

286. EMANUELE was inducing a civilian to endanger her life all for the purported purpose of avoiding prison on a Disorderly Person's Offense.

287. EMANUELE was thus merely pretending to have authority and was defrauding Plaintiff into accompanying him into the van for the purported purpose of observing drug dealers in the Mall.

288. EMANUELE's actual intention was to lure Plaintiff into the van for purposes of having her acquiesce to his sexual objectives.

289. EMANUELE's actions were a deception designed solely to cause Plaintiff to enter the van under the pretense of legitimate criminal justice objectives.

290. As stated by Assistant Prosecutor Schweers, the arrangement between EMANUELE and Plaintiff was a "pseudo-CI relationship."

291. Kidnapping (N.J.S.A. 2C:13-1) is committed when an individual:

"b. ... unlawfully removes another ... a substantial distance from the vicinity where he is found, or if he unlawfully confines another for a substantial period, with any of the following purposes:

1. To facilitate commission of any crime or flight thereafter;
or

2. To inflict bodily injury on or to terrorize the victim or another; or

3. To interfere with the performance of any governmental or political function;

292. Under N.J.S.A. 2C:13-1(d) states a "removal or confinement is unlawful within the meaning of this section (Kidnapping) and of sections 2C:13-2 (Criminal Restraint) and 2C:13-3 (False Imprisonment), if it is accomplished by ... deception. **Emphasis added.**

293. EMANUELE committed this crime since he deceived Plaintiff into believing she could obtain immunity and/or leniency by entering the van, but EMANUELE only intended to facilitate his sexual crimes, to terrorize the Plaintiff, and to interfere with his government (law enforcement) function.

294. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE knew, or should have known, of EMANUELE's deception since they all knew that no Prosecutor provided approval for the immunity and/or leniency which Plaintiff expected, there was no formal establishment of Plaintiff as a CI in the DEPARTMENT, and the entire arrangement was an obvious fraud.

295. EMANULE also, by causing Plaintiff to enter the van under deceptive circumstances, committed the crimes of Criminal Restraint

(N.J.S.A. 2C:13-2), False Imprisonment (N.J.S.A. 2C:13-3), Luring of an Adult (N.J.S.A. 2C:13-7), and Human Trafficking (N.J.S.A. 2C:13-8).

X. Plaintiff Recognizes no Drug Sellers at the Mall.

296. After being transported to the Mall by EMANUELE, the Plaintiff approached the pretzel store, but recognized no drug sellers.

297. Plaintiff's CI role was a sham, and knowing this, EMANUELE simply waited in the van for Plaintiff's return.

298. EMANUELE had no interest or expectation of receiving any valuable information from Plaintiff, since he was planning to sexually assault her.

299. Upon her return to the police van, EMANUELE expressed feigned disappointment at Plaintiff's failure to identify anyone.

300. EMANUELE also related that he had doubts about his ability to secure a reduced criminal charge and hinted that she might have to do something else for him.

301. In this way, EMANUELE was creating fear in the Plaintiff that she was going to prison unless she acceded to his demands.

Y. Emanuele Completes the Crimes of Kidnapping (N.J.S.A. 2C:13-1), Criminal Restraint N.J.S.A. 2C:13-2, and False

Imprisonment (N.J.S.A. 2C:13-3), Luring of an Adult (N.J.S.A. 2C:13-7), and Human Trafficking (N.J.S.A. 2C:13-8).

302. EMANUELE drove Plaintiff in the direction of the DEPARTMENT, but instead of proceeding to the DEPARTMENT, he drove into a nearby parking lot behind St. James Memorial Episcopal Church.

303. The small church, constructed of brown stone, is located on Broad Street in Eatontown.

304. The entrance to the parking lot is on the left side of the church.

305. From the parking lot behind the church, the parking lot for the DEPARTMENT was partially visible by looking in between buildings on White Street.

306. From the parking lot behind the church, Plaintiff was able to see Braswell's (her step-father's) vehicle as he waited for her return from the Mall.

307. At this point, EMANUELE had committed the completed crimes of Kidnapping (N.J.S.A. 2C:13-1), Criminal Restraint N.J.S.A. 2C:13-2, and False Imprisonment (N.J.S.A. 2C:13-3), Luring of an Adult (N.J.S.A. 2C:13-7), and Human Trafficking (N.J.S.A. 2C:13-8).

