of the defendants herein says:

FIRST COUNT

1. At all times hereinafter mentioned, plaintiff, ZSOLT DERKA, resided in
 Clifton, New Jersey.

2. On or about January 1, 2018, plaintiff, ZSOLT DERKA, was at his home
 located at 6 Brookside Drive, Apt. A, in the City of Clifton, County of Passaic, State of
 New Jersey.

3. On or about January 1, 2018, defendant, CLIFTON POLICE DEPARTMENT, hired persons to enter said premises.

4. On or about January 1, 2018, defendant, CLIFTON POLICE DEPARTMENT, supervised persons who entered said premises.

5. On or about January 1, 2018, defendant, CLIFTON POLICE DEPARTMENT, trained persons who entered said premises.

6. On or prior to January 1, 2018, defendant, CLIFTON POLICE DEPARTMENT, hired persons named JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

7. On or prior to January 1, 2018, defendant, CLIFTON POLICE DEPARTMENT, supervised the persons named JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

8. On or prior to January 1, 2018, defendant, CLIFTON POLICE DEPARTMENT, trained the persons named JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

9. On or prior to January 1, 2018, defendant, CLIFTON POLICE DEPARTMENT, checked out the references of the persons named JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

10. On or about January 1, 2018, while working for defendant, CLIFTON POLICE DEPARTMENT, the defendants, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO, caused injuries to the plaintiff herein.

11. On or about January 1, 2018, defendants, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO, negligently entered the

plaintiff's home and negligently struck the person of the plaintiff, causing injuries to the plaintiff herein.

12. On or about January 1, 2018, the striking of the plaintiff resulted from the negligence of the defendant herein, and the injuries which resulted were the unintended consequences of the acts of defendants, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

13. Defendant, its agents, servants, and/or employees, had a duty and responsibility to hire, train, control, and supervise its employees.

14. Defendant, its agents, servants, and/or employees, had a duty and responsibility to provide professional and competent employees for their business.

15. Defendant, its agents, servants, and/or employees, failed to properly hire, train, and/or supervise its employees, and in particular, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

16. On or about January 1, 2018, the defendant, CLIFTON POLICE DEPARTMENT supervised the defendants, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO, in such a careless, reckless and otherwise negligent manner, as to allow said defendant to negligently assault and attack the person of the plaintiff, ZSOLT DERKA, without provocation, cause, or justification, and not as a matter of self-defense.

17. As a direct and proximate result of the negligence, carelessness and recklessness of the defendant, plaintiff, ZSOLT DERKA, was caused to sustain injuries, and has suffered permanent consequential limitation of use or permanent loss of use and/or significant limitation of use of a bodily organ, function or system, was caused to expend

and will in the future be required to expend monies for medical attention and treatment, and was prevented from engaging in his normal activities and pursuits.

6. This suit is not barred by the provisions of N.J.S.A. 39:6A-1 et. seq.

WHEREFORE, plaintiff, ZSOLT DERKA, demands judgment against the defendant, CLIFTON POLICE DEPARTMENT, for damages, interest, counsel fees, costs of suit and other such relief as the Court may find equitable and just.

SECOND COUNT

1. Plaintiff repeats the allegations in the First Count, as if more fully set forth herein at length.

2. Defendant, CITY OF CLIFTON, was a duly organized municipal corporation, existing under the laws of New Jersey.

3. On or about March 26, 2018, via certified mail, plaintiff served Notice of Claim upon the defendant, CITY OF CLIFTON, with regard to the claim herein.

4. On or about March 28, 2018, the defendant, CITY OF CLIFTON, received Notice of Claim. The claim remains unadjusted.

5. On or about January 1, 2018, defendant, CITY OF CLIFTON, acknowledged receipt of said claim, and has not assigned the instant matter a claim number.

6. On or about January 1, 2018, defendant, CITY OF CLIFTON, hired persons to enter said premises.

7. On or about January 1, 2018, defendant, CITY OF CLIFTON, supervised persons who worked at said premises.

8. On or about January 1, 2018, defendant, CITY OF CLIFTON, trained persons

who entered said premises.

9. On or prior to January 1, 2018, defendant, CITY OF CLIFTON, hired persons named JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

10. On or prior to January 1, 2018, defendant, CITY OF CLIFTON, supervised the persons named JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

11. On or prior to January 1, 2018, defendant, CITY OF CLIFTON, trained the persons named JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

12. On or prior to January 1, 2018, defendant, CITY OF CLIFTON, checked out the references of the persons named JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

13. On or about January 1, 2018, while working for defendant, CITY OF CLIFTON, the defendants, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO, caused injuries to the plaintiff herein.

14. On or about January 1, 2018, defendants, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO, negligently entered the plaintiff's home and negligently struck the person of the plaintiff, causing injuries to the plaintiff herein.

15. On or about January 1, 2018, the striking of the plaintiff resulted from the negligence of the defendant herein, and the injuries which resulted were the unintended consequences of the acts of defendants, JOMARCELL URENA, JOHN

CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

16. Defendant, its agents, servants, and/or employees, had a duty and responsibility to hire, train, control, and supervise its employees.

17. Defendant, its agents, servants, and/or employees, had a duty and responsibility to provide professional and competent employees for their business.

18. Defendant, its agents, servants, and/or employees, failed to properly hire, train, and/or supervise its employees, and in particular, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

19. On or about January 1, 2018, the defendant, CITY OF CLIFTON, supervised the defendants, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO, in such a careless, reckless and otherwise negligent manner, as to allow said defendant to negligently assault and attack the person of the plaintiff, ZSOLT DERKA, without provocation, cause, or justification, and not as a matter of self-defense.

20. As a direct and proximate result of the negligence, carelessness and recklessness of the defendant, plaintiff, ZSOLT DERKA, was caused to sustain injuries, and has suffered permanent consequential limitation of use or permanent loss of use and/or significant limitation of use of a bodily organ, function or system, was caused to expend and will in the future be required to expend monies for medical attention and treatment, and was prevented from engaging in his normal activities and pursuits.

7. This suit is not barred by the provisions of N.J.S.A. 39:6A-1 et. seq.

WHEREFORE, plaintiff, ZSOLT DERKA, demands judgment against the defendant, CLIFTON POLICE DEPARTMENT, and CITY OF CLIFTON, for damages, interest, counsel fees, costs of suit and other such relief as the Court may find equitable and just.

THIRD COUNT

1. Plaintiff repeats the allegations in the First and Second Counts, as if more fully set forth herein at length.

2. On or about January 1, 2018, defendant, JOMARCELL URENA, was an agent or employee of defendants, CLIFTON POLICE DEPARTMENT, and CITY OF CLIFTON.

3. On or about January 1, 2018, defendant, JOMARCELL URENA, was an agent or employee of defendants, CLIFTON POLICE DEPARTMENT, and CITY OF CLIFTON, and was present in and about said location in the course of his employment.

4. On or about January 1, 2018, defendant, JOMARCELL URENA, was present in and about the aforesaid location.

5. On or about January 1, 2018, while defendant, JOMARCELL URENA, was present in and about the aforesaid location, he negligently assaulted and attacked the person of the plaintiff.

6. On or about January 1, 2018, while defendant, JOMARCELL URENA, was in and about the aforesaid location, he negligently assaulted and attacked the person of the plaintiff, without provocation, cause, or justification, and not as a matter of self-defense.

7. The defendant, JOMARCELL URENA, negligently assaulted the plaintiff, and caused him great fear and apprehension, as well as bodily injuries.

8. As a direct and proximate result of the negligence, carelessness and recklessness of the defendant, plaintiff, ZSOLT DERKA, was caused to sustain injuries, and has suffered permanent consequential limitation of use or permanent loss of use

and/or significant limitation of use of a bodily organ, function or system, was caused to expend and will in the future be required to expend monies for medical attention and treatment, and was prevented from engaging in his normal activities and pursuits.

9. This suit is not barred by the provisions of N.J.S.A. 39:6A-1 et. seq.

WHEREFORE, plaintiff, ZSOLT DERKA, demands judgment against the defendants, CLIFTON POLICE DEPARTMENT, CITY OF CLIFTON, and JOMARCELL URENA, for damages, interest, counsel fees, costs of suit and other such relief as the Court may find equitable and just.

FOURTH COUNT

1. Plaintiff repeats the allegations in the First through Third Counts, as if more fully set forth herein at length.

2. On or about January 1, 2018, defendant, JOHN CUSACK, was an agent or employee of defendant, CLIFTON POLICE DEPARTMENT and CITY OF CLIFTON.

3. On or about January 1, 2018, defendant, JOHN CUSACK, was an agent or employee of defendants, CLIFTON POLICE DEPARTMENT, and CITY OF CLIFTON, and was present in and about said location in the course of his employment.

4. On or about January 1, 2018, defendant, JOHN CUSACK, was present in and about the aforesaid location.

5. On or about January 1, 2018, while defendant, JOHN CUSACK, was present in and about the aforesaid location, he negligently assaulted and attacked the person of the plaintiff.

6. On or about January 1, 2018, while defendant, JOHN CUSACK, was in and about the aforesaid location, he negligently assaulted and attacked the person of the

plaintiff, without provocation, cause, or justification, and not as a matter of self-defense.

7. The defendant, JOHN CUSACK, negligently assaulted the plaintiff, and caused him great fear and apprehension, as well as bodily injuries.

8. As a direct and proximate result of the negligence, carelessness and recklessness of the defendant, plaintiff, ZSOLT DERKA, was caused to sustain injuries, and has suffered permanent consequential limitation of use or permanent loss of use and/or significant limitation of use of a bodily organ, function or system, was caused to expend and will in the future be required to expend monies for medical attention and treatment, and was prevented from engaging in his normal activities and pursuits.

9. This suit is not barred by the provisions of N.J.S.A. 39:6A-1 et. seq.

WHEREFORE, plaintiff, ZSOLT DERKA, demands judgment against the defendants, CLIFTON POLICE DEPARTMENT, CITY OF CLIFTON, JOMARCELL URENA, and JOHN CUSACK, for damages, interest, counsel fees, costs of suit and other such relief as the Court may find equitable and just.

FIFTH COUNT

1. Plaintiff repeats the allegations in the First through Fourth Counts, as if more fully set forth herein at length.

2. On or about January 1, 2018, defendant, JAIME VELAZQUEZ, was an agent or employee of defendant, CLIFTON POLICE DEPARTMENT and CITY OF CLIFTON.

3. On or about January 1, 2018, defendant, JAIME VELAZQUEZ, was an agent or employee of defendants, CLIFTON POLICE DEPARTMENT, and CITY OF CLIFTON, and was present in and about said location in the course of his employment.

4. On or about January 1, 2018, defendant, JAIME VELAZQUEZ, was present in and about the aforesaid location.

5. On or about January 1, 2018, while defendant, JAIME VELAZQUEZ, was present in and about the aforesaid location, he negligently assaulted and attacked the person of the plaintiff.

6. On or about January 1, 2018, while defendant, JAIME VELAZQUEZ, was in and about the aforesaid location, he negligently assaulted and attacked the person of the plaintiff, without provocation, cause, or justification, and not as a matter of self-defense.

7. The defendant, JAIME VELAZQUEZ, negligently assaulted the plaintiff, and caused him great fear and apprehension, as well as bodily injuries.

8. As a direct and proximate result of the negligence, carelessness and recklessness of the defendant, plaintiff, ZSOLT DERKA, was caused to sustain injuries, and has suffered permanent consequential limitation of use or permanent loss of use and/or significant limitation of use of a bodily organ, function or system, was caused to expend and will in the future be required to expend monies for medical attention and treatment, and was prevented from engaging in his normal activities and pursuits.

9. This suit is not barred by the provisions of N.J.S.A. 39:6A-1 et. seq.

WHEREFORE, plaintiff, ZSOLT DERKA, demands judgment against the defendants, CLIFTON POLICE DEPARTMENT, CITY OF CLIFTON, JOMARCELL URENA, JOHN CUSACK, and JAIME VELAZQUEZ, for damages, interest, counsel fees, costs of suit and other such relief as the Court may find equitable and just.

SIXTH COUNT

1. Plaintiff repeats the allegations in the First through Fifth Counts, as if more fully set forth herein at length.

2. On or about January 1, 2018, defendant, DANIELA TELLO, was an agent or employee of defendant, CLIFTON POLICE DEPARTMENT and CITY OF CLIFTON.

3. On or about January 1, 2018, defendant, DANIELA TELLO, was an agent or employee of defendants, CLIFTON POLICE DEPARTMENT, and CITY OF CLIFTON, and was present in and about said location in the course of her employment.

4. On or about January 1, 2018, defendant, DANIELA TELLO, was present in and about the aforesaid location.

5. On or about January 1, 2018, while defendant, DANIELA TELLO, was present in and about the aforesaid location, she negligently assaulted and attacked the person of the plaintiff.

6. On or about January 1, 2018, while defendant, DANIELA TELLO, was in and about the aforesaid location, she negligently assaulted and attacked the person of the plaintiff, without provocation, cause, or justification, and not as a matter of self-defense.

7. The defendant, DANIELA TELLO, negligently assaulted the plaintiff, and caused him great fear and apprehension, as well as bodily injuries.

8. As a direct and proximate result of the negligence, carelessness and recklessness of the defendant, plaintiff, ZSOLT DERKA, was caused to sustain injuries, and has suffered permanent consequential limitation of use or permanent loss of use

and/or significant limitation of use of a bodily organ, function or system, was caused to expend and will in the future be required to expend monies for medical attention and treatment, and was prevented from engaging in his normal activities and pursuits.

9. This suit is not barred by the provisions of N.J.S.A. 39:6A-1 et. seq.

WHEREFORE, plaintiff, ZSOLT DERKA, demands judgment against the defendants, CLIFTON POLICE DEPARTMENT, CITY OF CLIFTON, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO, for damages, interest, counsel fees, costs of suit and other such relief as the Court may find equitable and just.

SEVENTH COUNT

1. Plaintiff repeats the allegations in the First through Sixth Counts, as if more fully set forth herein at length.

2. Defendant, ABC CORPORATIONS 1 - 5, was a domestic corporation duly organized and existing under the laws of the State of New Jersey.

3. Defendant, ABC CORPORATIONS 1 - 5, was a foreign corporation doing business in the State of New Jersey.

4. On or about January 1, 2018, defendant, ABC CORPORATIONS 1 - 5, hired persons to work at said premises.

5. On or about January 1, 2018, defendant, ABC CORPORATIONS 1 - 5, supervised persons who worked at said premises.

6. On or about January 1, 2018, defendant, ABC CORPORATIONS 1 - 5, trained persons who worked at said premises.

7. On or prior to January 1, 2018, defendant, ABC CORPORATIONS 1 - 5, hired persons named JOMARCELL URENA, JOHN CUSACK, JAIME

VELAZQUEZ, and DANIELA TELLO.

8. On or prior to January 1, 2018, defendant, ABC CORPORATIONS 1 – 5, hired persons named JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO, to work at said premises.

9. On or prior to January 1, 2018, defendant, ABC CORPORATIONS 1 – 5, supervised persons named JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

10. On or prior to January 1, 2018, defendant, ABC CORPORATIONS 1 – 5, trained persons named JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

11. On or prior to January 1, 2018, defendant, ABC CORPORATIONS 1 – 5, checked out the references of persons named JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

12. On or about January 1, 2018, while working for defendant, ABC CORPORATIONS 1 - 5, the defendants, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO, caused injuries to the plaintiff herein.

13. On or about January 1, 2018, defendants, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO, negligently struck the person of the plaintiff, causing injuries to the plaintiff herein.

14. On or about January 1, 2018, the striking of the plaintiff resulted from the negligence of the defendants herein, and the injuries which resulted were the unintended consequences of the acts of defendants, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

15. Defendant, its agents, servants, and/or employees, had a duty and responsibility to hire, train, control, and supervise its employees.

16. Defendant, its agents, servants, and/or employees, had a duty and responsibility to provide professional and competent employees for their business.

17. Defendant, its agents, servants, and/or employees, failed to properly hire, train, and/or supervise its employees, and in particular, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

18. Defendant, its agents, servants, and/or employees, negligently failed to properly hire, train, and/or supervise its employees, and in particular, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.

19. As a direct and proximate result of the negligence, carelessness and recklessness of the defendant, plaintiff, ZSOLT DERKA, was caused to sustain injuries, and has suffered permanent consequential limitation of use or permanent loss of use and/or significant limitation of use of a bodily organ, function or system, was caused to expend and will in the future be required to expend monies for medical attention and treatment, and was prevented from engaging in his normal activities and pursuits.

20. This suit is not barred by the provisions of N.J.S.A. 39:6A-1 et. seq.

WHEREFORE, plaintiff, ZSOLT DERKA, demands judgment against the defendants, CLIFTON POLICE DEPARTMENT, CITY OF CLIFTON, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, DANIELA TELLO, and ABC CORPORATIONS 1 – 5 for damages, interest, counsel fees, costs of suit and other such relief as the Court may find equitable and just.

EIGHTH COUNT

1. Plaintiff repeats the allegations in the First through Seventh Counts, as if more fully set forth herein at length.

2. Defendant, JOHN DOES "A" - "D", resided and still resides in the State of New Jersey.

3. On or about January 1, 2018, defendant, JOHN DOES "A" - "D", was an employee of defendants, CLIFTON POLICE DEPARTMENT and CITY OF CLIFTON.

4. On or about January 1, 2018, defendant, JOHN DOES "A" - "D", was an employee of defendants, CLIFTON POLICE DEPARTMENT and CITY OF CLIFTON, and was present in and about said location in the course of his employment.

5. On or about January 1, 2018, defendant, JOHN DOES "A" - "D", was present in and about the aforesaid location.

6. On or about January 1, 2018, while defendant, JOHN DOES "A" - "D", was present in and about the aforesaid location, he negligently assaulted and attacked the person of the plaintiff.

7. On or about January 1, 2018, while defendant, JOHN DOES "A" - "D", was in and about the aforesaid location, he negligently assaulted and attacked the person of the plaintiff, without provocation, cause, or justification, and not as a matter of self defense.

8. The defendant, JOHN DOES "A" - "D", negligently assaulted the plaintiff, and caused him great fear and apprehension, as well as bodily injuries.

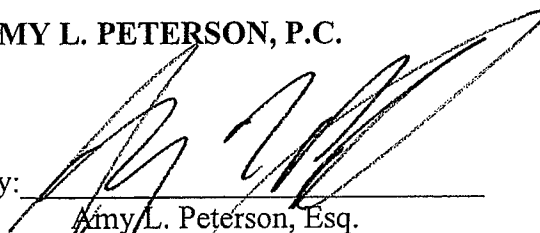
9. The defendant, JOHN DOES "A" - "D", plead guilty in Court to charges levied against him.

10. As a direct and proximate result of the negligence, carelessness and recklessness of the defendant, plaintiff, ZSOLT DERKA, was caused to sustain injuries, and has suffered permanent consequential limitation of use or permanent loss of use and/or significant limitation of use of a bodily organ, function or system, was caused to expend and will in the future be required to expend monies for medical attention and treatment, and was prevented from engaging in his normal activities and pursuits.