308. The removal, confinement, involuntary servitude, and/or restraint, as set forth in these crimes, consists of EMANUELE's two (2) month long campaign of coercion¹⁵, creation of fear, deception, false cultivation, and pretense concerning his "pseudo-CI relationship" with Plaintiff.

309. At this point, Plaintiff was realized that EMANUELE intended to commit some form of sexual predation.

Z. Emanuele Sexually Assaults the Plaintiff.

310. While parked behind St. James Memorial Episcopal Church, EMANUELE asked the Plaintiff for oral sex which she refused.

311. Plaintiff was terrified by EMANUELE's demand and she knew she was in great danger.

312. EMANUELE then reached over to the passenger side where Plaintiff was seated, lifted the arm rest, grabbed her by her sweater and guided her into the back of the van where he performed a Sexual Assault on Plaintiff.

¹⁵ Criminal Coercion is defined in N.J.S.A. 2C:13-5. This crime consists of engaging in threats designed to restrict another's freedom of action to engage or refrain from engaging in conduct. Threats include accusing anyone of an offense and taking or withholding action as an official. Plaintiff's theory in part relies on EMANUELE's coercive behavior in this regard.

313. The Sexual Assault included unconsented to penetration by EMANUELE's penis into Plaintiff's vagina, and other improper sexual contact.

314. The attack was excruciatingly painful.

315. EMANUELE committed the Sexual Assault by means of his supervisory and disciplinary power over Plaintiff and his legal, professional, or occupational status.

316. EMANUELE had the lawful ability to supervise Plaintiff's CI related work and to discipline her by means of an unfavorable recommendation to the Prosecutor concerning Plaintiff's work as a CI.

317. His sexual penetration of Plaintiff is thus a *per se* Sexual Assault under New Jersey law.

318. EMANUELE also used force to accomplish his Sexual Assault.

319. The consists of EMANUELE being armed with a firearm in open view, his physical movements applied to the Plaintiff, his custody, control and unlawful confinement of Plaintiff, and his pretense of authority over Plaintiff in terms of dissimulation of legitimate law enforcement activity.

320. EMANUELE also committed the Sexual Assault by means of Coercion as this is defined by N.J.S.A. 2C:13-5.

321. EMANUELE's coercive conduct consisted of his prior and concurrent threats to accuse Plaintiff of an offense and/or to take or withhold action as a government official.

322. This conduct, consisting of falsely representing his control over potential criminal charges and prison sentences, or the lack of same, being dependent on Plaintiff's CI work, was designed restrict Plaintiff's freedom of action to engage or refrain from engaging in sexual contact with EMANUELE.¹⁶

323. EMANUELE's Sexual Assault was committed while Plaintiff had already been Abducted, Kidnapped, Criminally Restrained, Falsely Imprisoned, and Unlawfully Lured under the New Jersey Criminal Code, as explained above.

324. This is so because, under N.J.S.A. 2C:13-1(d), EMANUELE "accomplished" Plaintiff's "removal or confinement [in the van] ... by ... **deception**." (emphasis added).

325. EMANUELE's entire exercise of authority was simply a ruse to enable him to lure Plaintiff into the van and obtain sexual gratification.

¹⁶ EMANUELE was convicted of this very offense, a Crime of the Third Degree. During his plea allocution EMANUELE fully and unqualifiedly acknowledged that he destroyed the drugs as part of his plan to coerce plaintiff into acceding to his sexual demands. (Exhibit R).

326. As EMANUELE finished his sexual attack he ejaculated on Plaintiff's clothing.

327. EMANUELE recognized this and expressed fear that Plaintiff would submit this to authorities.

328. Plaintiff has since turned this evidence over to the Professional Responsibility Bureau of the Prosecutor.

329. Plaintiff has further submitted a sample of her own DNA for profiling and comparison to any evidence recovered from Plaintiff's clothing.

AA. Plaintiff's Excited Utterance.

330. EMANUELE returned Plaintiff to Braswell by driving her to the DEPARTMENT's parking lot.

331. Braswell in turn drove Plaintiff home.

332. Plaintiff was quiet in Braswell's vehicle.

333. Plaintiff had a strong odor of EMANUELE's cologne on her person which was clearly discernible to Braswell.

334. Plaintiff described the sexual assault to a neighbor that same night.

335. The neighbor informed Cefalo (Plaintiff's mother) that some incident occurred between Plaintiff and a member of the DEPARTMENT.

336. When Cefalo confronted Plaintiff with this information, Plaintiff was equivocal in her description of the incident.

337. The neighbor, Cefalo and Braswell have been interviewed by the Prosecutor.

BB. Emanuele Orders Plaintiff to Return.

338. On February 17, 2012, EMANUELE called Plaintiff and ordered her to return to the DEPARTMENT, on February 17, 2012 for additional CI work.

339. Fearing another attack by EMANUELE, Plaintiff said she could not do so, but could return on Saturday, February 18, 2012, a day she knew EMANUELE was not working.

340. Cefalo drove Plaintiff to the DEPARTMENT on Saturday, February 18, 2012 so Plaintiff could complete her CI work with another detective.

341. This other detective, frequently worked with EMANUELE on narcotics matters.

342. This Detective also drove Plaintiff to the Mall in the van for purposes of identifying drug sellers.

343. This time Cefalo followed the police van.

344. No drug sellers were identified at the Mall that day and Plaintiff was returned to Cefalo without incident.

345. This second detective was permitted to take Plaintiff out alone in a van in violation of DEPARTMENT General Orders referenced above.

346. This is because GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE failed to exercise any oversight, despite being on notice of the dangers set forth above.

347. No one from the DEPARTMENT has asked Plaintiff to do any further CI work.

CC. Emanuele states - "I thought you wanted it."

348. Plaintiff informed the Prosecutor of EMANUELE's misconduct.

349. The Plaintiff was interviewed by the Prosecutor.

350. During one such meeting, she was asked to make a controlled recorded phone call to EMANUELE concerning the circumstances of his sexual assault.

351. During that phone call, Plaintiff stated to EMANUELE that he had “really hurt her” in the van, to which EMANUELE stated he was “sorry” and that he “thought she wanted it.”

352. Plaintiff also told EMANUELE that she had told her mother (Cefalo) about what happened and that Cefalo was very upset.

353. Shortly after this phone call, EMANUELE directly called Cefalo and left a message stating he had “good news.”

354. Cefalo did not return the call and the message was provided to the Prosecutor.

355. On information and belief, the “good news” from EMANUELE was his obtaining of either immunity and/or leniency in Plaintiff’s criminal case.

356. Plaintiff was shown a photo array at the Prosecutor’s office and she identified EMANUELE as her assailant.

DD. Emanuele is Suspended, Charged with Sexual Assault and Other Crimes, and Enters a Guilty Plea.

357. On or about June of 2012, EMANUELE was suspended without pay from his position at the DEPARTMENT.

358. By Accusation Number 12-10-1690A, in the Superior Court of New Jersey, Monmouth County, EMANUELE was charged with two

(2) counts of Official Misconduct (N.J.S.A. 2C:30-2), and one (1) count each of Sexual Assault (N.J.S.A. 2C:14-2), Criminal Coercion (N.J.S.A. 2C:13-5), and Tampering with or Fabricating Physical Evidence (N.J.S.A. 2C:28-6).

359. On October 3, 2012, EMANUELE entered a guilty plea to Criminal Coercion (N.J.S.A. 2C:13-5), and Tampering with or Fabricating Physical Evidence (N.J.S.A. 2C:28-6).

360. Plaintiff consented to this guilty plea as long as EMANUELE was not allowed to dissimulate the full scope and breadth of plan to coerce Plaintiff to engage in sexual relations with him.

361. EMANUELE admitted that his conduct was designed to “unlawfully restrict her (Plaintiff’s) freedom to engage in conduct for the purpose of and with the hope that you (EMANUELE) would have sex with [Plaintiff]...”

362. EMANUELE also admitted he “held the Theft complaint over her head to get what he wanted from her.”

EE. EMANUELE’s Counsel Makes *Ex-Parte* Statements.

363. After EMANUELE entered his guilty plea, his attorney, Patrick Toscano, speaking on behalf of his client pursuant to Fed. R. Evid. 801(d)(2), immediately made the following statements to the press:

To the Asbury Park Press:

[EMANUELE's crime was] "a 10-minute lapse of judgment in an otherwise, literally, impeccable career."