11. This suit is not barred by the provisions of N.J.S.A. 39:6A-1 et. se
WHEREFORE, plaintiff, ZSOLT DERKA, demands judgment against the defendants, CLIFTON POLICE DEPARTMENT, CITY OF CLIFTON, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, DANIELA TELLO, and ABC CORPORATIONS 1 – 5, and JOHN DOES “A” – “D”, for damages, interest, counsel fees, costs of suit and other such relief as the Court may find equitable and just.

Dated: August 14, 2019

AMY L. PETERSON, P.C.

By: 

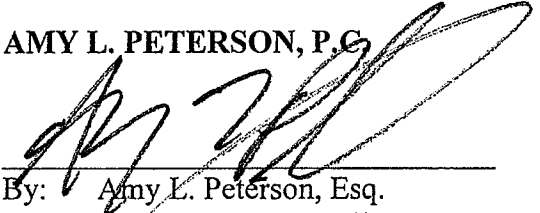
Amy L. Peterson, Esq.
Attorney for Plaintiff

JURY DEMAND

Plaintiff, ZSOLT DERKA, herein demands trial by jury on all issues of fact.

AMY L. PETERSON, P.C.

Dated: August 14, 2019

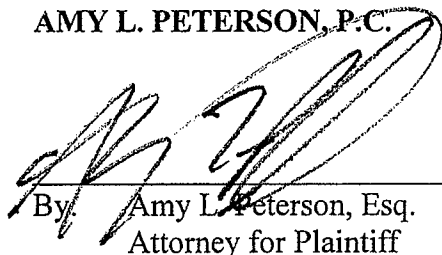

By: Amy L. Peterson, Esq.
Attorney for Plaintiff

DESIGNATION OF TRIAL COUNSEL

Please take notice that Amy L. Peterson, Esq., is hereby designated as trial counsel in the above-captioned matter pursuant to Rule 4:25.

AMY L. PETERSON, P.C.

Dated: August 14, 2019

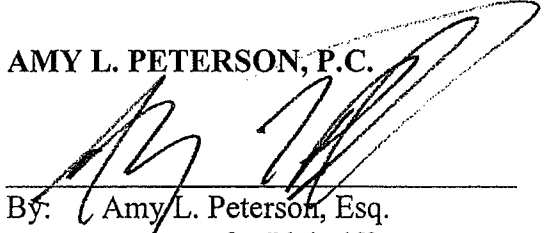

By: Amy L. Peterson, Esq.
Attorney for Plaintiff

CERTIFICATIONS OF NO OTHER ACTIONS

Pursuant to Rule 4:5-1, I certify that, to the best of my knowledge, information and belief, the within matter is not the subject of any other action pending in another Court or in an arbitration proceeding, and no other action or arbitration proceeding is contemplated.

AMY L. PETERSON, P.C.

Dated: August 14, 2019


By: Amy L. Peterson, Esq.
Attorney for Plaintiff

DEMAND FOR PRODUCTION OF DOCUMENTS

PLEASE TAKE NOTICE that pursuant to R. 4:18-1, plaintiff demands the production for purposes of inspection and copying at the office of AMY L. PETERSON, P.C., 128 Passaic Avenue, Passaic, New Jersey, within 45 days after service of the within pleadings, of the following items pertaining to the allegations of this Complaint.

1. A copy of any incident report or other documentation prepared by any agents, servants and/or employees of the defendants regarding the subject matter of this Complaint.
2. All insurance agreements and policies maintained by defendants, effective January 1, 2018, in accordance with Rule 4:10-2(b).
3. Copies of any and all contracts, photographs, videos, surveys, sketches, diagrams, blueprints, or any other documentary evidence.
4. Copies of any and all statements of any party to this lawsuit, their agents, servants, and/or employees.
5. Copies of any statements by eyewitnesses to the occurrence, and their complete identity and address.
6. Copies of the employment file of defendants, JOMARCELL URENA, JOHN CUSACK, JAIME VELAZQUEZ, and DANIELA TELLO.
7. The complete documentation supplied by the defendants to the Office of the Prosecutor, of Clifton, New Jersey, in connection with the occurrence herein.

**FORM TO BE USED BY A PRISONER IN FILING A
CIVIL RIGHTS COMPLAINT**

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

MOISES Echevarria

(Enter above the full name of the plaintiff in this action)

v.

CLIFTON Police Dept

Officer Gormley

Officer Dibello

Officer Hayes

(Enter above the full name of the defendant or defendants
in this action)

COMPLAINT

Civil Action No. 12-4182 (SDW)

(To be supplied by the Clerk of the Court)

CLERK, U.S. DISTRICT COURT
DISTRICT OF NEW JERSEY
RECEIVED
2012 JUL 5 AM 10 39

INSTRUCTIONS -- READ CAREFULLY

1. This complaint must be legibly handwritten or typewritten, signed by the plaintiff and subscribed to under penalty of perjury as being true and correct. All questions must be answered concisely in the proper space on the form. Where more space is needed to answer any question, attach a separate sheet.
2. In accordance with Rule 8 of the Federal Rules of Civil Procedure, the complaint should contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, (2) a short plain statement of the claim showing that you are entitled to relief, and (3) a demand for judgment for the relief which you seek.
3. You must provide the full name of each defendant or defendants and where they can be found.
4. You must send the original and one copy of the complaint to the Clerk of the District Court. You must also send one additional copy of the complaint for each defendant to the Clerk. Do not send the complaint directly to the defendants.
5. Upon receipt of a fee of \$350.00, your complaint will be filed. You will be responsible for service of a separate summons and copy of the complaint on each defendant. See Rule 4, Federal Rule of Civil Procedure.

**FORM TO BE USED BY A PRISONER IN FILING A
CIVIL RIGHTS COMPLAINT**

so that the Marshal can locate and serve each defendant. If the forms are sent to you, you must complete them in full and return the forms to the Marshal.

QUESTIONS TO BE ANSWERED

1. Jurisdiction is asserted pursuant to (CHECK ONE)

☒

42 U.S.C. § 1983 (applies to state prisoners)

☐

Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics,
403 U.S. 388 (1971) and 28 U.S.C. § 1331 (applies to federal prisoners)

If you want to assert jurisdiction under different or additional statutes, list these below:

2. Previously Dismissed Federal Civil Actions or Appeals

If you are proceeding in forma pauperis, list each civil action or appeal you have brought in a federal court while you were incarcerated or detained in any facility, that was dismissed as frivolous or malicious, or for failure to state a claim upon which relief may be granted. Please note that a prisoner who has on three or more prior occasions, while detained in any facility, brought an action or appeal in a federal court that was dismissed as frivolous or malicious, or for failure to state a claim upon which relief may be granted, will be denied in forma pauperis status unless that prisoner is under imminent danger of serious physical injury. See 28 U.S.C. § 1915(g).

- a. Parties to previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

- b. Court and docket number: _____

- c. Grounds for dismissal: () frivolous () malicious () failure to state a claim upon which relief may be granted

- d. Approximate date of filing lawsuit: _____

Case 2:12-cv-04182-SDW-LDW Document 1 Filed 07/05/12 Page 3 of 7 PageID: 3
FORM TO BE USED BY A PRISONER IN FILING A
CIVIL RIGHTS COMPLAINT

e. Approximate date of disposition: _____

If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on separate sheets.

3. Place of Present Confinement? Bayside State Prison

4. Parties

(In item (a) below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

a. Name of plaintiff: MOISES ECHEVARRIA

Address: Box F-2 Leesburg NJ 08327

Inmate #: 296847C

b. First defendant -- name: Officer Gornkey

Official position: Patrol officer

Place of employment: Clifton Police Dept

How is this person involved in the case?

(i.e., what are you alleging that this person did or did not do that violated your constitutional rights?)

while I was hand cuffed I was
viciously assaulted by this officer

**FORM TO BE USED BY A PRISONER IN FILING A
CIVIL RIGHTS COMPLAINT**

c. Second defendant -- name: Officer DiBello

Official position: Patrol Officer

Place of employment: Clifton Police Dept.

How is this person involved in the case?

(i.e., what are you alleging that this person did or did not do that violated your constitutional rights?)

I was Assaulted by Officer DiBello
After I was placed under Arrest

d. If there are more than two defendants, attach a separate sheet. For each defendant specify: (1) name, (2) official position, (3) place of employment, and (4) involvement of the defendant.

5. I previously have sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in the Statement of Claims on page 6.

☒ Yes ☐ No

If your answer is "Yes," briefly describe the steps taken, including how relief was sought, from whom you sought relief, and the results.

I tried to speak to C.P.D. internal Affairs
but my inquiries went unanswered.

If your answer is "No," briefly explain why administrative remedies were not exhausted.

3-Defendant
Officer Hayes

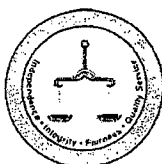
Position
Patrol officer
P-O-E
Clifton Police Dept.

Officer Hayes kicked me in my face
Numerous times After I was placed
in Hand cuffs.

**FORM TO BE USED BY A PRISONER IN FILING A
CIVIL RIGHTS COMPLAINT****6. Statement of Claims**

(State here as briefly as possible the facts of your case. Describe how each defendant violated your rights, giving dates and places. If you do not specify how each defendant violated your rights and the date(s) and place of the violations, your complaint may be dismissed. Include also the names of other persons who are involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach a separate sheet if necessary.)

Upon being Arrested by the Clifton P.D. on 9-27-11,
I was instructed By Officers Gormley, DiBello and
Hayes to Lay on my stomach with my arms
extended to which I complied. After I was
cuffed Officers Gormley and DiBello began kicking
me on my upper body and legs, while this was
going on my should became displaced. At the
same time P.O. Hayes came and began kicking
me in the face causing my jaw to be broken.
Rendering me unable to speak. While this
vicious assault was going on the officers
were yelling racial slurs calling me a "stupid
spic" and that I should go back to my
own country.



CERTIFICATION IN SUPPORT OF PROBABLE CAUSE

State of New Jersey

Court Name Clifton municipal

County of: Passaic

Court Address 900 Clifton Ave
Clifton NJ 07013

Date of Incident: 9-27-11

Location of Incident: Train tracks Municipality: Clifton

I offer the following facts and information to establish probable cause in this

complaint against Police officers Gormley, DiBello and Hayes
(Defendant's Name)

whom I would like to charge with Assault, Bias intimidation terrorist threat
(List Statute(s) or Ordinance(s))

How do you know the identity of the person you are charging? I was placed under
Arrest by these officers

Describe incident in detail:

After I was arrested and placed in handcuffs
I was viciously assaulted by these 3 officers they
kicked me all over my upper body causing
my shoulder to be dislocated and my jaw
to be broken. while this assault was taking
place the officers yelled racial slurs
calling me a stupid spic and told me
I should go back to my own country.

Certification: 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 wilfully false, I am subject to punishment.

[Signature]
Signature of complaining witness

6-29-12
Date

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 29th DAY OF June 2012

Mary C. Huff
NOTARY PUBLIC OF NEW JERSEY

MARY C. HUFF
NOTARY PUBLIC
NEW JERSEY

MY COMMISSION EXPIRES APRIL 1, 2016

November 2010

AO 239 (Rev. 12/13) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

UNITED STATES DISTRICT COURT

for the

District of New Jersey

Shawn Sharrock

Plaintiff/Petitioner

v.

Defendant/Respondent

RECEIVED

MAR 12 2015

Civil Action No.

AT 8:30 M
WILLIAM T. WALSH, CLERKAPPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS
(Long Form)

Affidavit in Support of the Application

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

Signed:

Shawn Sharrock

Instructions

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

Date:

3/11/15

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

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

AO 239 (Rev. 12/13) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$ 0	\$ 0	\$ 0
Disability (such as social security, insurance payments)	\$ 0	\$ 0	\$ 0	\$ 0
Unemployment payments	\$ 0	\$ 0	\$ 0	\$ 0
Public-assistance (such as welfare)	\$ 0	\$ 0	\$ 0	\$ 0
Other (specify):	\$ 0	\$ 0	\$ 0	\$ 0
Total monthly income:	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

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

Employer	Address	Dates of employment	Gross monthly pay
N	0	N	\$ E
N	0	N	\$ E

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

Employer	Address	Dates of employment	Gross monthly pay
N	0	N	\$ E
N	0	N	\$ E
N	0	N	\$ E

4. How much cash do you and your spouse have? \$ 0

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

Financial institution	Type of account	Amount you have	Amount your spouse has
0	0	\$ 0	\$ 0
0	0	\$ 0	\$ 0
0	0	\$ 0	\$ 0

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

AO 239 (Rev. 12/13) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

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

Assets owned by you or your spouse	
Home (Value)	\$ 0
Other real estate (Value)	\$ 0
Motor vehicle #1 (Value)	\$ 0
Make and year:	0
Model:	
Registration #:	
Motor vehicle #2 (Value)	\$ 0
Make and year:	0
Model:	
Registration #:	
Other assets (Value)	\$ 0
Other assets (Value)	\$ 0

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

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
0	\$ 0	\$ 0
0	\$ 0	\$ 0
0	\$ 0	\$ 0

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

Name (or, if under 18, initials only)	Relationship	Age
Jahmir Sharrock	Son	8
Shamir Sharrock	Son	15

AO 239 (Rev. 12/13) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

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

	You	Your spouse
Rent or home-mortgage payment <i>(including lot rented for mobile home)</i> Are real estate taxes included? ☐ Yes ☒ No Is property insurance included? ☐ Yes ☒ No	\$ 0	\$ 0
Utilities <i>(electricity, heating fuel, water, sewer, and telephone)</i>	\$ 0	\$ 0
Home maintenance <i>(repairs and upkeep)</i>	\$ 0	\$ 0
Food	\$ 0	\$ 0
Clothing	\$ 0	\$ 0
Laundry and dry-cleaning	\$ 0	\$ 0
Medical and dental expenses	\$ 0	\$ 0
Transportation <i>(not including motor vehicle payments)</i>	\$ 0	\$ 0
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$ 0
Insurance <i>(not deducted from wages or included in mortgage payments)</i>		
Homeowner's or renter's:	\$ 0	\$ 0
Life:	\$ 0	\$ 0
Health:	\$ 0	\$ 0
Motor vehicle:	\$ 0	\$ 0
Other:	\$ 0	\$ 0
Taxes <i>(not deducted from wages or included in mortgage payments) (specify):</i>	\$ 0	\$ 0
Installment payments		
Motor vehicle:	\$ 0	\$ 0
Credit card <i>(name):</i>	\$ 0	\$ 0
Department store <i>(name):</i>	\$ 0	\$ 0
Other:	\$ 0	\$ 0
Alimony, maintenance, and support paid to others	\$ 0	\$ 0

AO 239 (Rev. 12/13) Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form)

Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$ 0
Other (specify):	\$ 0	\$ 0
Total monthly expenses:	\$ 0.00	\$ 0.00

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

☐ Yes ☒ No If yes, describe on an attached sheet.

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

If yes, how much? \$ _____

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

Unemployed

12. Identify the city and state of your legal residence.

Clifton NJ 07012

Your daytime phone number: *973 767 9053*

Your age: *40* Your years of schooling: *13*

Last four digits of your social-security number: *7185*

Clifton officer pull over

On 3/24/13 I was driving down the street doing the speed limit. When an officer came up behind me and started riding on my bumper. Then threw on his lights and came on the side of me, screaming at me for not pulling over. As I was pulling over He sped off going nuts. So I chased him down trying to get a snapshot of this crazy officer. When he passed me he turned his lights off a short time after. He got mad I got a snapshot of him and followed him. He then pulled me over again. Making three statements saying he can ride on my bumper, screaming at me, and said these exact words to me. You rushed up on me and you're lucky I didn't have my gun drawn you understand me huh you understand me. Threaten me with feeling tickets including air freshener. Left me with warnings and didn't shake my hand when I offered it to him. Problem with officer gun threats on my life and tailgating saying he can do this..... Came in three weeks later to fill out complaint was harassed by that Officer.

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MAR 12 2015

AT 8:30 _____ M
WILLIAM T. WALSH, CLERK

Elmwood PARK Officers

At my sons wrestling match they disqualified my son who was undefeated up to this point. Let me remind you The emts, firefighters, and police are the coaches. And in the past I have had it out with these coach cops in the past. I became upset at the ref and coaches who seemed like a team to me. Then told to leave. Cops came running in surrounding me in school and outside school. I was with an 11 yr girl 6yr boy 13 yr boy 14yr boy 16yr boy and estranged Wife 36. I was told to Get in my car and leave, as I was coming past them I asked for badge numbers and pulled out a cell phone and starting filming them officer 86 got mad and told me to pull over for being on a cell phone. As I pulled over an other officer came on side of van with hand on gun I told him I did not like his movement knock it off. He replied I dont know whos in the car lying. Ticket officer comes back with 3 feeling tickets because he was angry at me for recording them. When I asked him why I got the other tickets he did not answer and placed the tickets in the window. And I drove off. So I received three tickets in a school lot. Problem with officer was giving three tickets for recording police in a school parking lot lying saying it was a street. No problems with filing complaint Sgt pasquale, and Sgt kassi.