"I'm not too sure that the victim in this case was what she made herself out to be. It seems there was a plan all along. I'm not comfortable referring to her as a victim."

To the Newark Star Ledger: he stated:

"As far as we are concerned no sex ever took place."

364. By letter dated October 10, 2012, Plaintiff's counsel, William P. Perniciaro, responded to Toscano's words in correspondence to Assistant Prosecutor Gregory Schweers, **copied to Mr. Toscano (Exhibit V).**

365. That letter states:

"First, no one asked Emanuele to admit to sexual penetration, but Toscano brought up the topic in a public forum in order to denigrate the complaining witness, knowing she would read this account.

Second, Toscano cast doubt on my client, who submitted written statements that she was raped, without any preconditions as to her still pending theft charges.

Third, Toscano dissimulates the true state of affairs, i.e.: that no sexual penetration took place, while knowing the complainant provided her semen stained jeans which DNA testing establishes to have come from Emanuele.

Fourth, Toscano implies that his client is a "victim" while ignoring that his own client made multiple incriminating

statements about the rape in a thirty (30) minute controlled phone call recorded by your office, including his full apology and admission that "I thought you wanted it."

Fifth, he accuses a rape victim, of "having a plan all along," thereby bizarrely suggesting [Plaintiff] scripted the oppressive, *per se* illegal criminal process initiated and perpetrated by Emanuele, all with the express, sole purpose of coercing my client to acquiesce to his sexual predation.

These are material knowing misrepresentations of a critical component of the criminal transaction which cannot be overlooked. Mr. Toscano's patent misconduct undermines the factors underpinning the collective determination that a non-incarceratory sentence constituted a just and equitable resolution of this matter."

The brokered plea agreement neither contemplated the besmirching of [Plaintiff's] reputation nor her suffering further reckless insult and humiliation at the hands of Emanuele, whose attorney, by operation of law, is deemed to have spoken on his behalf. In addition, Toscano's professional breach and disturbing ethical indiscretion, his telling of patently false tales out of school, have served to not only seriously diminish your office's efforts, but those of the Court as well.

Stated another way, "victims" do not plead guilty to felonies, resign from valuable public appointments, and forgo pensions. Toscano's attempt to cloak his client in the robes of a "victim", therefore, constitutes a vulgar insult to the Court, the Township of Eatontown, your office, as well as to my client. It denigrates the commendable efforts of your office and those of the detective investigators assigned to this case.

I respectfully submit that this intentionally malicious, outrageous extra-judicial conduct serves to undermine and nullify the proposed resolution.

366. Neither Toscano, nor EMANUELE offered any dispute or response to this written correspondence.

367. The same October 10, 2012 letter (copied to Toscano)(Exhibit

V) also states:

In addition to all these facts, I have the unpleasant duty to report that, just this afternoon, the other complaining witness I provided to you, "A.J.", who was interviewed by your office, has identified Emanuele's photograph in a photo-array concerning yet another incident involving sexual predation that took place in 2009, while Emanuele was a an Eatontown Police DEPARTMENT patrol man; while he was on duty; while he was in uniform; and while he was operating a marked Eatontown Police DEPARTMENT patrol car, which he drove to this female victim's home; to a municipality outside of his law enforcement jurisdiction, for the sole purpose of ordering this second female victim, while inside her home, to "touch my dick."

I enclose photographs of this array in which Emanuele was identified and circled by the complaining witness in my office. I also enclose her affidavits executed today relative to this second sexual incident – first in time - involving Emanuele.

368. Neither Toscano, nor EMANUELE offered any dispute or response to this written correspondence, accusing EMANUELE of a second incident, first in time, of sexual predation.

FF. Plaintiff Refutes Toscano's Ex-Parte Statements At Sentencing.

369. On November 30, 2012, Plaintiff appeared in the Superior Court for purposes of making a Victim Impact Statement dealing with Toscano's *ex-parte* statements to the press.

370. The court was in the process of evaluating the gravity of EMANUELE's offenses and whether a prior promised probationary sentence should be withdrawn in light of Toscano's *ex-parte* statements.

371. In the presence of both EMANUELE and his counsel that day, Arthur Margeotes, Esq., Plaintiff made the following Victim Impact Statement concerning EMANUELE's crimes (**Exhibit R**):

"After Mr. Emanuele pleaded guilty, his attorney, Mr. Toscano, went to the press and said that he is not sure I am a victim, that Emanuele did not have sex with me, and that I had a "plan all along.

He also said that Emanuele only had a "ten minute lapse of judgment in an otherwise "literally impeccable career."

I'm here to say Mr. Toscano is wrong. Mr. Emanuele is a rapist who worked for weeks to coerce me to have sex with him. And I say this confidently as a warning to the public, especially women.

Mr. Emanuele recruited me as a Confidential Informant in December 2011, on the threat that I was facing prison if I did not cooperate with him. Macy's contacted the

Eatontown Police DEPARTMENT and Emanuele responded. When he arrived, he asked me what had taken place. I voluntarily gave him information including the drugs I had in my care which he proceeded to seize.

He asked me for sexual favors in exchange for his convincing the Monmouth County Prosecutor not to send me to jail. He kept pretending that he had to quote "call in some favors" to accomplish this, and that the prosecutor was quote "breathing down his neck" to send me to prison.

He also disposed of all my drugs and told me that he saved me from prison for that BUT made it clear that he can bring back those charges. As part of my work as a Confidential Informant Mr. Emanuel drove me in a van to the Monmouth Mall to point out drug dealers. When I did not recognize any, he was disappointed, and said I would have to do something else for him.

He drove me to the parking lot behind St. James Memorial Episcopal Church in Eatontown within the view of the Eatontown Police Station. My father, Carey (sp) ("Ken"), was waiting for me the police station parking lot, and I was able to see his car. At that time I knew that Emanuele was going to rape me.

Mr. Emanuele asked me to perform oral sex and I refused. He reached over to my side of the van, lifted up the armrest, and took off my seat belt. He then started kissing and caressing my neck and chest and then grabbed my sweater and pushed me to the back of the van. He pulled down my pants and pushed up my sweater. He opened his own pants while keeping his weapon on him and forcibly raped me. He ejaculated on my pants.

He drove me back to the police station where Ken, my dad was waiting. My dad drove me home and continued to ask me on the car ride home what was wrong with me and why the aroma of Emanuele's strong cologne was all over me.

I told my neighbor of this attack that night and I have provided the neighbor's name to the prosecutor. I also turned over my semen stained jeans to the detectives.

At the prosecutor's office, I made a phone call to Emanuele which was recorded by the detectives. I told Emanuele that he forced himself on me and really hurt me and he kept apologizing and saying "I thought you wanted it. I thought you wanted it."

In the past several months I have not been able to sleep as I relive my rape in my dreams often waking up screaming and crying upon being awoken by my family. I am very fearful and angry with police officers and cannot bring myself to trust any of them. I experience great rage at others. In any other verbal dispute, often not seeing the other person, but actually seeing Emanuele in their place.

I am in therapy for this and receiving an anti-depressant, bi-polar medication and anti-anxiety prescriptions.

I was also informed before Emanuele pleaded guilty, that the prosecutor's office was willing to allow me to testify in a Grand Jury for purposes of presenting rape charges against Emanuele, but I could also agree to allow him to escape going to prison with a guilty plea to Criminal Coercion and Destroying Evidence of the drugs. I agreed to this since I was assured that he would lose his job as a police officer and could never have such a job anywhere ever again.

I also knew that losing his job was a significant penalty, and I wanted to forgive him, since this is part of my recovery process. It was most important to me that he never be allowed to pressure another woman to perform sex on him. But I specifically did not want him to pretend that did not force me to have sex with him.

But after Mr. Emanuele pleaded guilty, Mr. Toscano made his statements which are lies told on behalf of this dangerous man. I felt betrayed and victimized all over again. Particularly I was offended that Mr. Toscano portrayed Emanuele as the victim, when in reality I was the one who was raped. Obviously Emanuele has no appreciation for what he did to me and has taken the generosity of the prosecutor, and my attempt at forgiveness, as an opportunity to pretend he is not a rapist.

I had a physical and mental breakdown after reading Mr. Toscano's statements to the press. I felt I would rather be dead than relive this whole experience again. I feel like I did back in March when I was very depressed over everything that happened. I now regret allowing him to plead guilty to coercion and do not want him to have this benefit anymore. I now feel the only way to properly deal with this man is for him to go to prison.