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MAR 12 2015

AT 8:30 _____ M
WILLIAM T. WALSH, CLERK

Lodi officers ①

Officer. Officer cuts me off while I was turning into a lot throughway and knocks me up on the curve causing me to go around him and the officer pulls me over. I previously had a bump in with this officer on school grounds couple months before... He said summons was for cutting through private property to avoid the proper traffic signal. I replied :if I had to go to this vet and they were open would this be a good turn? his reply was yes. something is not right about that. if the officer is saying this was a good turn if they was open and there were no times posted on that turn where is the wrong. clearly this officer was having a bad day. He himself gave me points by stating this is a good turn if they was open. Then I asked the officer does this ticket have points he ignored me and got in his car so I got out the car thinking he did not hear me and came over to the officers window he said nothing and rolled the window up in my face and drove off nearly runnin my foot over and sped away. Leaving me standing there this was truly unprofessional, and is not the proper way a policer officer of the law should operate. Ticketday(((((((. Complaint day))))))))))I came into the station told (sgtmobilio) 2or three times what I wanted to do. During this interaction the ticket officer (sgt petrilli) burst in cursing and screamin saying that he knew I was going to come, and I was full of shit. When this happened I asked for on line knowledge or paper work so I could leave and do it at home for my safety. The ticket officer (sgt petrilli) sparked and caused (sgt. mobilio) to go nuts along with him saying he the ticket officer has a right to be mad at me if I am making false allegations. But how would he know this is this was my first time coming in and he wasnt there. (ticket officer). Mobilio and Petrilli both going bonkers taking up for his buddy saying he doesnt have to deal with my shit. then a third officer came to the window and replied yea whats up. Then I became nervous and went into record mode for my safety. Then (Lt. scorzetti) the fourth officer open the door and told me to come in. He attempted to show me what statue I broke on ticket day by bringing out the officer handbook could not find it so I took his word. ticket problem was settled. Lt (scorezetti) said he was gonna tell another sgt to come in and take my report but they was acting so childish saying they wasnt gonna take my report he had to do it. 4or 5 times asked again what do I want on the report from (Lt scorezetti) finally he took my complaint. During this I asked scorzetti did the ticket officer (Sgt. Petrilli) come into my conversation when I was speaking with mobilio. His answer was at first I was in the other room I didnt hear the whole thing then switches that answer and says he (the ticket officer) came to the window and said yea take the complaint . I asked scorzetti what was the name of the other officer who lost it he replied ohh that was (sgt mobilio). Scorezzetti stated mobilio never gets mad, then says well he got mad because you were unclear on what you wanted. Then I say that was unprofessional on his part scorezeeti replys I know this is why I stepped in. These officers were truly amped up and made me uncomfortable with the yelling and screaming that they did. Reminding me that I was an African American and my side of the story might not matter. Their word against mine. A so familiar quote. I have no flaws on my record yet I was treated like a criminal. Couple days later came to talk to an internal affairs deputy he made an example that didnt sit right with me. Saying an example of Him arresting me and him hitting me. Based on what I went through trying to file an complaint I felt that another example could have been used being that I was an African American man, and he was caucasian. I felt that racism definitely was in this station. I feel officers displaying conduct like this should be dealt with accordingly. >>>> 3/15 received call from captain shreeks to come down and take give a statement told me he couldnt do it that day he was not gonna be in the office. So I came down anyway he was on the side hiding from me. I asked Lt scorezetti was captain shreeks there he said he has to call and see if he was there when shreeks was standing right there. Then invited me

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MAR 12 2015

MAR 12 2015
WILLIAM SHREEKS, CLERK

inside a office with Lt scorezetti standing as if he was on guard. Starting talking about wire tap laws which made me wonder why he talking about these laws out of nowhere. Appeared to be nervous for some reason. Then told me to wait outside so he could set up recording room. Then they called me to another room with Lt scorezetti, capt shreeks, and det. vincent surrounding me. Saying to me do you have any phone or recording devices on you and searched me for devices. I did not like this for a complaint I did not proceed any further because he refused to take my complaint because I had keys and a phone and searched me for recording devices and lied and said he checked me for officer safety yet he had no probable cause. I started leaving and told him I did not like what happened and told him I seen him lying saying he wasnt hiding from me when I asked Lt scorezetti was he there. 3/24 Talked to Bergen County prosecutor he documented it and told me to go back to station to file a complaint on the internal affairs officer. so I went down the next day 3/25))))))A different captain was there and I made the complaint with him and lieutenant scorezetti with my keys. No problems at all which confused me because before I was not allowed to have my keys but they took my phone but this time they didnt search me making me wonder why this time everything went smooth. 3/26)))))) Came in talked again to the captain regarding a mvr tape from the ticket officer. Upon doing so he has another officer in the room with crossed arms staring me down with hate eyes by the name of sgt justin which I tell him I dont like. Still he remains and I point out a problem in this Mvr and tell the Capt. please reopen this part of case. Then I leave the station. I feel like I should not have been searched for recording devices for a complaint. Then lied to saying that I was searched for officer safety when I my only threat was having a cellphone and keys. On the first complaint with scorezetti none of this took place. Another issue I have with these Lodi officers is on mothers day 2012 a neighbor hit my estranged wife in a car accident. The hitter going downhill totaled my car then smile and laughs with ticket writing officer and receives no ticket. But I get a ticket for cutting through private property and 2 points. Talked with Chief Caruso on phone said he found nothing wrong with none of his officers actions even hitting me example. Then he said the IA Officer had a right to search me before complaint how else would my officers know you dont have a gun on you. I told him he knows this is not probable cause. No problem with this Officer still smell the racism on this one to. On 4/19 a Officer rang my doorbell for a complaint from the neighbor who totaled my car coming downhill backwards uhmmmm saying my kid was making to much noise on a public street. I came out and slammed the door in his face telling him he sounds crazy. These guys are still pushing for me to snap. Still using patience with these kids with badges. Exonerate means to free from blame or free from allegations.

RECEIVED

MAR 12 2015

AT 8:30 _____ M
WILLIAM T. WALSH, CLERK

SAMUEL J. HALPERN
ATTORNEY AT LAW
347 MT. PLEASANT AVE., STE. 203
WEST ORANGE, NJ 07052
(973)669-9660
Fax (973) 669-8960
Attorney for Plaintiff
Jennifer Valles

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

_____ X Civil Action no.
JENNIFER VALLES,
Plaintiff

vs.

COMPLAINT

CITY OF CLIFTON, a municipal corpor-
ation, JAMES ANZALDI, MARK CENT-
URIONE and JOHN and JANE DOES
1-10,
Defendants

_____ X
Plaintiff, residing at 109 Katherine Ave. In the City of Clifton, County of Passaic,
State of New Jersey, complains of the Defendants as follows:

PARTIES

1. Defendant City of Clifton is a "person" within the meaning of 42 U.S.C. sec. 1983.
2. Defendant James Anzaaldi is the Mayor of Clifton and a "person" pursuant to 42 U.S.C. sec. 1983.
3. Defendant Mark Centurione is the Chief of Police of Clifton and a "person"

pursuant to 42 U.S.C. sec. 1983.

4. Defendants John and Jane Does 1-10 are fictitious persons whose present identities are unknown but who may be liable to Plaintiff in the action.

5. Plaintiff is a "citizen" under U.S.C. sec. 1983.

JURISDICTION

6. The United States District Court for the District of New Jersey has jurisdiction over the within matter in accordance with 42 U.S.C. sec. 1983.

COUNT I DEPRIVATION OF CIVIL RIGHTS

7. In or about October 2009 Plaintiff terminated a relationship she had with one Alex Perez of North Bergen, N.J. Perez thereafter continued to stalk her and she became fearful for her personal safety. She notified the Clifton Police Department in 2010 and was placed on a Watch List.

8. On December 11, 2014 a domestic violence temporary restraining order was issued against Perez by the state Superior Court. On the December 19 return date, the order was not however made permanent. Plaintiff nevertheless remained fearful of Perez and believed that he, together with unnamed accomplices, was still terrorizing her.

9. Despite her continued complaints to the Clifton Police Department and its Chief, Plaintiff has continued to live in fear with no sense of privacy. In or about April 2015 she came to realize that she was no longer perceived as a victim and was not being protected. She was instead harassed her and followed around by certain unnamed Clifton police officers

whenever she left the house which she shared with her parents. The family home was also vandalized.

10. On May 13, 2015, Plaintiff's mother, Grace Valles filed a report with Defendant's Police Department that her daughter and family were now being terrorized and that their home was broken into. Clifton advised her that an investigator would contact them but this never happened.

11. In June 2015, Plaintiff requested to be removed from the Watch List in the belief that Defendants were not helping her and in order to protect her privacy. On July 4, 2015 the doorbell rang at 11:00 p.m. and Plaintiff called the Clifton Police Department. Noone responded.

12. As public officials and police officers, Defendants acted under color of law at all times.

13. In not only failing to respond to Plaintiff's continued complaints but instead following her in and about the community and otherwise harassing her, Defendants violated Plaintiff's right to privacy and thereby violated Plaintiff's civil rights.

14. Due to her constant fear of being terrorized by Perez, Plaintiff lost her job and suffered economic damages. In addition, Plaintiff has suffered anxiety and emotional distress.

15. Defendants' actions in failing to protect Plaintiff while she was on the Watch List and in not respecting her right to privacy were willful and deliberate.

WHEREFORE, Plaintiff demands judgment against the Defendants

(A) for economic compensatory damages, including loss of income and emoluments of employment;

(B) for non-economic damages including anxiety and emotional distress;

(C) for punitive damages;

(D) for attorneys fees and costs of suit;

(E) for such other relief the Court deems equitable and just.

COUNT II
TORTIOUS BREACH OF DUTY TO PROTECT

16, Plaintiff repeats and realleges paragraphs 1-15 of Count I as if fully set forth.

17. While Plaintiff remained on a Watch List Defendant owed Plaintiff a duty of care to protect her from physical harm by Perez.

18. Instead of being protected, Plaintiff was treated with willful indifference by Defendants who failed to respond to complaints made by Plaintiff and her family both during and after her placement on the Watch List.

19. In failing to adequately protect Plaintiff, Defendants breached their duty of care owed to Plaintiff/

WHEREFORE, Plaintiff demands judgment against Defendants:

(A) for economic compensatory damages for loss of income and emoluments of employment;

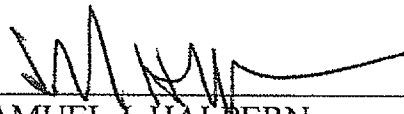
(B) for non-economic compensatory damages, including anxiety and emotional

distress;

(C) for punitive damages;

(D) for attorneys fees and costs of suit;

(E) for such other relief the Court deems equitable and just.



SAMUEL J. HALPERN
Attorney for Plaintiff

Dated: April 17, 2017

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all issues so triable.



SAMUEL J. HALPERN
Attorney for Plaintiff

Dated: April 17, 2017

RONALD C. HUNT (011281985)
HUNT, HAMLIN & RIDLEY
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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
VICINAGE OF NEWARK**

-----X

JAQUICE LANKFORD,

Civ. No. _____

**-against- Plaintiff, COMPLAINT
AND DEMAND FOR
A JURY TRIAL**

**CITY OF CLIFTON POLICE
DEPARTMENT; OFFICER ALAN
FIORILLA; OFFICER THOMAS BUELL;
OFFICER ANDREW ALVEREZ AND
OFFICER JUAN VELEZ, JOHN DOES 1-10
(Names Being Fictitious) SUED
INDIVIDUALLY AND IN THEIR OFFICIAL
CAPACITIES.**

Defendants.

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INTRODUCTION

1 This action arises under the Fourth, Fifth and Fourteenth Amendments to the United States Constitution; under federal law, specifically, 42 U.S.C. §§1983 and 1988; for

intentional and/or negligent infliction of emotional distress, conversion, loss of companionship, negligence, negligent supervision, gross negligence, assault, false imprisonment, false arrest, and civil conspiracy.

2. While acting in the scope of their employment and under color of state law, defendant police officers made an unlawful stop of the Plaintiffs was made that resulted in an unreasonable search and seizure and the excessive use of force against the Plaintiff causing injury to Mr. Lankford.

3. Action is also brought against the City of Clifton Police Department for its failure to properly train and supervise the individual Defendant police officer in the proper use of force and techniques used to secure the search of a vehicle, proper dispatch policy, and its establishment of policies, procedures, practices, and customs regarding arrests that result in the excessive use of force.

4. Action is also brought against Defendants John Doe 1-10, adult individuals, and at all times pertinent hereto, were involved in the facts and circumstances of plaintiff's complaint. Defendants John Doe 1-10 are fictitious names pleaded as defendants, their true identities are unknown to plaintiff at this time

JURISDICTION

5. This action is brought pursuant to 42 U.S.C. § 1983. Jurisdiction is founded upon 28 U.S.C. § 1343. Venue is proper in this district under 28 U.S.C. § 1391(b) in that all claims arose in this district.

PARTIES

6. Plaintiff is a resident of Paterson, New Jersey.

7. At all times hereinafter mentioned, Defendant Clifton Police Officers Alan Fiorella, Thomas Buell, Andrew Alvarez, and Juan Valdez, were employees of the Defendant City of Clifton Police Department, Defendants John Does 1-10, were acting within the scope and authority of their employment and are sued individually and in their official capacities.

STATEMENT OF FACTS

8. On or about April 16, 2016, Officer Alan Fiorilla of the Clifton Police Department allegedly observed a black Mercedes e-320 automobile traveling on Lexington Avenue in Clifton New Jersey driven by the plaintiff Jaquice Lankford.

9. Officer Fiorella followed the automobile driven by Defendant Jaquice Lankford, into the "Gas Trac" gas station located on 222 Clifton Avenue Clifton N.J.

10. After parking behind the automobile driven by the plaintiff, Officer Fiorella approached Mr. Lankford who had exited the vehicle and asked him for his credentials.

11. The Plaintiff inquired as to what offense he allegedly committed and as to the reason he was being asked to provide his credentials.

12. After refusing to advise the plaintiff of the offense he allegedly committed, officer Fiorella attempted to arrest the Plaintiff and called for additional assistance.

13. Defendants Fiorella, Buell, Alvarez and Valdez used unnecessary and unlawful force in seeking to arrest the plaintiff causing him physical injury.

COUNT I

**Violation of Civil Rights Pursuant to Title 42 U.S.C. §1983
(General Allegations)**

14. Plaintiff reiterates and realleges the facts stated in the preceding paragraphs as if stated fully herein.

15. In committing the acts complained of herein, Defendants acted under color of state law to deprive Plaintiffs of certain constitutionally protected rights under the Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States including, but not limited to: a) the right to be free from unreasonable searches and seizures; b) the right not to be deprived of liberty without due process of law; c) the right not to be deprived of property without due process of law; d) the right to be free from excessive use of force by persons acting under color of state law; e) the right to be free from false arrest; and f) the right to just compensation for taking of property.

16. In violating Plaintiffs' rights as set forth above and other rights that will be proven at trial, Defendants acted under color of state law and conducted an unauthorized, warrantless illegal stop, search, and seizure of Plaintiff. The illegal and warrantless stop set into motion the chain of events that led to an unauthorized and warrantless illegal search and seizure and the use of excessive force by Defendants, in violation of Plaintiff's rights under the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

17. As a direct and proximate result of the violation of their constitutional rights by the Defendants, Plaintiffs suffered general and special damages as alleged in this Complaint and are entitled to relief under 42 U.S.C §1983.

18. The conduct of Defendants was willful, malicious, oppressive and/or reckless, and was of such a nature that punitive damages should be imposed in an amount commensurate with the wrongful acts alleged herein.

COUNT II

Violation of Civil Rights Pursuant to Title 42 U.S.C. §1983 (Failure to Implement Appropriate Policies, Customs and Practices)

19. Plaintiff reiterates and realleges the facts stated in the preceding paragraphs as if stated fully herein.

20. The failure of the City of Clifton Police Department to adequately train and supervise Defendants Fiorella, Buell, Alvarez and Valdez amounts to deliberate indifference to the rights of the plaintiff to be free from excessive force and unreasonable seizures under the Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States.

21. In committing the acts complained of herein, Defendants acted under color of state law to deprive Plaintiffs as alleged herein of certain constitutionally protected rights including, but not limited to: a) the right to be free from unreasonable searches and seizures; b) the right not to be deprived of liberty without due process of law; c) the right not to be deprived of property without due process of law; d) the right to be free from excessive use of force by persons acting under color of state law; and e) the right to just compensation for taking of property.

COUNT III
Violation of Civil Rights Pursuant to 42 U.S.C. §1983
(Excessive Force)

22. Plaintiff reiterates and realleges the facts stated in the preceding paragraphs as if stated fully herein.

23. As a result of their actions, Defendants Fiorella, Buell, Alvarez and Valdez, acting under "color of law", deprived Plaintiff of his right to be free from unreasonable seizure of his person and the right to be free from the use of excessive, unreasonable, and unjustified force in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. § 1983.

24. Defendants subjected Plaintiff to these deprivations of his rights either maliciously or by acting with a reckless disregard for whether Plaintiff's rights would be violated by his actions.

25. As a result of the aforesaid occurrence, Plaintiff suffered damages and injuries. Defendants are liable for said damage and injuries, and the Plaintiff is entitled to relief under 42 U.S.C. §1983.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court enter a judgment against Defendants that, by their actions or inactions, violated Plaintiff's rights under the Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States, 42 U.S.C. § 1983; and awarding Plaintiff

reasonable attorney's fees and litigation expenses pursuant to 42 U.S.C. § 1988; punitive damages, and other such relief as the Court may deem equitable and just.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

RONALD C. HUNT, ESQ.
Attorney for Jaquice Lankford

BY: s/ Ronald C. Hunt
Ronald C. Hunt, Esquire

Dated: April 13, 2018

Original

In The United States District Court

For The District Of New Jersey

Steven B. Trainer,
Plaintiff

vs.

Civil Action No. 12-2409(SDW)

Clifton PD Detectives:
Robert Anderson, Wayne Stine,
Steven Farrell; Lodi PD Detectives:
Justine Bertone and Sgt. Vincent Martin;
Kearny PD Detective Michael Gonzales
Defendants.

CIVIL RIGHTS
42 U.S.C. § 1983
42 U.S.C. § 1986

COMPLAINT

Introduction

This is a civil rights action alleging the deprivation of my constitutional rights, specifically: (1) my right to be secure in my person against unreasonable seizure and use of excessive force to arrest; (2) my right to be secure in my person against arrest without probable cause and upon an arrest warrant issued without probable cause; (3) my right to be secure against unreasonable seizure, taking and deprivation of property without due process or just compensation; in violation of the Fourth Fifth, and Fourteenth Amendments to the United States Constitution, and Art.1, Para.1, Para.7 and Para.8 of the New Jersey Constitution.

PART ONE

QUESTIONS TO BE ANSWERED

Jurisdiction

- 1) This Court has original jurisdiction over this matter pursuant to the provisions of 28 U.S.C. § 1331 and 28 U.S.C. § 1343, where the matters in controversy arise under the Constitution and laws of the United States, and Plaintiff seeks to recover damages for injury to his person; the unlawful seizure, taking and deprivation of property; and the violation of his constitutional rights.
- 2) This Court has supplemental jurisdiction to hear and decide any State law claims pursuant to 28 U.S.C. § 1367(a).

Prisoner Status

- 3) Plaintiff is currently a pre-trial detainee confined in the Bergen County Jail.

Previously Dismissed Federal Civil Actions Or Appeals

- 4) None

Place of Present Confinement

- 5) Bergen County Jail, 160 S. River Street, Hackensack, New Jersey 07601

Parties

- 6) Plaintiff: Steven B. Trainer
Address: Bergen County Jail, 160 S. River Street, Hackensack, N.J. 07601
Inmate # D-86721
- 7) First Defendant: Robert Anderson
Official Position: City of Clifton Police Department Detective
Address: Clifton Police Dept. 900 Clifton Avenue, Clifton, New Jersey 07013
- 8) Defendant Robert Anderson while acting under the color and pretenses of State law, arrested Plaintiff without probable cause, and an upon an arrest warrant issued without probable cause depriving Plaintiff of his rights to be secure in his person against unreasonable seizures, and arrest without probable cause, in violation of the Fourth Amendment to the U.S. Constitution and Art. 1, Para. 1 and Para. 7 of the N.J. Constitution.
- 9) Defendant Robert Anderson while acting under the color and pretenses of State law did knowingly, purposefully and maliciously use excessive force to bring about Plaintiff's arrest without probable cause, and upon an arrest warrant issued without probable cause, depriving Plaintiff of his rights to be secure in his person against unreasonable seizures and excessive force in violation of the Fourth Amendment to the U.S. Constitution and Art. 1, Para. 1 and Para. 7 of the N.J. Constitution.
- 10) Defendant Robert Anderson while acting under the pretenses of State law having opportunity to do so, failed to intervene to: (1) prevent defendants: Steven Farrell and Wayne Stine from using excessive force to effect the illegal arrest of Plaintiff; and (2) prevent defendants Steven Farrell and Wayne Stine from arresting Plaintiff without probable cause, in violation of 42 U.S.C. § 1986.
- 11) Defendant Robert Anderson while acting under the color and pretenses of State law and acting as the complaining witness did knowingly and purposefully present materially false and misleading information to a Clifton Municipal Court official to cause arrest warrant No. W-2010-002419-1602 to issue for Plaintiff's arrest charging first-degree [armed] robbery, in the complete absence of any factual or legal basis, or the existence of probable cause, resulting in

Plaintiff's arrest under the arrest warrant, depriving Plaintiff of his rights to be secure in his person against arrest upon warrants issued without probable cause in violation the Fourth and Fourteenth Amendment to the U.S. Constitution and Art.1, Para.1 and Para.7 of the N.J. Constitution.

- 12) Defendant Robert Anderson while acting under the color and pretenses of State law did knowingly and purposefully present material false testimony to a Passaic County Grand Jury to cause Plaintiff to be wrongfully charged and indicted for first-degree [armed] robbery, depriving Plaintiff of his due process and grand jury rights in violation of the Fourteenth Amendment to the U.S. Constitution, and Art.1, Para.1 and Para.8 of the N.J. Constitution.
- 13) Defendant Robert Anderson is being sued in his individual capacity for damages pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1986.
- 14) Second Defendant: Wayne Stine
Official Position: City of Clifton Police Department Detective
Address: Clifton Police Dept. 900 Clifton Avenue, Clifton, New Jersey 07013
- 15) Defendant Wayne Stine while acting under the color and pretenses of State law, arrested Plaintiff without probable cause, and an upon an arrest warrant issued without probable cause, depriving Plaintiff of his rights to be secure in his person against unreasonable seizures, and arrest without probable cause, in violation of the Fourth Amendment to the U.S. Constitution and Art.1, Para.1 and Para.7 of the N.J. Constitution.
- 16) Defendant Wayne Stine while acting under the color and pretenses of State law did knowingly, purposefully and maliciously, use excessive force to bring about Plaintiff's arrest without probable cause and upon an arrest warrant issued without probable cause, depriving Plaintiff of his rights to be secure in his person against unreasonable seizures, excessive force, arrest without probable cause, in violation of the Fourth Amendment to the U.S. Constitution and Art.1, Para.1 and Para.7 of the N.J. Constitution.
- 17) Defendant Wayne Stine while acting under the pretenses of State law having opportunity to do so, failed to intervene to (1) prevent defendants Steven Farrell and Robert Anderson from using excessive force to effect the illegal arrest of Plaintiff; and (2) prevent defendants Steven Farrell and Robert Anderson from arresting Plaintiff's without probable cause in violation of 42 U.S.C. § 1986.
- 18) Defendant Wayne Stine is being sued in his individual capacity for damages pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1986.
- 19) Third Defendant: Steven Farrell
Official Position: City of Clifton Police Department Detective
Address: Clifton Police Dept. 900 Clifton Avenue, Clifton, New Jersey 07013
- 20) Defendant Steven Farrell while acting under the color and pretenses of State law, arrested Plaintiff without probable cause, and pursuant to an arrest warrant issued without probable cause, depriving Plaintiff of his rights to be secure in his person against unreasonable seizures, and arrest without probable cause, in

violation of the Fourth and Fourteenth Amendment to the U.S. Constitution and Art.1, Para.1 and Para.7 of the N.J. Constitution.

- 21) Defendant Steven Farrell while acting under the color and pretenses of State laws did knowingly, purposefully and maliciously, use excessive force to bring about Plaintiff's arrest without probable cause and upon an arrest warrant issued without probable cause, depriving Plaintiff of his rights to be secure in his person against unreasonable seizures, excessive force, arrest without probable cause, in violation of the Fourth Amendment to the U.S. Constitution and Art.1, Para.1 and Para.7 of the N.J. Constitution.
- 22) Defendant Steven Farrell while acting under the pretenses of State law having opportunity to do so, failed to intervene to: (1) prevent defendants Wayne Stine and Robert Anderson from using excessive force to effect an illegal arrest of Plaintiff; and (2) prevent defendants Wayne Stine and Robert Anderson from arresting Plaintiff's without probable cause, in violation of 42 U.S.C. § 1986.
- 23) Defendant Steven Farrell is being sued in his individual capacity for damages pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1986.
- 24) Fourth Defendant: Justin Bertone
Official Position: City of Lodi Police Department Detective
Address: Lodi Police Dept. 1 Memorial Drive Lodi, New Jersey 07644
- 25) Defendant Justine Bertone while acting under the color and pretenses of State law, conspired with defendant Sgt. Martin, to bring about Plaintiff's arrest without probable cause for the purpose of interrogating Plaintiff concerning unsolved purse-snatching crimes that occurred in multiple counties, and in furtherance of the scheme and conspiracy, defendant Bertone did personally prepare the complaint-affidavit of Complaint-Warrant No.W-2010-000466-0231 charging Plaintiff with the October 21, 2010 purse-snatching robbery of Julie Feliciano, intentionally omitting material facts and information that militated against prima facie probable cause in order to bring about Plaintiff's arrest pursuant to an arrest warrant issued without probable in violation of the Fourth Amendment to the U.S. Constitution and Art.1, Para.1 and Para.7 of the N.J. Constitution.
- 26) Defendant Justine Bertone while acting under the color and pretenses of State law did knowingly, purposefully, and unlawfully seize from Plaintiff, without a warrant, a 2006 Hyundai Santa Fe SUV, and proximately causing Plaintiff to incur the monetary loss of the value of the vehicle without due process, in violation of his rights to be secure against unreasonable seizure of property, and the deprivation of property without due process and without just compensation,, in violation of the Fourth, Fifth, and Fourteenth Amendment to the U.S. Constitution and Art.1, Para.1 and Para.7 of the N.J. Constitution.
- 27) Defendant Justine Bertone while acting under the pretenses of State law, having opportunity to do so, failed to intervene to: (1) prevent defendants Wayne Stine, Steven Farrell and Robert Anderson from using excessive force

to effect an illegal arrest of Plaintiff; and (2) Prevent defendants Wayne Stine, Steven Farrell and Robert Anderson from unlawfully arresting Plaintiff, pursuant to an arrest warrant which he knew had been issued without probable cause violation of 42 U.S.C. § 1986.

- 28) Defendant Justine Bertone is being sued in his individual capacity for damages pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1986.
- 29) Fifth Defendant: Sgt. Vincent Martin
Official Position: City of Lodi Police Department Detective
Address: Lodi Police Dept. 1 Memorial Drive, Lodi, New Jersey 07644
Defendant Sgt. Vincent Martin while acting under the color and pretenses of State law, conspired with defendant Justine Bertone to bring about Plaintiff's arrest without probable cause, for the purpose of interrogating Plaintiff concerning unsolved purse-snatching crimes that occurred in multiple counties, and in furtherance of the scheme and conspiracy, defendant Sgt. Martin did verify upon oath and affirmation the complaint-affidavit of Complaint-Warrant No. W-2010-000466-0231 charging Plaintiff with second-degree robbery, intentionally omitting material facts and information that militated against prima facie probable cause in order to bring about Plaintiff's arrest pursuant to an arrest warrant issued without probable in violation of the Fourth Amendment to the U.S. Constitution and Art.1, Para.1 and Para.7 of the N.J. Constitution.
- 30) Defendant Sgt. Vincent Martin while acting under the pretenses of State law, having opportunity to do so, failed to intervene to: (1) prevent defendants: Wayne Stine, Steven Farrell and Robert Anderson from using excessive force to effect an illegal arrest of Plaintiff; (2) prevent defendants Wayne Stine, Steven Farrell and Robert Anderson from arresting Plaintiff pursuant to an arrest warrant known to have been issued without probable cause; and (3) prevent defendant Justine Bertone from unlawfully seizing a 2006 Hyundai Santa Fe SUV without a warrant; in violation of 42 U.S.C. § 1986.
- 31) Defendant Sgt. Vincent Martin is being sued in his individual capacity for damages pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1986.
- 32) Seventh Defendant: Michael Gonzales
Official Position: City of Kearny Police Department Detective
Address: Kearny Police Dept. 337 Laurel Avenue Kearny, New Jersey 07032
- 33) Defendant Michael Gonzales while acting under the color and pretenses of State law and as the complaining witness, purposefully submitted to a warrant issuing Kearny Municipal Court official, a constitutionally deficient complaint-affidavit for Complaint-Warrant No. W-2010-000015-0907 and did cause an arrest warrant to issue to bring about Plaintiff's arrest without probable, in violation of the Fourth Amendment to the U.S. Constitution, and Art.1, Para.1 and Para.7 of the N.J. Constitution.
- 34) Defendant Michael Gonzales is being sued in his individual capacity for damages pursuant to 42 U.S.C. § 1983.

Statement of Exhaustion

- 35) 42 U.S.C. § 1997e exhaustion requirements are inapplicable in this case. This action does not involve any claims related to jail, prison or other correctional facilities conditions or treatment, and there are no administrative remedies available with regards to the matters and claims stated in this complaint against the police officer defendants.

PART TWO

STATEMENT OF FACTS

- 36) On the weekend dates of: December 5-6, 2010 and December 11-12, 2010, a series of purse-snatching crimes occurred in the parking lot area of various store parking lots in: Lodi, N.J. (10/21/10); Hackensack, N.J. (10/23/10); Maywood, N.J. (12/5/10); Bloomfield, N.J. (12/5/10, 12/6/10, 12/11/10); Clifton (12/11/10); and Lodi, N.J. (12/12/10); Kearny (12/12/10). In each such incident, the driver of a SUV would drive up next to the victim, snatch their purse and drive off.
- 37) Aside from gender, the description of the suspect from each of the above-mentioned purse-snatching crimes varied broadly, ranging from a "dark skin black male", to a "white/caucasian male". Notwithstanding, Plaintiff was targeted, and subsequently charged with committing each of these purse-snatching crimes by each of the named defendant.
- 38) The first relevant purse-snatching incident occurred in Lodi on Thursday, October 21, 2010 (hereinafter the "10/21/10 Feliciano robbery") the victim, Julie Feliciano reported that the suspect was a "*light skin hispanic or black male*", with "*short black hair*" and "*facial beauty marks*" driving a "*silver Jeep Liberty*," pulled along side of her as she was preparing to get into her car and snatched her purse and drove off. The suspect's vehicle was recorded driving away from the scene of the crime by home security surveillance.
- 39) The second relevant purse-snatching incident occurred in Clifton on Saturday, December 11, 2010 (hereinafter the "12/11/10 Sentkowski robbery") the victim Lynn Sentkowski reported that while walking through the parking lot of Target an unidentified suspect was only described as a "*light skinned black or hispanic male*" driving a "navy blue colored SUV" pulled along side of her, snatched her purse, and drove off. This incident was captured by the Target store surveillance video, and the vehicle was subsequently identified from the video as being a 2006 Hyundai Santa Fe SUV, registered to Fe Alma Agbayani, and a vehicle which Plaintiff was one of several persons authorized to possess and drive.
- 40) The third relevant purse-snatching incident occurred in Lodi on Sunday, December 12, 2010 (hereinafter the "12/12/10 Iodaci robbery") the victim Joan

Iodaci, the wife of Lodi PD Captain Iodaci, reported that while in the parking lot of Shop-Rite, loading her groceries in vehicle a unknown suspect identified as a "*white/caucasian male*" driving what was subsequently identified from the video as possibly being a 2006 Hyundai Santa Fe SUV, pulled along side of her and snatched her purse from her shopping cart and drove off.

- 41) The fourth relevant purse-snatching incident occurred in Kearny on December 12, 2010 (hereinafter the "12/12/10 Scoccimarro robbery") the victim Joan Scoccimarro reported while walking through the parking lot of Wal-Mart, a unknown suspect identified as a "*dark skin black male*", driving "*a newer model 4 door wagon.*"
- 42) The vehicle driven by the suspects who committed the "12/11/10 Sentkowski robbery", the 12/12/10 "Iodaci robbery", and the "12/12/10 Scoccimarro robbery", was subsequently identified from surveillance videos as being a blue 2006 Hyundai Santa Fe SUV registered to Fe Alma Agbayani, a vehicle which Plaintiff was one of several persons authorized to possess and drive the vehicle.
- 43) Plaintiff and Fe Alma Agbayani entered into an agreement for Plaintiff to be responsible for facilitating certain mechanical and body damage repairs, interior upholstery and audio modifications, to the vehicle as a precondition for the trade and sale of the vehicle.
- 44) On the relevant consecutive weekend dates of December 5-6, 2010, and December 11-12, 2010, Plaintiff's former roommates: Henry Hodges and Dominick Torres; had possession of the Hyundai Santa Fe SUV for the purposes of taking the vehicle to a mechanic to have certain mechanical work completed, body damage repair, and install audio equipment, while Plaintiff was out of town, and the vehicle was not being used by either Plaintiff or Fe Alma Agbayani.
- 45) On December 13, 2010 Plaintiff discovered that his roommates did not take the vehicle to have any of the repairs completed, and had spent the money Plaintiff had given to them to pay for the repairs, on drugs and prostitutes. As a result, Plaintiff evicted his roommates and ended his friendship both of his former roommates on December 14, 2010. Plaintiff was unaware that the vehicle had been used by his former roommates in the course of committing any crime, or involved in any crime.
- 46) On December 16, 2010 Clifton PD defendant detective Robert Anderson purportedly received "anonymous tip" to target and investigate Plaintiff as the suspect who had committed each of the purse-snatching crimes. During the course of his investigation, detective Anderson learned that Plaintiff received a traffic summons while driving the Hyundai Santa Fe SUV. Acting in concert with Clifton PD defendants: detective Wayne Stine, and detective Steven Farrell; responded to Plaintiff's Hackensack residence, and observed Plaintiff and Fe Alma Agbayani leaving the parking lot of Plaintiff's residence in the

suspect Hyundai Santa Fe SUV, and placed Plaintiff under immediate covert police surveillance.

- 47) Detective Anderson did not attempt interview or question either Plaintiff, or Fe Alma Agbayani in regards to there whereabouts on the weekend dates in which the purse-snatching crimes occurred, or to determine the identity of the persons who had possession of the Hyundai Santa Fe SUV when the purse-snatching crimes occurred.
- 48) Detective Anderson immediately contacted Lodi PD defendant Sgt. Vincent Martin, and Kearny PD defendant detective Michael Gonzales, informing them that Plaintiff had been identified as a suspect in the "12/11/10 Sengkowski robbery"; the 12/12/10 "Iodaci robbery", and "12/12/10 Scoccimarro robbery", and was observed leaving his residence in a Hyundai Santa Fe SUV that matched the description of the suspect vehicle involved in the purse-snatching incidents.
- 49) Detective Anderson provided Sgt. Martin with Plaintiff's name, address of his Hackensack residence, his pedigree information, the vehicle license and registration information, and the exact location of Plaintiff's assigned parking space in the private parking lot of his residence where the suspect Hyundai Santa Fe SUV was being parked. Sgt. Martin shared this information with Lodi PD defendant detective Justine Bertone.
- 50) On this same date, detective Anderson prepared and disseminated an inherently suggestive photo array containing Plaintiff's driver's license photo to one of the investigating detectives of the "10/21/10 Feliciano robbery", Lodi PD Sgt. Jeffery Telep.
- 51) On her first viewing Ms. Feliciano was unable to identify anyone from the photos, however, after being prompt by Sgt. Telep to view Plaintiff's photo a second time, Ms. Feliciano made an "equivocal" selection/identification of Plaintiff's photograph, indicating that she "felt" her level of certainty was about 80%; but she could not make a positive identification of Plaintiff, because Plaintiff was distinguishable from the suspect who committed the purse-snatching robbery 2 months prior, where the suspect had "short black hair" and "facial beauty marks", and Plaintiff is "bald" and did not have any "facial beauty marks".
- 52) At all relevant times and dates, defendants: detective Anderson, detective Stine, and detective Farrell; Sgt. Martin, and detective Bertone; each knew, or reasonably should have known that: (1) Plaintiff was a 50 year old, light skin black male, bald, and did not have any facial beauty marks; (2) Plaintiff *could not* be mistaken for the suspect that was initially described by Ms. Feliciano when the crime occurred 2 months prior, as a light skin black male with "*short black hair*," and "*facial beauty marks*"; and (3) the vehicle driven by the suspect involved in the "10/21/10 Feliciano robbery" was identified by home security surveillance video as a "Jeep Liberty," a vehicle that could not be

associated with Plaintiff, and cannot be mistaken for a 2006 Hyundai Santa Fe SUV; and (4) there was no evidence to connect Plaintiff to the "10/21/10 Feliciano robbery" other than the "equivocal" photo identification made by Ms. Feliciano.

- 53) At no time did Sgt. Martin, detective Bertone or any other law enforcement officer, make any attempt to contact or interview either Plaintiff, or Fe Alma Agbayani, to determine Plaintiff's whereabouts on the times and dates in which the purse-snatching incidents occurred, or determine the identity of the persons who had possession of the Hyundai Santa Fe SUV on those weekend times and dates in which the relevant purse snatching crimes occurred.
- 54) Purportedly at 6:30 am on December 17, 2010, detective Bertone prepared the complaint-affidavit for Complaint-Warrant No. W-2010-000466-0231 for Sgt. Martin, charging Plaintiff with the "10/21/10 Feliciano robbery". Sgt. Martin verified the complaint by oath and affirmation, and this Complaint-Warrant was left for the warrant issuing Lodi Municipal Court Judge to review during business hours.
- 55) When preparing and submitting the complaint-affidavit of Complaint-Warrant No. W-2010-000466-0231, Sgt. Martin and detective Bertone knew, or reasonably should have known that the complaint-affidavit was so deficient as to render any officer's belief in the existence of probable cause unreasonable. In addition, any reasonably well-trained officer in their position would have known that the fact and information concerning Ms. Feliciano's "equivocal" identification of Plaintiff's photo, and her level of certainty militated against finding probable cause, and this information should have been presented to the warrant issuing Lodi Municipal Court Judge for consideration in the determination of whether probable cause existed to issue an arrest warrant charging Plaintiff with the "10/21/10 Feliciano robbery".
- 56) Both Sgt. Martin and detective Bertone represented in their respective Lodi PD Investigative Reports that at "6:30 am", on December 17, 2010, Plaintiff was "charged" in Complaint-Warrant No. W-2010-000466-0231 with the "10/21/10 Feliciano robbery", however based upon information and belief, the warrant issuing Lodi Municipal Court Judge did not issue the arrest warrant until sometime after Plaintiff's arrest.
- 57) Sgt. Martin *did not* personally appear before warrant issuing Lodi Municipal Court Judge to present any "in-person" testimony concerning the "10/21/10 Feliciano robbery" or "equivocal" photo identification, prior to the arrest warrant issuing.
- 58) Sgt. Martin did not submit contemporaneously with his Complaint-Warrant No. W-2010-000466-0231, any "supplemental affidavit" attesting to any additional facts and information outside the four corners of the complaint-affidavit concerning the "10/21/10 Feliciano robbery" or "equivocal" photo identification.