I am here to say that Emanuele is a sex offender who singles out unfortunate or vulnerable women with no remorse, and must be labeled as such for the protection of women. I now feel that due to the existence of another victim, and the outrageous statements of Emanuele's attorney, that Emanuele will do this again. He has no understanding of the harm he has done to my life, and the other woman.

I do not feel I will ever fully recover and prison is the only way to stop him. It would be a mistake to simply place him on probation. I know he will do this again and be standing before the court as a sex offender unless he's put in jail. Thank you.

372. When given an opportunity to speak in response to Plaintiff,

EMANUELE stated:

“Judge, I was a law enforcement officer. I made a mistake and I’m accepting responsibility for that mistake. I just want to move on with my life. Thank you, Judge.” (Exhibit R). Emphasis supplied.

373. Neither EMANUELE, nor his counsel, Margeotes, offered any dispute as to Plaintiff’s open and notorious rape allegations as set forth in her statement to the court.

374. The issue of whether EMANUELE Sexually Assaulted the Plaintiff is thus closed.

GG. Goldfarb’s Ex-Parte High Opinion of Emanuele.

375. GOLDFARB also made an *ex parte* statement to the press concerning this opinion of EMANUELE.

376. To the Asbury Park Press, on October 3, 2012, GOLDFARB stated, "He (EMANUELE) was an extremely hardworking, aggressive police officer who did a good job, but that obviously doesn't excuse the act in question. We're appalled at what he did."

HH. Defendants On Notice at the Time of EMANUELE’s Sexual Assault, of a Well-Publicized Pattern of Sexual Coercion by Members of Law Enforcement Exercising Authority Over Civilians, Mostly Females.

377. At the time of EMANUELE’s misconduct, GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE, knew, or should have known, that there was an increasing frequency of law

enforcement officials abusing their authority to coerce sex from females.

378. These incidents were nationally publicized and always resulted in indictment, conviction, and/or dismissal, for nearly the same conduct engaged in by EMANUELE, i.e.: sexual coercion of a vulnerable female.

379. The incidents are also easily found on the internet.

380. The incidents lead right up to the time of Plaintiff's abduction and rape.

381. For example, on August 22, 1998, the New York Times reported that New Jersey State Trooper Brendan Crooker, 27, of Rockaway Township, was indicted by a state grand jury on a charge of Official Misconduct, Criminal Coercion and Criminal Sexual Contact.

382. Crooker was alleged to have pressured a woman to have sex with him in return for his not issuing speeding tickets.

383. In March of 2002, the University of Nebraska at Omaha DEPARTMENT of Criminal Justice published a report (the "Report") entitled, "Driving While Female, a National Problem with Police Misconduct."

384. The Report documents 400 instances of sexual coercion consisting of “a pattern of a pattern of police officers using their traffic enforcement powers to abuse women.” Id. at 2.

385. In the past ten (10) years this problem has worsened into use of coercion involving the officer’s discretion to charge or not charge a crime.

386. On August 13, 2006, the Philadelphia Inquirer reported that Philadelphia Police Officer James Fallon used his police authority to coerce and rape women in this patrol car.¹⁷

387. On August 26, 2006, the South Florida Sun Sentinel reported that Margate (Florida) police arrested Broward County Sheriff’s Office Investigator Eric M. Ferber on charges he coerced a woman into sexual acts twice after he told her he could take away her children, authorities said Friday.

388. On December 9, 2006, the Buffalo News reported that former Buffalo Police Officer Gregg O’Shei was spared a jail sentence for

¹⁷ According to the Philadelphia Inquirer, on March 29, 2007 Fallon pled guilty to Indecent Assault charges and was sentenced to a probationary term.

forcing at least two women to have sex with him or face being arrested.¹⁸

389. On March 15, 2007, the New York Post reported that Southampton Police Officer Guy Giammatteo used his police power and authority to coerce and solicit sex from local women over the past five years.¹⁹

390. On May 27, 2007, the Tennessee Highway Patrol announced that State Trooper James Randy Moss was fired over allegations that he disregarded a drug possession charge in exchange for oral sex from a porn actress.²⁰

391. On October 18, 2008, the Los Angeles Times reported that Los Angeles Police Officer Russell Mecano was arrested on suspicion of coercing women to engage in sex acts with him in exchange for not pursuing some sort of law enforcement action against them.²¹

392. On January 26, 2009, the United States Attorney for the Northern District of Texas announced a plea agreement with former

¹⁸ O'Shei was allowed by prosecutors to plead guilty to misdemeanor Official Misconduct and Criminal Coercion charges and forced to resign from the police department.