- 59) The complaint-affidavit of Complaint-Warrant No. W-2010-000466-0231 fails completely to articulate a single fact that would render any the belief in the existence of probable cause reasonable to charge and arrest Plaintiff for the "10/21/10 Feliciano robbery".
- 60) On December 17, 2010 relying solely upon Sgt. Martin's conclusory statement of the complaint-affidavit of Complaint-Warrant No. W-2010-000466-0231 that: Plaintiff: "*did...commit robbery...*"; and Sgt. Martins cryptic affirmation statement that: "*The Undersigned Further Certifies That He Has Just And Reasonable Grounds For Issuance Of This Complaint*"; the warrant issuing judge merely signed the complaint warrant and checked the box indicating probable cause existed for issuance of an the arrest warrant charging Plaintiff with the "10/21/10 Feliciano robbery". see attached Exhibit No.1, Complaint-Warrant No. W-2010-000466-0231
- 61) On 12/17/10 between the hours of 6:00 am and 7:00 am, Clifton PD detective Anderson, detective Stine, and detective Farrell, responded to Plaintiff's Hackensack residence in plain clothes, and in a unmarked police vehicle, and concealed themselves in the private parking lot area located in the rear of Plaintiff's Hackensack apartment residence, to continue their covert police surveillance of Plaintiff and the Hyundai Santa Fe SUV, and meet with Lodi PD Sgt. Martin and detective Bertone.
- 62) Apart from the Clifton PD police surveillance operation, but simultaneously therewith, Lodi PD defendants: Sgt. Martin and detective Bertone, set up additional covert police surveillance of Plaintiff's residence, by concealing themselves in the parking lot a 7-Eleven store, located approximately 50 yards directly across the street from Plaintiff's residence, then met with Clifton PD defendants: detective Anderson, detective Stine, and detective Farrell, and advised them that Plaintiff was charged with the "10/21/10 Feliciano robbery" and an arrest warrant had issued.
- 63) Lodi PD defendants Sgt. Martin and detective Bertone, and Clifton PD defendants: detective Anderson, detective Stine, and detective Farrell devise a tactical plan to arrest Plaintiff and an agreement was reached where the Clifton PD detectives would remain concealed in their surveillance position in the private parking lot of Plaintiff's residence, and arrest Plaintiff if he exited his residence into the private parking lot area, and Sgt. Martin and detective Bertone would arrest Plaintiff if he exited his apartment residence into the public street area. In both scenarios, defendants intended to arrest Plaintiff under the authority arrest warrant No. W-2010-000466-0231 charging Plaintiff with "10/21/10 Feliciano robbery".
- 64) At no time did either detective Anderson, detective Stine, or detective Farrell, have any personal or collective knowledge, or reasonably trustworthy information sufficient to lead a person of reasonable caution to believe that

Plaintiff had committed the "10/21/10 Feliciano robbery", for which arrest warrant No. 2010-000466-0231 allegedly had issued for Plaintiff's arrest, and there were no other active warrants for Plaintiff's arrest so as to establish probable cause for the Clifton PD defendants to arrest Plaintiff outside of their territorial jurisdiction in Hackensack.

- 65) Detective Anderson, detective Stine, and detective Farrell, each knew, or reasonably should have known that pursuant to N.J.S.A. 40A:14-152 there arrest powers were limited to the territorial jurisdiction of Clifton as City of Clifton police officers, and their authority to arrest Plaintiff in Hackensack, for a crime that was committed *outside their presence, in Lodi, 2 months prior*, was non-existent. However to circumvent the statutory restrictions these defendants intended to rely on the information conveyed by defendants Sgt. Martin and/or detective Bertone that arrest warrant No. W-2010-000466-0231 had issued out of Lodi Municipal Court for Plaintiff's arrest charging him with the "10/21/10 Feliciano robbery".
- 66) At no time did detective Anderson, detective Stine, or detective Farrell review the complaint-affidavit of Complaint-Warrant No. W-2010-000466-0231, or otherwise, verify or confirm that this arrest warrant had issued for Plaintiff's arrest charging him with the "10/21/10 Feliciano robbery".
- 67) Collectively, Sgt. Martin, detective Bertone, detective Anderson, detective Stine and detective Farrell, knew, or reasonably should have known that there was insufficient probable cause to arrest Plaintiff for the "10/21/10 Feliciano robbery", and arrest warrant No. W-2010-000466-0231 had issued without the and independent determination of the existence of probable cause being made.
- 68) At approximately 10:00 am, on December 17, 2010, Plaintiff exited the rear door of his apartment residence into the private parking lot area carrying 2 large laundry bags, in his arms, holding a bottle of laundry detergent in one hand and a box of fabric softener in the other, he unknowingly walked past the unmarked police vehicles of detective Anderson, detective Stine, and detective Farrell.
- 69) Once Plaintiff had walked past their vehicle and had his back facing these defendants, detective Anderson, detective Stine, and detective Farrell quickly drove up along side of Plaintiff opening the passenger door and using the car door to swat Plaintiff in back, causing him to fall forward to the ground, at which point all three of these defendants exited their vehicle and "gang tackled" Plaintiff as he turned to see the vehicle that had hit him from behind and without warning, detective Stine punched Plaintiff in the face breaking his eyeglasses on his face, at the same time as detective Anderson using his elbow to strike Plaintiff in the back of his head, at which point Plaintiff was dazed and disoriented, and unable to offer any type of resistance, and was under the total physical control of these defendants.
- 70) Plaintiff was straddled and pinned face down to the ground by one of the Clifton PD defendants, making it difficult to for him to identify who was doing

what and believes it was detective Farrell who straddled him and used his knee to spear Plaintiff in his back and spine, purposely putting his full weight and began to grind his knee into the middle of Plaintiff's spine, causing excruciating and immobilizing pain.

- 71) Another one of these defendants, believed to have been defendant Stine handcuffed Plaintiff's hands behind his back, intentionally squeezing and tightening the handcuffs until they dug deeply into Plaintiff's wrists, cutting off circulation in his arms and hands, causing immobilizing pain, and numbness which lasted approximately 6 weeks after the December 17, 2010 arrest date..
- 72) After being handcuffed and while still being pinned to the ground, believed to have been detective Stine or detective Anderson, repeatedly kicked and stomped Plaintiff in his side and head, taunting him with racial slurs, and Plaintiff was repeatedly punched by 2 separate defendants in the head, face, and body.
- 73) At one point during the assault either detective Anderson, detective Stine, or detective Farrell, stepped on Plaintiff's head and neck, and intentionally started grinding his foot like he was grinding out a cigarette on the ground.
- 74) This assault and beating lasted approximately 2-3 minutes, and from the initial physical seizure of Plaintiff for the duration of the assault, Plaintiff was hurt, totally incapacitated, disoriented, and bleeding from head and face wounds. see Exhibit No.2, Plaintiff's Post Arrest Book-End Photograph.
- 75) Plaintiff was grabbed by his clothes and stood up at which point either detective Anderson, detective Stine or detective Farrell, slammed Plaintiff's head into the hood of a parked car, and it was at this point, Plaintiff observed Sgt. Martin and detective Bertone "slow walking" to the parking lot area where Plaintiff was being held up against a parked vehicle.
- 76) Upon his arrival, Sgt. Martin stated looked at Plaintiff, then stated to Clifton PD defendants: "I thought you guys said you wanted to lump him up, never send a boy to do a man's job", and all the defendants laughed.
- 77) The initial seizure and assault incapacitating Plaintiff occurred so fast, Plaintiff initially thought he was a victim of a hate crime based upon the taunting with s, and it was only after Plaintiff was picked up off the ground did he see that detective Anderson, detective Stine, and detective Farrell were displaying their authority as City of Clifton police officers by displaying their Clifton PD badges.
- 78) As a result of the assault and excessive force used by detective Anderson, detective Stine, and detective Farrell, Plaintiff suffered the loss and destruction of his prescription eyeglasses valued \$450.00; multiple head and facial wounds; extended excruciating pain in his back, neck, ribs, neck, groin and shoulder that lasted for over 3 months following the incident; pain and numbness in his arms and hands that lasted several weeks after the incident, chronic and worsening
- 79) back and neck pain, and frequent migraine headaches, and unexplained bouts

- of dizziness and blackouts that has lasted over a year since the incident.
- 80) At all times during the assault and beating, Sgt. Martin and detective Bertone, had a clear line of sight of the parking lot where Plaintiff was assaulted and arrested, and had ample opportunity to intervene and prevent Plaintiff from being illegally arrested and assaulted by detective Anderson, detective Stine and detective Farrell, but failed to do so.
- 81) Immediately following Plaintiff's arrest, at 10:12, in the absence of exigent circumstances, and without a warrant authorizing the Lodi Police to seize the Hyundai Santa Fe SUV from where it was lawfully parked in the private parking lot of Plaintiff's Hackensack residence, detective Bertone unlawfully seized the vehicle and caused it to be towed from Hackensack to Lodi and impounded at the Lodi PD impound lot in Lodi. see Exhibit No. 4, Bergen County Prosecutor's Office Seized Vehicle Report
- 82) Detective Bertone knew in advance where the vehicle was located, intending to seize the vehicle upon Plaintiff's arrest, and although having opportunity to prepare and attempt to procure a warrant authorizing the seizure of the Hyundai Santa Fe SUV, especially in light of the fact that detective Bertone "prepared" the complaint-affidavit of Complaint-Warrant No. W-2010-000466-0231 for Sgt. Martin, detective Bertone made no effort to procure a warrant authorizing seizure of the vehicle from another city.
- 83) After being arrested by Clifton PD detective Anderson, detective Stine, and detective Farrell, custody and control of Plaintiff was passed to Lodi PD Sgt. Martin, and Plaintiff was transported to Lodi PD Headquarters. Upon arrival and due to Plaintiff having obvious injuries that required medical attention, (see Exhibit No.2, Plaintiff's Book-In Photographs and Exhibit No.3 Bergen County Jail Intake Medical Records)
- 84) Upon the arrival of Lodi EMS, Plaintiff complained of pain, blurry vision, confusion and dizziness, requesting that he be taken to the hospital for medical care, however, detective Bertone refused to allow Plaintiff to be transported to the hospital to receive any medical treatment, and detective Bertone signed a EMS Refusal of Medical Assistance form to release the EMS technicians from the call, falsely documenting that Plaintiff refused medical treatment in effort to create a false record and cover-up: (1) the injuries and ill effects Plaintiff was suffering from after being assaulted and subjected to excessive force, and (2) the arbitrary and capricious denial of access to medical care and treatment;
- 85) It was the plan and scheme of detective Bertone and Sgt. Martin to subject Plaintiff to an immediate coercive police interrogation, it being obvious to any layman that at the time Plaintiff was suffering from the ill effects of the beating, head trauma and pain, disoriented and confused.
- 86) Sgt. Martin and detective Bertone used the promise of Plaintiff being taken to the hospital for medical treatment like "a carrot and a stick", to "trick" and "coerce" Plaintiff into involuntarily waiving his Miranda rights, and submitting

- 87) unknowingly to a "relay-team style" custodial interrogations while his cognitive abilities were impaired and his will to resist was overborne. As a result, during the custodial interrogations Plaintiff made vague and confusing, but involuntary inculpatory statements, which are being used by the State as their primary piece of evidence to prosecute Plaintiff for the various purse-snatching robberies.
- 88) Following Plaintiff's arrest, on December 17, 2010 detective Anderson, prepared and presented to a warrant Clifton Municipal Court official his complaint-affidavit of Complaint-Warrant No.W-2010-002419-1602, which in reckless disregard for the truth alleged that Plaintiff committed an "armed robbery" arising from the "12/11/10 Sentkowski robbery" which he knew, or reasonably should have known that there existed no factual or legal basis, no probable cause to charge and arrest Plaintiff for "first-degree [armed] robbery."
- 89) Detective Anderson further misrepresented to the warrant issuing Clifton Municipal Court official that during his custodial interrogation: (1) Plaintiff admitted to committing the "12/11/10 Sentkowski robbery", and (2) Plaintiff provide him with specific details that would specify his involvement in the "Sentkowski robbery", at all times knowing these representations were false and Plaintiff made no such admission to detective Anderson.
- 90) Based upon the foregoing intentional act and omission of defendant Anderson, on December 17, 2010 Plaintiff was arrested and charged pursuant to arrest warrant No.W-2010-002419-1602 that was procured by detective Anderson, charging Plaintiff without probable cause with "first-degree [armed] robbery" arising from the "12/11/10 Sentkowski robbery".
- 91) Following Plaintiff's arrest, on December 17, 2010, on or about December 18, 2010, Kearny PD defendant, detective Michael Gonzales met with Plaintiff in person at the Bergen County Jail, and attempted to interrogate Plaintiff concerning the "12/12/10 Scoccimarro robbery", at which point Plaintiff refused to speak to him without an attorney. Notwithstanding, detective Gonzales observed and knew that Plaintiff was a bald, light skin black male, and the suspect who committed the "Scoccimarro robbery" was identified and described as a "dark skin black male".
- 92) On January 4, 2011, detective Gonzales, knowingly and purposefully committed the act of procurement of an arrest warrant as the complaining witness, where in reckless disregard for the truth, detective Gonzales intentionally omitted and concealed the material and exculpatory facts from the warrant issuing Kearny Municipal Court official that: (1) the suspect who committed the "12/12/10 Scoccimarro robbery" was identified and described by both Ms. Scoccimarro, and witnesses to the crime as being a "*dark skin black male*" and (2) Plaintiff is a "*light skin black male*", who could not be mistaken for a "dark skin" black male; at all times knowing d there was no factual or legal basis to establish

- probable cause to justify charging Plaintiff with the "12/12/10 Scoccimarro robbery".
- 93) Based upon the foregoing intentional act and omission of detective Gonzales, on January 4, 2011, arrest warrant No. W-2010-000015-0907 issued and Plaintiff was arrested and charged with the "12/12/10 Sentkowski robbery".
- 94) On March 29, 2011, detective Gonzales appeared before a Hudson County Grand Jury in the case State of New Jersey v. Steven Trainer, Indictment No. 0571-03-2011, to testify concerning the "12/12/10 Scoccimarro robbery," and again, intentionally concealing the exculpatory and material facts from his testimony before the grand jury, that after testifying that the suspect who committed the "Scoccimarro robbery" was identified by Ms. Scoccimarro and witnesses as a "dark skin" black male, that Plaintiff is a "light skin black male".
- 95) At all times, detective Gonzales knew or reasonably should have known that by omitting from his grand jury testimony the material fact that Plaintiff was a "light skin" black male, and could not be mistaken for the "dark skin" black male, described by the victim and witnesses who committed the "Scoccimarro robbery" was an omission sufficient to mislead the grand jury into returning an indictment charging Plaintiff with the "12/12/10 Scoccimarro robbery".
- 96) As a result, the Hudson County Grand Jury in State of New Jersey v. Steven Trainer, Indictment No. 0571-03-2011 returned an indictment charging Plaintiff with committing the "12/12/10 Scoccimarro robbery".
- 97) On April 12, 2011 Clifton Pd defendant detective Anderson appeared before a Passaic County Grand Jury in case State of New Jersey v. Steven Trainer, indictment No. 11-04-0343-I, to testify concerning the his investigation into the "12/11/10 Sentkowski robbery."
- 98) During the Grand Jury proceedings, the prosecutor purposefully elicited from defendant Anderson the fact specific and material false testimony that during Plaintiff's December 17, 2010 custodial interrogation, defendant Anderson questioned Plaintiff concerning the "12/11/10 Sentkowski robbery," and Plaintiff "*admitted to being the individual who used the Hyundai Santa Fe to steal the woman's purse in the Target lot*", and Plaintiff "*provided various details that would specify his involvement in the alleged theft*".
- 99) At all times defendant Anderson knew that: (1) Plaintiff's interview with defendant Anderson was recorded; (2) Plaintiff neither "*admitted to being the individual who used the Hyundai Santa Fe to steal the woman's purse in the Target lot*", nor did he "*provided various details that would specify his involvement in the alleged theft*"; (3) the testimony was material, which without, the State could not present a prima facie case to charge Plaintiff with the 12/11/10 "Sentkowski robbery"; and (4) the false testimony was demonstrably false.
- 100) As a result, of defendant Anderson presenting material false testimony, the

Passaic County Grand Jury in State of New Jersey v. Steven Trainer, Indictment No. 11-04-0343-I, returned an indictment charging Plaintiff with committing first-degree [armed] robbery, arising from the "12/11/10 Sentkowski robbery".

101) On May 6, 2011 the Superior Court of New Jersey Law Bergen County Special Civil Part in the case styled State of New Jersey v. 2006 Hyundai Santa Fe, Last Four of Vehicle Identification No.1646 Seized From Steven Trainer, Docket No. DC-009109-11, entered a final order for default judgment and for forfeiture of the Hyundai Santa Fe SUV to the Bergen County Prosecutor's Office without Plaintiff being provided any notice that a forfeiture proceeding had been commenced. Plaintiff moved to set aside the default judgment Order due to the failure to serve Plaintiff the summons and complaint, which the trial court denied June 30, 2011

102) Plaintiff timely appealed to the New Jersey Superior Court Appellate Division in State of New Jersey v. 2006 Hyundai Santa Fe, Last Four of Vehicle Identification No.1646 Seized From Steven Trainer, Docket No. A006095-10 T4, however during the pendency of the appeal, on or about October 7, 2011 the Bergen County Prosecutor's Office disposed of the vehicle, resulting in Plaintiff incurring the debt, and contractual obligation pay the registered owner of the vehicle the value of the vehicle at the time of the unlawful seizure in the total amount of \$10,400.00.

PART THREE

STATEMENT OF CLAIMS

First Claim For Relief

Deprivation of Plaintiff's Rights To Be Secure In His Person Against Unreasonable Seizures And The Use Of Excessive Force By Police Officers To Arrest In Violation of the Fourth to the U.S. Constitution, and Art.1, Para.7 of the N.J. Constitution.

Count One

103) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through No.79 of this complaint.

104) The above-described conduct of defendant Robert Anderson, assaulting Plaintiff and using excessive force to effect an illegal arrest, were intentional, wanton and malicious acts, the natural consequences and intended result was to wantonly and maliciously inflict upon Plaintiff, pain, punishment, and injury, depriving Plaintiff of his rights secured by the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New

Jersey Constitution.

- 105) As a direct and proximate consequences of defendant Robert Anderson assaulting Plaintiff and using excessive force to effect an illegal arrest, Plaintiff was caused illegally arrested and caused to suffer the wanton infliction of pain, punishment, injury, mental anguish, multiple head, face and body injuries, a broken tooth, loss and destruction of his prescription eyeglasses, and the deprivation of his rights under the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 106) Defendant Robert Anderson is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1983.

Count Two

- 107) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through No.79 of this complaint.
- 108) The above-described conduct of defendant Wayne Stine assaulting Plaintiff and using excessive force to effect an illegal arrest, were intentional, wanton and malicious acts, the natural consequences and intended result was to wantonly and maliciously inflict upon Plaintiff, pain, punishment, and injury, depriving Plaintiff of his rights secured by the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 109) As a direct and proximate consequences of defendant Wayne Stine assaulting Plaintiff and using excessive force to effect an illegal arrest, Plaintiff was illegally arrested, and caused to suffer the wanton infliction of pain, punishment, injury, mental anguish, multiple head, face and body injuries, a broken tooth, loss and destruction of his prescription eyeglasses, and the deprivation of his rights under the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 110) Defendant Wayne Stine is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1983.

Count Three

- 111) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through No.79 of this complaint.
- 112) The above-described conduct of defendant Steven Farrell assaulting Plaintiff and using excessive force to effect an illegal arrest, were intentional, wanton and malicious acts, the natural consequences and intended result was to wantonly and maliciously inflict upon Plaintiff, pain, punishment, and injury, depriving Plaintiff of his rights secured by the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 113) As a direct and proximate consequences of defendant Steven Farrell assaulting

Plaintiff and using excessive force to effect an illegal arrest, Plaintiff was illegally arrested and caused to suffer the wanton infliction of pain, punishment, injury, mental anguish, multiple head, face and body injuries, a broken tooth, loss and destruction of his prescription eyeglasses, and the deprivation of his rights under the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.

- 114) Defendant Steven Farrell is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1983.

Second Claim For Relief

Deprivation Of Plaintiff's Rights To Be Secure In His Person Against Arrest Without Probable Cause, And Arrest Upon An Arrest Warrant Issued Without Probable Cause In Violation Of The Fourth Amendment To The U.S. Constitution And Art.1, Para.7 Of The N.J. Constitution.

Count One

- 115) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through No. 79 of this complaint.
- 116) The above-described conduct of defendant Wayne Stine in arresting Plaintiff without probable cause, and pursuant to an arrest warrant issued without probable cause, was an intentional and wanton act, the natural and intended result was to cause Plaintiff to be unlawfully arrested for the purpose of interrogation and investigation deprived of his liberty, and the deprivation of his rights to be secure in his person against unreasonable seizures, arrest without probable and arrest upon an arrest warrant issued without probable cause.
- 117) As a direct and proximate consequences of defendant Wayne Stine in arresting Plaintiff without probable cause and pursuant to an arrest warrant issued without probable cause, Plaintiff was subjected to an unreasonable seizure, arrest without probable cause, and arrest upon an arrest warrant issued without probable cause in violation of the Fourth to the U. S. Constitution, and Art.1, and Para.7 of the New Jersey Constitution.
- 118) Defendant Wayne Anderson is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1983.

Count Two

- 119) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through No.79 of this complaint.
- 120) The above-described conduct of defendant Robert Anderson in arresting Plaintiff without probable cause, and pursuant to an arrest warrant issued without probable cause, was an intentional and wanton act, the natural and

intended result was to cause Plaintiff to be unlawfully arrested for the purpose of interrogation and investigation, deprived of his liberty, and the deprivation of his rights to be secure in his person against unreasonable seizures, arrest without probable cause, and arrest upon an arrest warrant issued without probable cause.

- 121) As a direct and proximate consequences of defendant Robert Anderson in arresting Plaintiff without probable cause and pursuant to an arrest warrant issued without probable cause, Plaintiff was subjected to an unreasonable seizure, arrest without probable cause, and arrest upon an arrest warrant issued without probable cause in violation of the Fourth to the U. S. Constitution, and Art.1, and Para.7 of the New Jersey Constitution.
- 122) Defendant Robert Anderson is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1983.

Count Three

- 123) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through No.79 of this complaint.
- 124) The above-described conduct of defendant Steven Farrell in arresting Plaintiff without probable cause, and pursuant to an arrest warrant issued without probable cause, was an intentional and wanton act, the natural and intended result was to cause Plaintiff to be unlawfully arrested for the purpose of interrogation and investigation, deprived of his liberty, and the deprivation of his rights to be secure in his person against unreasonable seizures, arrest without probable cause, and arrest upon an arrest warrant issued without probable cause.
- 125) As a direct and proximate consequences of defendant Steven Farrell in arresting Plaintiff without probable cause and pursuant to an arrest warrant issued without probable cause, Plaintiff was subjected to an unreasonable seizure, arrest without probable cause, and arrest upon an arrest warrant issued without probable cause in violation of the Fourth to the U. S. Constitution, and Art.1, and Para.7 of the New Jersey Constitution.
- 126) Defendant Steven Farrell is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1983.

Third Claim For Relief

Failure To Intervene To Prevent The Violation Of Plaintiff's Rights To Be Free From Unreasonable Seizures And The Use Of Excessive Force To Bring About Arrest In Violation Of 42 U.S.C. § 1986.

Count One

- 127) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through

No.79 of this complaint.

- 128) The above-described conduct of defendant Wayne Stine in failing to intervene to prevent or stop defendants: Robert Anderson and Steven Farrell from assaulting Plaintiff and using excessive force to bring about Plaintiff's unlawful arrest, was an intentional act and omission, the natural consequences and intended result was to cause, and proximately cause Plaintiff to suffer the wanton infliction of pain, punishment and injury, and illegal arrest, depriving Plaintiff of his rights secured by the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 129) As a direct and proximate consequences of defendant Wayne Stine in failing to intervene to prevent or stop defendants: Robert Anderson and Steven Farrell from assaulting Plaintiff and using excessive force to bring about his unlawful arrest, Plaintiff did suffer the wanton infliction of pain, punishment and injury, and was subjected to a unlawful arrest, depriving him of his rights secured by the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 130) Defendant Wayne Anderson is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1986.

Count Two

- 131) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through No.79 of this complaint.
- 132) The above-described conduct of defendant Robert Anderson in failing to intervene to prevent or stop defendants: Wayne Stine, and Steven Farrell from assaulting Plaintiff and using excessive force to bring about Plaintiff's unlawful arrest, was an intentional act and omission, the natural consequences and intended result was to cause, and proximately cause Plaintiff the wanton infliction of pain, punishment and injury, depriving Plaintiff of his rights secured by the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 133) As a direct and proximate consequences of defendant Robert Anderson in failing to intervene to prevent or stop defendants: Wayne Stine, and Steven Farrell from Assaulting Plaintiff and using excessive force to bring about his unlawful arrest Plaintiff did suffer the wanton infliction of pain, punishment and injury, depriving Plaintiff of his rights secured by the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 134) Defendant Robert Anderson is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1986.

Count Three

- 135) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through

No.79 of this complaint.

- 136) The above-described conduct of defendant Steven Farrell in failing to intervene to prevent or stop defendants: Robert Anderson and Steven Farrell from Assaulting Plaintiff and using excessive force to bring about Plaintiff's unlawful arrest, was an intentional act and omission, the natural consequences and intended result was to cause, and proximately cause Plaintiff to suffer the wanton infliction of pain, punishment and injury, and illegal arrest, depriving Plaintiff of his rights secured by the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 137) As a direct and proximate consequences of defendant Steven Farrell in failing to intervene to prevent or stop defendants: Robert Anderson and Wayne Stine from assaulting Plaintiff and using excessive force to bring about his unlawful arrest, Plaintiff did suffer the wanton infliction of pain, punishment and injury, and was subjected to a unlawful arrest, depriving him of his rights secured by the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 138) Defendant Steven Farrell is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1986.

Count Four

- 139) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through No.79 of this complaint.
- 140) The above-described conduct of defendant Vincent Martin in failing to intervene to prevent or stop defendants: Robert Anderson, Wayne Stine and Steven Farrell from assaulting Plaintiff and using excessive force to bring about Plaintiff's unlawful arrest, was an intentional act and omission, the natural consequences and intended result was to cause, and proximately cause Plaintiff to be illegal arrest and subjected to excessive force depriving Plaintiff of his rights secured by the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 141) As a direct and proximate consequences of defendant Vincent Martin in failing to intervene to prevent or stop defendants: Robert Anderson, Wayne Stine, and Steven Farrell from Assaulting Plaintiff and using excessive force to bring about his unlawful arrest, Plaintiff did suffer the wanton infliction of pain, punishment and injury, and was subjected to a unlawful arrest, depriving him of his rights secured by the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 142) Defendant Vincent Martin is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1986.

Count Five

- 143) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through No.79 of this complaint.

- 144) The above-described conduct of defendant Justine Bertone in failing to intervene to prevent or stop defendants: Robert Anderson, Wayne Stine, and Steven Farrell from assaulting Plaintiff and using excessive force to bring about Plaintiff's arrest, was an intentional act and omission, the natural consequences and intended result was to cause, and proximately cause Plaintiff the wanton infliction of pain, punishment and injury, depriving Plaintiff of his rights secured by the Fourth Amendment to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 145) As a direct and proximate consequences of defendant Justine Bertone in failing to intervene to prevent or stop defendants: Steven Farrell, Wayne Stine and Robert Anderson from Assaulting Plaintiff and using excessive force to bring about his arrest, Plaintiff did suffer the wanton infliction of pain, punishment and injury, depriving Plaintiff of his rights secured by the Fourth Amendment to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 146) Defendant Justine Bertone is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1986.

Fourth Claim For Relief

Deprivation of Rights To Be Secure In His Person Against Arrest Without Probable Cause, And Arrest Upon An Arrest Warrant Issued Without Probable Cause

Count One

- 147) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through No.79 of this complaint.
- 148) The above-described conduct of defendant Vincent Martin in submitting his complaint-affidavit of Complaint-Warrant No. W-2010-000466-0231, which he knew was so constitutionally deficient as to render any officer's belief in the existence of probable cause unreasonable, the natural consequences and intended result was to cause Plaintiff to be illegally arrested pursuant to an arrest warrant issued without probable cause, depriving Plaintiff of his rights secured by the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 149) As a direct and proximate consequences of the wanton and malicious acts of defendant Vincent Martin Plaintiff was subjected to unnecessary and excessive use of force by defendants: Robert Anderson, Wayne Stine, and Steven Farrell, while effecting an arrest upon a arrest warrant issued without probable cause, and suffered mental anguish, multiple head, face and body pain and injuries, a broken tooth, loss and destruction of prescription eyeglasses, and the deprivation of his rights under the Fourth and Fourteenth Amendments to the

U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.

- 150) Defendant Vincent Martin is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1983.

Count Two

- 151) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through No.88 of this complaint.
- 152) The above-described conduct of defendant Robert Anderson in preparing and presenting to a warrant issuing Clifton Municipal Court official his complaint-affidavit in Complaint-Warrant No.W-2010-002419-1602, charging Plaintiff with "first-degree [armed] robbery", at all times knowing there existed no factual or legal basis, nor probable cause to charge Plaintiff with first-degree [armed] robbery arising from the "12/11/10 Sentkowski robbery", so as to render any officer's belief in the existence of probable cause unreasonable, the natural consequences and intended result was to cause Plaintiff to be arrested pursuant to arrest warrant No.W-2010-002419-1602 and deprived of his rights to be secure in his person against arrest without probable cause, and arrest upon an arrest warrant issued without probable cause, and the violation of the Fourth Amendment to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the N.J. Constitution.
- 153) As a direct and proximate consequences of the wanton and malicious acts of defendant Robert Anderson Plaintiff was arrested pursuant to arrest warrant No.W-2010-002419-1602 that had been issued without probable cause depriving him of his rights to be secure in his person against arrest without probable cause, and arrest upon an arrest warrant issued without probable cause, in violation of the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 154) Defendant Robert Anderson is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1983.

Count Three

- 155) Plaintiff incorporates by reference and realleges paragraph(s) No. 1 through No. 90 of this complaint.
- 156) The above-described conduct of defendant Michael Gonzales in preparing and presenting to a warrant issuing Kearny Municipal Court official, his complaint-affidavit in Complaint-Warrant No W-2010-000015-0907 purposefully omitting the exculpatory and material facts that Plaintiff is a "light skin black male", and the suspect who committed the "12/12/10 Scoccimarro robbery" was described by the victim and witnesses as a "dark skin black male", was an intentional act of omission, the natural consequences and intended result was to cause arrest warrant No W-2010-000015-0907 to issue without probable cause and to cause Plaintiff to be deprived of his rights to be secure in his person

against arrest without probable cause, and arrest upon an arrest warrant issued without probable cause, and the violation of the Fourth Amendment to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the N.J. Constitution.

- 157) As a direct and proximate consequences of the wanton and malicious acts of defendant Michael Gonzales Plaintiff was arrested pursuant to arrest warrant No.W-2010-000015-907 that had been issued without probable cause depriving him of his rights to be secure in his person against arrest without probable cause, and arrest upon an arrest warrant issued without probable cause, in violation of the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 158) Defendant Michael Gonzales is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1983.

Fifth Claim For Relief

**Deprivation Of Plaintiff's Due Process And Grand Jury Rights By The
Knowing Use Of False Testimony**

Count One

- 159) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through No. 98 of this complaint.
- 160) The above-described conduct of defendant Robert Anderson in knowingly and purposefully presenting unequivocal false testimony to a Passaic County grand Jury was an intentional act, the natural consequences and intended result was to mislead and deceive the grand jury into believing there was sufficient probable cause to return an indictment charging Plaintiff with first-degree [armed] robbery, and deprive Plaintiff of his due process and grand jury right Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.8 of the New Jersey Constitution.
- 161) As the direct and proximate consequences of the wanton and malicious acts of defendant Robert Anderson, Plaintiff was arrested pursuant to an arrest warrant issued without probable cause and in violation of the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 162) Defendant Robert Anderson is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1983.

Count Two

- 163) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through No. 98 of this complaint.
- 164) The above-described conduct of defendant Michael Gonzales in knowingly and purposefully presenting unequivocal false testimony to a Hudson County Grand

Jury was an intentional act, the natural consequences and intended result was to mislead and deceive the grand jury into believing there was sufficient probable cause to return an indictment charging Plaintiff with the second degree robbery, and deprive Plaintiff of his due process and grand jury right Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.8 of the New Jersey Constitution.

- 165) As the direct and proximate consequences of the wanton and malicious acts of defendant Michael Gonzales, Plaintiff was arrested pursuant to an arrest warrant issued without probable cause and in violation of the Fourth and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 166) Defendant Michael Gonzales is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1983.

Sixth Claim For Relief

Deprivation of Plaintiff's Rights To Be Secure In His Person Against Unreasonable Seizure of Property and Violation of the Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution, and Art.1, Para.1, Para.7 of the N.J. Constitution.

Count One

- 167) Plaintiff incorporates by reference and realleges paragraph(s) No.1 through No.100 of this complaint.
- The above-described conduct of defendant Justine Bertone in seizing the 2006 Hyundai Santa Fe SUV from private property without a warrant, was an intentional act, constituting an unreasonable seizure of property, the natural consequences and intended result was to deprive Plaintiff of property without due process and without just compensation in violation of the Fourth, Fifth, and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- As a direct and proximate consequences of defendant Justine Bertone in unlawfully seizing the 2006 Hyundai Santa Fe SUV, Plaintiff was caused to incur the debt and loss of the cost and value of the vehicle at the time of the seizure in the amount of \$10,400.00, in violation of the Fourth, Fifth, and Fourteenth Amendments to the U. S. Constitution, and Art.1, Para.1 and Para.7 of the New Jersey Constitution.
- 168) Defendant Justine Bertone is liable to Plaintiff for damages pursuant to 42 U.S.C. § 1983.

Demand For Trial By Jury

- 169) Plaintiff demands that all triable issues be tried before a jury.

PRAYERS FOR RELIEF

- 170) With respect to **Count One, Count Two and Count Three** of Plaintiff's **First Claim For Relief** stated against Clifton PD defendant(s): Robert Anderson, Wayne Stine and Steven Farrell, alleging deprivation of Plaintiff's rights to be secure in his person against unreasonable seizures and the use of excessive force by police officers to arrest in violation of the Fourth to the U.S. Constitution, and Art.1, Para.7 of the N.J. Constitution, Plaintiff demands judgment and seeks damages as to each count in the amount of not less than \$25,000.00.
- 171) With respect to **Count One, Count Two, Count Three**, of Plaintiff's **Second Claim For Relief**, stated against defendant(s): Robert Anderson, Wayne Stine and Steven Farrell, alleging the deprivation of his rights to be secure in his person against arrest without probable cause, and arrest upon an arrest warrant issued without probable cause in violation of the Fourth Amendment to the U.S. Constitution and Art.1, Para.7 of the N.J. Constitution, Plaintiff demands judgment and seeks damages as to each count in the amount of not less than \$25,000.00.
- 172) With respect to **Count One, Count Two, Count Three, Count Four, and Count Five** of Plaintiff's **Third Claim For Relief**, stated against defendant(s): Robert Anderson, Wayne Stine, Steven Farrell, Vincent Martin and Justine Bertone alleging the failure to intervene to prevent the violation of Plaintiff's rights to be free from unreasonable seizures and the use of excessive force to bring about an unlawful arrest in violation of 42 U.S.C. § 1986, Plaintiff demands judgment and seeks damages as to each count in the amount of not less than \$25,000.00.
- 173) With respect to **Count One, Count Two, Count Three** of Plaintiff's **Fourth Claim For Relief**, stated against defendant(s): Vincent Martin, Robert Anderson and Michael Gonzales alleging deprivation of rights to be secure in his person against arrest without probable cause, and arrest upon an arrest warrant issued without probable cause, Plaintiff demands judgment and seeks damages as to each count in the amount of not less than \$25,000.00.
- 174) With respect to **Count One and Count Two** of Plaintiff's **Fifth Claim For Relief**, stated against defendant(s): Robert Anderson and Michael Gonzales alleging deprivation of plaintiff's due process and grand jury rights by the knowing and purposeful use of material false and misleading testimony during grand jury proceedings, Plaintiff demands judgment and seeks damages as to each count in the amount of not less than \$25,000.00.
- 175) With respect to **Count One** Plaintiff's **Sixth Claim For Relief**, stated against defendant Justine Bertone alleging the unlawful seizure and taking of a 2006 Hyundai Santa Fe SUV, Plaintiff demands judgment and seeks compensatory

damages in the amount of \$10,000.00 and punitive damages of not less than \$25,000.00.

- 176) Plaintiff be granted any such further relief deemed just and appropriate by the Court.

Submitted this 18th day of April 2012

Steven Trainer ✓
Steven B. Trainer
Plaintiff-Pro Se

Sworn and Subscribed
Before the Undersigned
Notary Public This 18th
Day of April 2012

Jesus R. Galvis
Notary Public - Notary Seal

JESUS R. GALVIS
Notary Public, State of New Jersey
ID No. 2001001
Commission ends July 16, 2015

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Attorney for Plaintiff

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

MICHAEL ZIGARELLI,

Plaintiff,

v.

CITY OF CLIFTON and
MARK CENTURIONE,

Defendants.

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COMPLAINT

INTRODUCTION

1. This is an action for monetary damages brought pursuant to 42 U.S.C. 1983 and 1988, 38 USC 4311, the First Amendment to the United States Constitution and the common law of the State of New Jersey, against the City of Clifton and Mark Centurione, the Clifton, New Jersey Police Department (CPD) Chief of Police.

JURISDICTION AND VENUE OF THIS UNITED STATES DISTRICT COURT

2. This Court has jurisdiction over the plaintiff's claims pursuant to 28 U.S.C. 1331, 1343 (3) and (4), 42 U.S.C. 1983 and 1988, 38 USC 4311 and the First Amendment to the United States Constitution dealing with Freedom of Speech.

3. Venue is proper in this District pursuant to 28 U.S.C. 1391(b)(2) because the events/omissions giving rise to these causes of action all occurred in the District of New Jersey.