¹⁹ Officer Giammatteo entered a plea of guilty to the criminal charge of Official Misconduct in violation of New York Penal Law §195.00 and his employment was terminated. See Minutes of Regular Town Board Meeting of Southampton, New York on August 4, 2008.

²⁰ According to Knoxnews.com, on January 18, 2008 Moss was sentenced to 5 years' probation.

County Sheriff, William E. Keating, for a guilty plea to a federal civil rights violation.

393. Keating was accused of using his police authority (having his weapon on his belt) to coerce oral sex from a woman so her boyfriend could "avoid going to jail."²²

394. On August 29, 2009, Broward County (Florida) Deputy Sheriff Jonathan Bleiweiss, 29, was arrested on charges of using his position to coerce sex from illegal immigrants during traffic stops.²³

395. On May 6, 2009, Police Officer Gary Pignato, in Rochester, New York, was accused of using his vehicle to follow a woman to her home and demanding sexual favors in exchange for not charging her with possession of Marijuana.²⁴

396. On October 31, 2009, the Seattle Times reported that Medina (Washington) Police Officer Ismael Ramirez coerced a woman into

²¹ On May 26, 2011 Mecano was sentenced to 8 1/2 years in state prison.

²² The pleas involved admitting to a violation of 18 U.S.C. 242 in that he willfully deprived another person, L.M., of her civil rights while under color of law, when he sexually assaulted her. Department of Justice Press Release dated January 26, 2009.

²³ Bleiweiss is still awaiting trial.

²⁴ According to the New York State Department of Corrections, Pignato was sentenced 2 to 6 years in New York State Prison in 2009.

having sex with him in exchange for dismissing two tickets he had written her during an earlier traffic stop.²⁵

397. On April 29, 2010 the West Virginia Record reported that Ripley (West Virginia) Police Officer Denver H. Thomas lured a female Confidential Informant (a "CI") to his home for the sole purpose of having sex and giving her the impression she would go to jail, and her children would be placed in foster care unless she had sex with him.

398. On July 19, 2010, the Baltimore Sun reported that a Baltimore police officer was suspended for raping a woman in his police car during a traffic stop.

399. On July 23, 2010, the New York Times reported that an Immigration Officer, Isaac R. Baichu, was sentenced to 1 ½ to 4 ½ years in prison for coercing oral sex from a 22-year-old Colombian woman who was seeking a green card.

400. On May 18, 2010, the New York Times reported that New York City Police Officer Wilfredo Rosario and Detective Oscar Sandino were accused of using their positions to coerce sexual favors from women.

²⁵ Medina Police Chief Jeff Chen states that Ramirez resigned from the department October 17, 2009.

401. Rosario allegedly told an 18-year-old woman that he would destroy a summons in exchange for oral sex.²⁶

402. Detective Sandino allegedly warned a woman that if she refused to give him oral sex “she would go to jail (on drug charges) and lose custody of her children.”²⁷

403. On June 20, 2010, The Oregonian reported that Beaverton (Oregon) Police Officer Joshua Michael coerced a woman to perform sexual acts while he was on duty and was sentenced to thirty (30) months in prison.

404. On March 30, 2011, the Rancho Bernardo Patch reported the San Diego Police Officer Anthony Arevalos is accused of sexually assaulting a woman he stopped on January 10, 2010.²⁸

405. On December 30, 2011 CBS news reported that Officer Kevin Walker was arrested in suburban Philadelphia for coercing sex from vulnerable women while in uniform for Darby Township police.²⁹

²⁶ According to the New York Daily News, on August 6, 2010, Rosario was convicted of Sexual Abuse and is serving a 5 year prison term.

²⁷ According to the New York Daily News, on October 8, 2010, Sandino entered a guilty plea to Sexual Assault.