PARTIES

4. Plaintiff, Michael Zigarelli, at all relevant times mentioned herein, was/is a Police Officer with the City of Clifton, Passaic County, New Jersey Police Department (hereinafter referred to as “plaintiff”). He graduated from the Passaic County police Academy and was presented with the Academic Achievement Award because he had the highest grade point average in his Academy class. He is an outstanding law enforcement officer in his own right. His professional reputation among law enforcement is essentially impeccable. His work record is one of an assiduous, persevering, dedicated and decorated law enforcement officer, and is what every forthright and honest law enforcement officer strives to be. Simply put, he is the quintessential/prototypical law enforcement officer. But of paramount and critical importance to this litigation is that he is also a Master Sergeant with the United States Air Force Reserve, serving therein for over twenty (20) years, his first five (5) years on active duty. He has been stationed in South Dakota, South Korea and New Jersey. Additionally, he has been deployed to Kuwait, Saudi Arabia, the United Arab Emirates and Afghanistan, and has flown in and out of Iraq on short missions. He is also in charge of the Combat Arms Section of the 514th Security Forces Squadron. As of the time of the filing of the within Complaint, he is preparing for his fifth (5) deployment to Kuwait, where he will be stationed for approximately six (6) months.
5. Defendant, City of Clifton (hereinafter referred to as “City” or “Clifton”), is a municipal corporation of the State of New Jersey located in Passaic County. It is governed under the

mayor-council-administrator form of government, controlling the day-to-day operations of the CPD by way of hiring, teaching, training, retaining, educating, disciplining, paying, monitoring, checking and/or terminating its employees.

6. Defendant Mark Centurione, at all relevant times mentioned herein, served as one of the plaintiff's superior officers within the CPD. As will be more fully described herein, Centurione's prolonged, enduring and illegal actions toward the plaintiff were never, at any time, properly monitored or examined by defendant Clifton, and simply went unchecked. Clifton's obvious, outward, notorious and deliberate indifference to all which Centurione subjected the plaintiff to as recounted herein is inexcusable, intolerable and indefensible.

RELEVANT FACTUAL AVERMENTS

7. The plaintiff's nightmare within the CPD began in/about the calendar year 2008, and continues, uninterrupted, to the present day.
8. In December, 2008, defendant Centurione, who was the plaintiff's Lieutenant at the time, curiously asked the plaintiff to sit down with him, one on one, with no witness present. Centurione shut the door to his office and stated, in words or substance, that they needed to talk about the plaintiff's military service. Perplexed, the plaintiff sat quietly and Centurione proceeded to ask him why he was serving in the military more than one (1) weekend a month and two (2) weeks a year. Centurione went on to state that the plaintiff's military service was affecting his CPD job performance, which was entirely false/fabricated and without a scintilla of factual support/fulcrum. In a strange/peculiar fashion, Centurione went on to state to the plaintiff that "the police department is your wife, and the military is your mistress", to which the plaintiff did not respond but could

not help inwardly thinking that there was something drastically/clinically wrong with Centurione.

9. But Centurione did not stop there, and went on to state during that same meeting “you gotta treat your wife better than your mistress because your wife is gonna be there for you in the long run”. Still not finished, Centurione stated that it “was going to be very difficult” for the plaintiff “to become a detective” or “to move around in the department in the future” if the plaintiff “remained in the military”. Now totally flabbergasted, and aware of his federal USERRA rights, the plaintiff remained tolerant, passive and stoic, yet knew that his career within the CPD from that day forward would be virtually impossible/exceedingly difficult to deal with if Centurione was one of his supervisors.
10. Thereafter, the plaintiff was told by numerous other CPD officers that Centurione “takes things personally” and had been known “to retaliate against other officers who go against him”.
11. As a result of that unfathomable conversation and what Centurione advised him of during that sit-down, the plaintiff never sat for any promotional examination or applied for any other position within the CPD for fear that his doing so (or his upward movement within the CPD) would serve to enrage Centurione and exponentially augment his wrath toward the plaintiff even further.
12. The insanity continues. Somewhere during the calendar years 2009-2010, the plaintiff received orders regarding military service for some one hundred and ninety two (192) days. As soon as he advised Centurione of same, Centurione directly responded “denied”, without any valid explanation or reasoning. Centurione went on to say to the plaintiff, “Zigarelli, I thought was talked about this”? Perhaps even more disturbing is that Centurione then said to the plaintiff, “don’t take this military order, you’ve been warned”.

Centurione then expressed to the plaintiff that he had talked to his Captain at the CPD, and that they “were going for termination” of him (the plaintiff). For months and months thereafter, the plaintiff was literally terrified beyond belief, fearing that he would lose his job, pension and home because of his unswerving loyalty to his country.

13. Subsequently, upon information and belief, Centurione related to the CPD Chief of Police at the time that the plaintiff “no longer wanted to be a police officer”, a statement that was completely false and meant by Centurione to irreparably hurt/destroy the plaintiff’s law enforcement career.
14. The insanity continues. Upon returning to the CPD after that service period, the plaintiff was on pins and needles waiting to be brought up on administrative termination charges as threatened months before by Centurione. The plaintiff was also the recipient of constant/relentless remarks by many for the next several years, as a direct result of Centurione’s treatment toward him in open atmosphere at the CPD, such as “do you still work here”, “hey, who’s the new guy”, “do your handcuffs still work” and “when’s the last time you made an arrest”. Again, all this as a direct result of Centurione’s ongoing and unlawful wrath because of the plaintiff’s love, loyalty, commitment, devotion, allegiance and service to the United States of America.
15. The insanity continues. In/about the calendar year 2014, and after once again returning from military orders, a CPD Sergeant asked the plaintiff to “stand up” in front of numerous patrolmen and “introduce” himself, simply to humiliate the plaintiff even further because of his legitimate absence from the CPD.
16. The harassment, humiliating and intolerable remarks directed toward the plaintiff were unremitting during the calendar years 2015-2018, and they included, but were not limited to, “hey, who’s the new guy” and “please introduce yourself”, inter alia.

17. But all of the above treatment for some eight (8) years was, to the plaintiff's chagrin, merely the tip of the iceberg. In November, 2018, things within the CPD (as well as the plaintiff's work atmosphere) became increasingly hostile, intimidating, frightening and far, far worse.
18. In November, 2018, the plaintiff received three (3) packages of paperwork from defendant Clifton, stating he owed Clifton some 2,632.37 hours (representing his military service time) and was required to produce all military pay stubs since the calendar year 2011. Bewildered, the plaintiff promptly advised his wife of this, who was some 38 weeks pregnant at the time. He was furthermore directed to comply within three (3) weeks, which was literally impossible to do, and Clifton should have or assuredly did know of that virtual impossibility. Clifton's usurious conduct was in clear violation of USERRA federal law, but Clifton did not care and thumbed its nose to said statute.
19. Additionally, the front page of the first letter the plaintiff received stated that he owed Clifton some 9,413.8 hours for his military service time, which equaled the sum of \$658, 910.00. Both the plaintiff and his wife were blown away by this reprehensible and illegitimate request and, to add insult to injury, many of the hours that Clifton claimed the plaintiff owed back were when he was deployed and while Clifton was already reducing his CPD pay based on what his military pay scale revealed he was earning from the United States Government. Clifton's conduct at that time could only be described as shameful and reprehensible.
20. In January, 2019, an attorney representing some seventeen (17) CPD officers who were in a similar circumstance to the plaintiff sent a letter to defendant Clifton, essentially directing Clifton to cease and desist from their blatant discrimination and harassment.

When Clifton ignored this letter for two (2) months, NBC television got involved and a story was aired, which ostensibly got defendant Clifton aggravated even further.

21. Only after that news story aired, wherein Clifton's deplorable and illegal conduct was brought to light to thousands, did Clifton then publicly state (to merely save face) that it would "investigate" what was going on. Of course, this position then taken by Clifton was laughable, derisory, preposterous and absurd, as Clifton knew full well what it had done. Moreover, any "investigation" would certainly be bogus, misleading, illusory and pre-determined in conclusion, as defendant Clifton was the entity who would unilaterally hire and pay whoever they wanted, in order to clear them of any wrongful conduct on their part.
22. Subsequently, the plaintiff and other affected CPD officers attended a city council meeting in March, 2019. At that time, the plaintiff was permissibly and legally exercising his freedom of speech rights afforded him by the US Constitution, and was selling specially printed shirts in support of his (and other CPD officers) cause. A supportive city councilwoman thereafter communicated to the plaintiff that defendant Centurione directed the Clifton City manager to stop/prohibit the plaintiff from selling those shirts. That same City Manager also informed the CPD PBA president of Centurione's wrongful order to him.
23. This is precisely when, for the first time, the plaintiff was told that defendant Centurione also stated to numerous other CPD employees that "Zigarelli volunteers too much for the military and I gotta stop that", as well as "Zigarelli is a criminal". This defamation of the plaintiff by Centurione is inexcusable, slander, per se, indefensible and simply unpardonable.

24. Due to all of the above, the plaintiff will be forced to retire from military service as soon as legally allowable, for fear of losing his job with defendant Clifton and the CPD, thereby sorely losing myriad retirement points and pension emoluments.
25. Recently, the CPD has issued/taken the drastic step of a “vote of no confidence” in defendant Centurione as a result of his within described conduct. Despite same, defendant Clifton has taken no action to terminate Centurione, and continues to retain him in his current position.

SPECIFIC CAUSES OF ACTION

COUNT ONE

(42 USC 1983 – 38 USC 4311 and FREEDOM OF SPEECH VIOLATIONS – AS TO ALL DEFENDANTS)

26. Plaintiff repeats the allegations set forth in all preceding paragraphs.
27. In violation of 42 U.S.C. 1983, all defendants, while acting under color of law, violated the plaintiff’s procedural and substantive rights pursuant to 38 USC 4311 and the First Amendment to the US Constitution, and further deprived the plaintiff of his right to enjoy this Constitutional protection.

COUNT TWO

(NEW JERSEY LAW AGAINST DISCRIMINATION- ARMED SERVICES- AS TO ALL DEFENDANTS)

28. Plaintiff repeats the allegations set forth in all preceding paragraphs.
29. During all periods relevant to this cause of action, the plaintiff was an employee of Defendant City of Clifton within the meaning of N.J.S.A. 10:5-1, et seq.
30. Defendants are employers as defined by N.J.S.A. 10:5-5.
31. The plaintiff serves in the U.S. Air Force at the relevant times within the meaning N.J.S.A. 10-5-12, and was therefore in a protected class at the times he suffered disparate

and discriminatory adverse treatment and action, and failure to accommodate by the defendants.

32. The plaintiff was and is exceedingly well-qualified for the position of patrolman at all times relevant hereto.

33. Plaintiff was also well qualified to be permitted to resume duty as a patrolman with a reasonable accommodation, without being threatened, harassed or abused.

34. As set forth above, the plaintiff also suffered numerous adverse employment actions for years and was exposed to a hostile work environment on account of his protected status as a U.S. Air Force member..

35. Defendants Clifton and Centurione negligently, recklessly and/or intentionally:

- a. failed to enforce an anti-discrimination policy;
- b. failed to properly train and supervise its employees and supervisors regarding compliance with anti-discrimination policy promulgated by defendant;
- c. failed to take proper and effective measures to ensure compliance with any anti-discrimination policy promulgated by defendant;
- d. selectively, disparately and discriminatorily enforced and applied disciplinary and other employment policies; and
- e. adopted, ratified, approved, acquiesced, were deliberately indifferent to and/or otherwise permitted the wrongful acts described above.

36. Defendants Clifton and Centurione knowingly and substantially aided and abetted in the commission of such conduct and wrongdoing and accordingly has individual and personal liability for same.

37. The Defendants do not have any legitimate, non-discriminatory reason or justification for the discriminatory conduct and adverse employment action taken against the plaintiff, and any reason Clifton and Centurione have advanced or may advance is mere pretext and not the true motivation for the action taken against the plaintiff.

38. As a direct and proximate result of defendants' actions, plaintiff Zigarelli has suffered and continues to suffer severe mental anguish, humiliation, pain, physical and emotional distress and reputational damages as well as loss of earnings and other employment benefits.

COUNT THREE

(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS – AS TO CENTURIONE)

39. Plaintiff repeats the allegations set forth in all preceding paragraphs.

40. As described above, Centurione acted intentionally and purposefully to cause the plaintiff emotional distress and injury, and/or acted in reckless disregard for a high degree of probability that emotional distress would follow from his awful conduct.

41. Centurione's continuous and relentless conduct was extreme and outrageous and was so extreme in degree as to go beyond all possible bounds of decency, and to be regarded as atrocious and utterly intolerable in a civilized community.

42. As the direct and proximate cause of Centurione's extreme and outrageous intentional and/or reckless conduct, the plaintiff suffered genuine and substantial emotional distress and injury.

43. Centurione's conduct was so severe and extreme as to cause genuine and substantial emotional distress or mental harm to the average person similarly situated to the plaintiff, and plaintiff in point of fact suffered such severe and substantial emotional distress and mental injury that no reasonable person would be expected to endure.

COUNT FOUR

(42 U.S.C. § 1983 AS TO THE CITY OF CLIFTON)

44. Plaintiff repeats the allegations set forth in all preceding paragraphs.

45. Prior to the above mentioned dates, the City of Clifton developed, cemented, engrained and maintained policies or customs exhibiting deliberate indifference to the constitutional rights of officers in the CPD, which eventually caused the egregious violations by Centurione and others of the plaintiff's rights.
46. Additionally, the Clifton failed to use reasonable care in the selection of Centurione as a CPD employee, failed to properly train and/or supervise him and failed to prevent the collective violations of the plaintiff's rights.
47. Further, Clifton, under color of state law, directly or indirectly approved or ratified the unlawful, malicious and wanton conduct of Centurione herein.
48. Moreover, Clifton failed to train the defendant Centurione regarding the rights of CPD officers who serve in the US Military Forces.
49. Unequivocally, Clifton knew or should have known that Centurione would have to make daily decisions regarding the legality/concept of military service of certain CPD officers.
50. Indeed, the lack of training of Centurione led to his directly violating the plaintiff's constitutional rights egregiously regarding/concerning his right to freedom of speech as well as his federal statutory USERRA rights.
51. Notwithstanding the above, Clifton's policy maker refused to properly train Centurione in this regard.
52. The lack of training and/or the inadequate training in these areas is surely tantamount to a custom and/or policy that encourages and, indeed as occurred herein, necessitates the violation of these human rights.
53. Clifton's blatant and deliberate indifference herein led to the inescapable fact that if it trained Centurione properly, then the within abhorrent and illegal actions would never have taken place.

COUNT FIVE

(DEFAMATORY INJURY TO REPUTATION- SLANDER – AS TO CENTURIONE)

54. Plaintiff repeats the allegations set forth in all preceding paragraphs.

55. By acting in the fashion as described above, and by accusing the plaintiff of being a “criminal”, Centurione made an oral, false/defamatory statement of fact concerning the plaintiff on an exclusively private concern while either:

- a. Acting negligently in failing to ascertain the truth or falsity of the statement before communicating the statement,
- b. Knowing the statements were false, or
- c. Acting in a reckless disregard of their truth or falsity.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays that this honorable United States District Court:

- (a) accept jurisdiction over this matter;
- (b) empanel a jury to hear and decide this matter;
- (c) award against defendants compensatory and punitive damages in a manner determined by a jury;
- (d) placing the CPD into Receivership for the purpose of instituting programs to train, instruct, discipline, control and supervise the officers of the CPD regarding the military service rights of certain CPD officers;
- (e) award to plaintiff the reasonable statutory attorneys’ fees, interest and costs of this litigation; and
- (f) for such/any other relief that this Court deems equitable and just.

DEMAND FOR TRIAL BY JURY

Pursuant to FRCP 38, the plaintiff herein demands a trial by jury on all counts.

Dated: May 17, 2019

By: s/ Patrick P. Toscano, Jr.
Patrick P. Toscano, Jr. (9415)

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Attorney for the Plaintiff,
Donell Horne

DONELL HORNE

PLAINTIFF(S)

v

CITY OF CLIFTON, CITY OF
CLIFTON POLICE DEPARTMENT,
COUNTY OF PASSAIC, PASSIAC
COUNTY SHERIFFS DEPARTMENT,
CITY OF PATERSON, CITY OF
PATERSON POLICE DEPARTMENT,
POLICE OFFICER RYAN MALONEY,
POLICE OFFICER KINCHERLOW,
POLICE OFFICER C. PHILLIPS
POLICE OFFICER VELEZ, POLICE
OFFICER GONZALEZ, POLICE
OFFICER BUELL, ABC CORP. 1-3
(Name being hereby fictitious), JOHN
DOE 1-10 (Name being hereby
fictitious).

DEFENDANT(S)

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

CIVIL ACTION NO.:

COMPLAINT

Plaintiff, Donnell Horne (hereinafter referred to as "Plaintiff"), by his attorney, Khari Moore, Esq., of the firm Law Office of Khari Moore, complains of defendants, County of Passaic, City of Clifton, City of Clifton Police Department, City of Paterson, City of Paterson Police Department, Police Officer Ryan Maloney (hereinafter referred to as "Maloney"), Police Officer Kincherlow (hereinafter referred to as "Kincherlow"), Police Officer C. Phillips (hereinafter referred to as "Phillips"), Police Officer Velez

(hereinafter referred to as “Velez”), Police Officer Gonzalez (hereinafter referred to as “Gonzalez”) Police Officer Buell (hereinafter referred to as “Buell”), ABC Corp. 1-3, John Doe 1-10, hereinafter referred to as “defendants”, and allege as follows:

INTRODUCTION

1. This lawsuit arises out of an assault, malicious beating and excessive force perpetrated by Maloney, Kincherlow, Phillips, Velez, Gonzalez and Buell while the plaintiff, Donell Horne, was being arrested. The Plaintiff was injured from the assault rather than abide by their obligations and responsibilities to safeguard the Plaintiff.
2. Further Plaintiff failed to receive prompt medical attention and was denied appropriate medical treatment by the defendants in a timely manner and was caused to suffer cruel and unusual punishment rather than abide by their obligations and responsibilities to safeguard the Plaintiff. The lawsuit seeks damages for: (1) the use of excessive force in violation of the Fourteenth Amendment to the United States Constitution; (2) the denial of adequate medical care in violation of the Fourteenth Amendment to the United States Constitution; (3) the cover-up of the use of excessive force pursuant to an official policy of by the defendants; (4) defendants failure to properly train its police officers; (5) defendants failure to properly supervise its police officers; (6) defendants engaging in assault and harassment.

JURISDICTION AND VENUE

3. This action arises under the Constitution of the United States, particularly the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the Constitution of the United States, and under the laws of the United States, particularly the Civil Rights Act, Title 42 of the United States Code, Sections 1983 and 1988.

4. The jurisdiction of this court is invoked under the provisions of Title 28 of the United States Code, Sections 1331 and 1343.

5. This court has supplemental jurisdiction pursuant to 28 U.S.C. §1367(a) over any and all state constitutional and state law claims that are so related to the claims within the original jurisdiction of this Court.

6. Venue of this action is proper under 28 USC § 1391(b) because it is where the Plaintiff resides.

PARTIES

7. Plaintiff, Donell Horne, is and at all times mentioned was a legal resident of the United States of America, and resident of the City of East Orange. Upon information and belief, and at all times hereinafter mentioned, plaintiff, Donell Horne, hereinafter referred to as "Plaintiff".

8. County of Passaic, was a public entity which unknown defendants worked for and were involved in the herein matter.

9. At all times hereinafter mentioned, the defendant, City of Clifton, was a municipal corporation of the City of Clifton, for which defendants Maloney, Kincherlow, Phillips, Velez, Gonzalez and Buell serve as police officers. City of Clifton is responsible for the training and supervision of defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez and Buell. City of Clifton has the responsibility for establishing and implementing policies, practices, procedures, and customs used by law enforcement officers employed by City of Clifton regarding arrests and the use of force.

10. At all times hereinafter mentioned, the defendants, City of Clifton Police Department is a law enforcement sub-division of the City of Clifton which is a under the management and guidance of the City of Clifton.

11. At all times hereinafter mentioned, the defendant, County of Passaic, was a corporation of the County of Passaic, for which defendants JOHN DOE 1-10 serve as police officers. County of Passaic is responsible for the training and supervision of defendants, JOHN DOE 1-10. County of Passaic has the responsibility for establishing and implementing policies, practices, procedures, and customs used by law enforcement.

12. At all times hereinafter mentioned, the defendants, PASSIAC COUNTY SHERIFFS DEPARTMENT, is a law enforcement sub-division of the County of Passaic which is a under the management and guidance of the County of Passaic.

13. At all times hereinafter mentioned, the defendant, City of Paterson, was a municipal corporation of the City of Paterson, for which defendants JOHN DOE 1-10 serve as police officers. City of Paterson is responsible for the training and supervision of defendants, JOHN DOE 1-10. City of Paterson has the responsibility for establishing and implementing policies, practices, procedures, and customs used by law enforcement officers employed by City of Paterson regarding arrests and the use of force.

14. At all times hereinafter mentioned, the defendants, City of Paterson Police Department, is a law enforcement sub-division of the City of Paterson which is a under the management and guidance of the City of Paterson.

15. The defendant, Maloney, was at all times material to the allegations in this Complaint, acting in his capacity as a police officer employed by the City of Clifton and was acting under color of state law.

16. The defendant, KINCHERLOW, was at all times material to the allegations in this Complaint, acting in his capacity as a police officer employed by the City of Clifton, County of Passaic, City of Paterson and/or ABC CORP. 1-3 and was acting under color of state law.

17. The defendant, PHILLIPS, was at all times material to the allegations in this Complaint, acting in his capacity as a police officer employed by the City of Clifton, County of Passaic, City of Paterson and/or ABC CORP. 1-3 and was acting under color of state law.

18. The defendant, VELEZ, was at all times material to the allegations in this Complaint, acting in his capacity as a police officer employed by the City of Clifton, County of Passaic, City of Paterson and/or ABC CORP. 1-3 and was acting under color of state law.

19. The defendant, GONZALEZ, was at all times material to the allegations in this Complaint, acting in his capacity as a police officer employed by the City of Clifton, County of Passaic, City of Paterson and/or ABC CORP. 1-3 and was acting under color of state law.

20. The defendant, BUELL, was at all times material to the allegations in this Complaint, acting in his capacity as a police officer employed by the City of Clifton, County of Passaic, City of Paterson and/or ABC CORP. 1-3 and was acting under color of state law

21. Upon information and belief, at all times hereinafter mentioned, the defendants, ABC Corp. 1-3 were departments affiliated with the City of Clifton, County of Passaic, or City of Paterson responsible for the safety of its arrestees, and the training and management of the City of Clifton Police Officers

22. Defendants, John Doe 1-10, are persons employed by the City of Clifton, County of Passaic, or City of Paterson whose names are unknown at this time. Defendants, John Doe 1-10, are sued in their individual and official capacities. At the time of the alleged

incident and all times pertinent hereto, Defendants acted under color of law, of a statute, ordinance, regulation, custom, or usage.

STATEMENT OF FACTS

23. On or about February 22, 2017, Horne and a friend were stationary at a stop sign on Main Avenue. While at the stop sign an unmarked Grey Police vehicle travelling east toward Passaic passed by looking at Horne and the passenger.

24. Horne then made a left on Main Ave in the same direction of the Police Officer. Horne made three more left turns. The Grey unmarked police vehicle then conducted a stop of the vehicle.

25. Officer Maloney got out of the unmarked police vehicle and requested Mr. Horne's credentials. Horne inquired as to why he was being stopped and received no answer. Horne reached into his Wallet and gave the Officer his License, Registration, and Insurance. Officer Maloney then opened Horne's door and asked him to step out.

26. Horne exited the vehicle. After requesting another officer to be present at the scene. Horne was then frisked. Officer Maloney repeatedly asked if Horne ever resided in New Jersey.

27. Officer Maloney then goes back to his police car. As Officer Maloney gets back out of the car Horne flees due to fear of being assaulted after being illegally detained.

28. Officer Maloney chased Horne as he flees and more law enforcement officials arrive at the scene .

29. Horne then hides behind bushes as he is now scared for his safety. A police officer points an object and discovers Horne. The police officer alerts other officers to where Horne was hiding.

30. Horne then begun to emerge from the bushes with his hands out. As he walked closer towards the police officer with his hands out. A second police officer grabbed his right hand bending his arm to the back.

31. While Horne was lying on the ground, police officers were punching his body and kicking him in the face and eye. He woke up in St. Joseph's Hospital.

32. At the hospital, doctors wanted to perform tests and obtain images of the plaintiff

33. The plaintiff, Horne, has sustained permanent physical and psychological trauma, has suffered great pain and discomfort and continues to experience physical and psychological damage.

COUNT I

34. The Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein. As described above, defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, were police officers who used excessive force against the Plaintiff on February 22, 2017, without provocation and without justification.

35. The defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, assaulted plaintiff, Horne, as a form of punishment.

36. These actions were performed under color of state law, and violated rights under the Fourteenth Amendment to the United States Constitution. The acts of excessive force by the defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, were the direct and proximate cause of serious and ongoing physical and psychological injuries to the Plaintiff.

37. The defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, used of excessive force caused Horne severe physical injuries, pain and suffering, extreme emotional distress, fear, trauma, and humiliation.

38. As a result of their conduct, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, are liable for Plaintiff's injuries, as they were integral participants in the misconduct.

39. The conduct of defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, was willful, malicious, intentional, reckless, and/or were done in a willful, conscious, and flagrant disregard for the plaintiff's, Horne, federally secured due process rights, welfare and safety, thereby justifying the awarding of damages including punitive damages in an amount to be determined at of trial.

40. Accordingly, these defendants are liable to the Plaintiff under 42 U.S.C. ' 1983.

COUNT II

41. The Plaintiff incorporate by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

42. As described above, defendant, City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriffs Department, City Of Paterson, City Of Paterson Police Department, ABC Corp. 1-3, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, failed to ensure that the plaintiff, Horne, received prompt and adequate medical care subsequent to the beating he received.

43. Plaintiff, Horne, as an arrestee, had the rights and privileges of the Fourth Amendment to necessary and proper medical care following the defendants' use of excessive force against him.

44. The actions of defendants, City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriffs Department, City Of Paterson, City Of Paterson Police Department, ABC Corp. 1-3, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, exhibited deliberate indifference to the Plaintiff serious medical needs, were performed under color of state law, and violated the Plaintiff's rights under the Fourteenth Amendment to the United States Constitution.

45. As a direct and proximate result of the actions of defendants, , City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriffs Department, City Of Paterson, City Of Paterson Police Department, ABC Corp. 1-3, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, in failing to ensure that the plaintiff, Horne, received prompt and adequate medical care, Plaintiff was subjected to increased pain and the threat of serious physical injury.

46. Defendants, , City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriffs Department, City Of Paterson, City Of Paterson Police Department, ABC Corp. 1-3, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, failed to immediately and effectively call for medical care for the plaintiff, Horne.

47. The conduct of defendants, City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriffs Department, City Of Paterson, City Of Paterson Police Department, ABC Corp. 1-3, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, was willful and exhibited a flagrant disregard for Plaintiff's federally secured rights. Accordingly, these defendants are liable to Plaintiff under 42 U.S.C. 1983.

48. Defendants' actions or omissions were a substantial factor in causing Plaintiff

harm.

COUNT III

49. The Plaintiff incorporate by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

50. As described above, the conduct of the defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, was extreme and outrageous, including without limitation the use of malicious and excessive force against the Plaintiff without provocation or justification, Defendants, jointly and severally, intended to inflict emotional distress upon the Plaintiff when engaging in this conduct, or knew that there was a high probability that such conduct would result in such distress.

51. Defendants', Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, jointly and severally, conduct caused the Plaintiff, Horne, to suffer severe emotional distress that no reasonable person could be expected to endure.

COUNT IV

52. The Plaintiff incorporate by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

53. The defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, assaulted and battered the plaintiff, Horne, in a wanton, reckless manner, without justification, willfully, maliciously and intentionally, thus committing a battery on the Plaintiff and inflicting physical and emotional injuries.

54. The plaintiff, Horne, was unarmed, helpless and not resisting in any way and in no way posed a threat to the defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, or the safety to any other person.

55. The defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, assaulted and battered plaintiff, Horne, with their hands and with without any reasonable justification, thereby using excessive force to effect under the law thereby violating Plaintiff's rights under the laws and Constitution of the United States, in particular the Fourth, Fifth and Fourteenth amendment, 42 U.S.C. § 1983 and his rights under the Constitution of the New Jersey.

56. In using unreasonable force on plaintiff, Horne, the defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, violated the departments rules and regulations on the use of force of persons who are carrying out a routine activity and either have not committed any infraction or have committed a minor infraction.

57. The failure of the defendants, City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriffs Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3, jointly and/or separately, to provide training and/or supervision regarding the lawful use of force amounts to a deliberate indifference to the safety and lives of the persons incarcerated and/or arrested by the defendants. This deliberate indifference to supervision and/or training was a proximate cause of the injuries of plaintiff, Horne.

58. Defendants, City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABCCorp. 1-3, jointly and/or separately, are directly liable and responsible for the acts of the defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, because they knowingly failed to enforce the laws and the rules and regulations of the City of Clifton, City of Clifton Police Department,

County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3 pertaining to the use of force by the defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, thereby creating an atmosphere of lawlessness in which police officers employ excessive and illegal force in the belief that such acts will be condoned and justified by their superiors.

59. Defendants, City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3, jointly and/or severally, were, or should have been aware of these unlawful acts and practices prior to and at the time of Plaintiff's physical and emotional injuries.

COUNT V

60. The Plaintiff incorporate by reference the allegations set forth in all Preceding paragraphs as if fully set forth herein.

61. Defendants, City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3, as employer and supervisor of defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10 implicitly or explicitly adopted and implemented careless and reckless policies, customs, or practices, that included, among other things, of allowing law enforcement officials of their respective departments to confront citizens without any reasonable training in when to use force in effecting control of situations and in such a way as to cause the deprivation of plaintiff's right to be free from excessive force and/or fail to provide medical care for injured arrestees.

62. The failure of the defendants, City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3 as employer and supervisor of Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10 to adequately train and supervise Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, amounts to deliberate indifference to the rights of Plaintiff to be free from excessive force and unreasonable seizures under the Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States.

63. As a result of this deliberate indifference to the Plaintiff's rights, defendants were the proximate cause of the Plaintiff's personal physical and emotional injuries and is entitled to relief under 42 U.S.C. §1983.

COUNT VI

64. The Plaintiff incorporate by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

65. At all times material to the herein complaint, the City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3, acting through Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, had in effect de facto policies, practices, and customs that were a direct and proximate cause of the unconstitutional conduct of the defendants. These de facto policies, practices, and customs include, inter alia: the failure to properly screen, supervise, discipline, transfer, counsel, and/or otherwise control correction officers who are repeatedly accused of such acts; and the police code of silence wherein police officers regularly cover up correction officer misconduct and unjustified force and tactics by telling false and incomplete stories

or by failing to report the misconduct and unjustified force and tactics by correction officers.

66. On information and belief, the defendant, City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriffs Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3 acting through Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, have failed to effectively screen, hire, train, supervise, and discipline their police officers including the defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, for their misconduct and for their failure to protect citizens from unconstitutional conduct of police officers thereby permitting and allowing the defendant, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10 to be in a position to unjustifiably arrest and restrain the Plaintiff and to otherwise cause him injury and violate his federal and state constitutional rights.

67. On information and belief, the City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3, maintained an inadequate structure for risk containment and stress management relative to its police officers and failed to create proper means of containing such risk and managing such stress. Inter alia, the structure was deficient at the time selection of police officers and thereafter during their employment, in its ability to evaluate and exchange information within the command structure about the performance of individual police officers, in its training of supervisory personnel to effectively and adequately evaluate performance of an officer and in its ability to otherwise put the command structure on notice that an individual was at significant levels of risk to the public at large and to the Plaintiff specifically. The effect

of this was to permit police officers to function at levels of significant and substantial risk to the public.

68. As a result of the above described policies and customs, the defendant, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, believed that their actions would not be properly monitored by supervisory officers and that misconduct would not be investigated or sanctioned but would be tolerated.

69. That the defendants, the City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3, acting through Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, failed to adequately and properly hire, train, supervise, discipline, or in any other way control the behavior and performance of the defendant, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, hiring practices and exercise of police functions and their failure to enforce the laws of the City of Clifton is evidence of the reckless lack of caution in regard to the rights of the public including the Plaintiff in that the defendant, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, exhibited a lack of that degree of due care which prudent and reasonable individuals would show in executing his duties.

70. The failure of the defendants, City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3 to hire, train, supervise, discipline, or in any other way control their employees including the defendant, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10 in the exercise of the correction officers functions in that the defendant, Maloney, Kincherlow, Phillips, Velez, Gonzalez,

Buell and John Doe 1-10 was and is carried out willfully, wantonly, maliciously, and with such reckless disregard for the consequences so as to display a conscious disregard for the dangers of harm and injury to the Plaintiff.

71. Due the acts of the defendant, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10 the failure of the defendants, City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3 to discipline and properly train and supervise and promote, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, and the continued employment of the officer presented a clear and present danger to the plaintiff, Horne.

72. Although the defendants, the City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3, knew or should have known of the fact that a pattern of conduct was carried out by its agents, servants, and/or employees including, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, have not taken any steps or made any efforts to halt this course of conduct, to make redress to the Plaintiff or other citizens injured thereby or to take any disciplinary action whatever against any of their employees or agents.

73. The above described policies and customs demonstrated a deliberate indifference on the part of policymakers of the defendants, the City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3, to the constitutional rights of the Plaintiff, and were the proximate cause of the violations of the plaintiff's, Horne, rights alleged herein.

74. Plaintiff, Horne, claims damages for the injuries set forth above under 42 USC §1983 and 42 USC §1988 against the defendants, the City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3, for violations of the Plaintiff's constitutional rights as set forth above by the defendant, John Doe 1-10, acting under color of law.

COUNT VII

75. The Plaintiff incorporate by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

76. That the defendants, the City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3, were deliberately indifferent in hiring and/or retaining and/or supervising its employee, defendant, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, in that said employees lacked the experience, deportment, and ability to be employed by the defendants in that the defendants failed to exercise due care and caution in its employment practices and in particular in hiring, retaining, supervising, training, and promoting the aforementioned employee.

77. That the aforesaid occurrence to wit: false arrest, imprisonment, assault and battery, violation of civil rights, infliction of emotional distress, and the resulting injuries of mind and body therefrom were caused wholly and solely by reason of the gross negligence or deliberate indifference of the defendants, the City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3.

78. That by reason of the aforesaid, the plaintiff, Horne, was injured in mind and body suffered conscious pain and physical injury.

COUNT VIII

79. The Plaintiff incorporate by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

80. By the actions described above, the defendant, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10 did inflict a battery upon plaintiff Horne, when they hit the plaintiff, Horne. The acts and conduct of the defendant, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, were the direct and proximate cause of injury and damage to the plaintiff, Horne, in violation of the laws of New Jersey and the United States.

81. Defendant, the City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3, as employer and supervisor of Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10 are responsible for Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10 battery under the doctrine of reckless, careless, and negligent supervision and training and failure to provide medical care to the Plaintiff in a reasonable time.

82. Defendant, the City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriffs Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3, their officers, agents, servants, and employees were responsible for Plaintiff's battery under the doctrine of reckless, careless, and negligent supervision and training and failure to provide medical care to the Plaintiff in a reasonable time.

83. As a result of the foregoing, plaintiff, Horne, was deprived of her liberty, suffered specific and serious bodily injury, pain and suffering, emotional distress and psychological injury, great humiliation, loss of income, costs and expenses, and was otherwise damaged and injured.

COUNT IX

84. The Plaintiff incorporate by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

85. By the aforementioned acts of defendants, defendants have violated Plaintiff's rights under the New Jersey State Constitution including but not limited to Article I, Paragraph 1, Paragraph 5, and Paragraph 12 of the New Jersey State Constitution thereby giving rise to the constitutional protections pursuant to Article I.

86. The conduct and actions, set forth above, of defendants, Maloney, Kincherlow, Phillips, Velez, Gonzalez, Buell and John Doe 1-10, acting under color of law, violated plaintiff, Horne, rights under the New Jersey State Constitution and proximately caused the harms, already set forth above, to Plaintiff.

87. The defendants City of Clifton, City of Clifton Police Department, County of Passaic, Passaic County Sheriff's Department, City of Paterson, City of Paterson Police Department, and ABC Corp. 1-3 and their officers, agents, servants, and employees violated Plaintiff's rights under the New Jersey State Constitution because they knew or should have known about the lack of training and supervision of police officers and where they made a deliberate choice to follow this willful course of conduct, risking harm to the citizens of the City of Clifton and proximately causing the harms, as set forth above, to Plaintiff.

ALLEGATIONS

88. As a result of the foregoing, plaintiff, Horne, was deprived of his liberty, suffered fear and humiliation, physical injuries, public ridicule, loss of personal reputation, loss of income, costs and expenses, and was otherwise damaged.

89. By reason of the above premises plaintiff, Horne, is entitled to damages.

90. Plaintiff, Horne, has incurred attorneys' fees and other expenses in defending himself against defendant's malicious and unreasonable conduct.

91. Defendants, jointly and severally, acted maliciously and with the intent to injure plaintiff, Horne.

92. By reason of the above premises plaintiff, Horne, is entitled to punitive damages.

93. Pursuant to 42 USC § 1988, plaintiff, Horne, is entitled to a reasonable allowance for attorneys fees as part of his costs.

PRAYER FOR RELIEF

WHEREFORE, plaintiff, Donell Horne, requests that this Court:

- (1) Accept jurisdiction over the parties;
- (2) Empanel and charge a jury with respect to this action;
- (3) Award to plaintiff, Donell Horne, compensatory and punitive damages with pre and post-judgment interest to compensate him for the injuries he has suffered;
- (4) Order defendants to pay cost of suit
- (5) Order defendants to pay the reasonable attorney's fees and other costs incurred by Plaintiff as provided by Section 1988 of Title 42 and the Civil Rights Acts;

(6) Award plaintiff, Donell Horne, any other relief deemed necessary, just and proper.



DATED: August 22, 2018

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