²⁸ According to NBC News, Arevalos was convicted of Sexual Battery and was sentenced to 8 years in prison on February 10, 2012.

²⁹ According to the Delaware County Times, Walker pled guilty to two counts of Official Oppression and one count of Stalking on June 1, 2012.

406. On February 1, 2012 the Las Vegas Review Journal reported that Las Vegas Police Officer John Norman was arrested for coercing women into exposing their breasts.³⁰

407. On February 17, 2012, the Pittsburgh Post-Gazette reported that Pittsburgh Police Officer Adam Skweres was charged with bribery, coercion, official oppression and other crimes for telling three women he could spare them and their acquaintances trouble with the law in exchange for sexual favors.³¹

408. The above pattern of misconduct was known, or should have been known, to GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE, and by failing to regulate EMAMUELE's interactions with Plaintiff, these Defendants acted with Deliberate Indifference to her welfare.

VIII. THE PLAINTIFF'S INJURIES.

409. Plaintiff has sustained many personal hardships due to the actions of the Defendants such as pain, indignity and agony of being sexually assaulted; physical and emotional stress; severe emotional trauma, sleeplessness; nightmares; mental illness and anguish;

³⁰ According to the Las Vegas Sun, Norman was sentenced to 12 months in prison on January 17, 2013.

³¹ According to CBS news, Skweres was sentenced to 3 ½ years in prison, on March 15, 2013.

uncertainty; career, educational, family and social disruption; adjustment difficulties; suicidal ideation, hospitalization for psychiatric treatment and evaluation; and loss of self-esteem, human dignity and self-confidence.

410. Plaintiff is fearful of police and has difficulty establishing trusting relationships with others.

411. Plaintiff relives her sexual assault in her dreams and in flashbacks while awake.

412. Plaintiff has been prescribed numerous medications to alleviate her psychological conditions.

413. Plaintiff's symptoms are permanent.

414. There are aggravating factors in this case which render Plaintiff's symptoms a permanent loss of a bodily function under the verbal threshold provision of the N.J.S.A. 59:9-2(d) and New Jersey case law.

415. These are also injuries attendant to an unconstitutional invasion of bodily integrity, unlawful detention, and Cruel and Unusual punishment.

COUNT I.

**A CLAIM AGAINST EMANUELE, as an INDIVIDUAL, UNDER
§1983.**

416. Plaintiff repeats and re-alleges paragraphs 1 through 415.

417. Plaintiff asserts a claim under 42 U.S.C. §1983 against Defendant EMANUELE as an individual.

418. At all times relevant herein, EMANUELE was acting under color of law, i.e.: was on duty and exercising law enforcement authority pursuant to his appointment as a detective for EATONTOWN and the DEPARTMENT.

419. EMANUELE deprived Plaintiff of her rights under the Constitution.

420. EMANUELE acted intentionally and/or with actual malice.

421. EMANUELE deprived Plaintiff of her right to bodily integrity, by means of Sexual Assault, in violation of the Fourth and Fourteenth Amendments to the Constitution.

422. EMANUELE deprived Plaintiff's constitutionally protected liberty interest in being free from sexual coercion and abuse, and/or intrusions on personal security, under the Fourteenth Amendments to the Constitution.

423. The Supreme Court has described the crime of rape as follows:

“It is highly reprehensible, both in a moral sense and in its almost total contempt for the personal integrity and autonomy of the female victim and the latter's privilege of choosing those with whom intimate relationships are to be established. Short of homicide, it is the ultimate violation of self.” Coker v. Georgia, 433 U.S. 584, 597-98 (1977).

424. As such, a Sexual Assault and/or rape can never be justified as a legitimate state interest and can never outweigh the constitutionally protected liberty interest in bodily integrity.

425. EMANUELE deprived Plaintiff of her right to be free of unlawful seizure and detention, a liberty interest under the Fourth and Fourteenth Amendments to the Constitution, by means of his abduction and confinement of Plaintiff in a van under false pretenses.

426. EMANUELE deprived Plaintiff of her right to be free from bodily restraint and punishment, a liberty interest under the Fourth and Fourteenth Amendments to the Constitution, by means of his false exercise of authority over her person, coercion, physical and mental abuse of Plaintiff as set forth above.

427. EMANUELE deprived Plaintiff of her right to be free of Cruel and Unusual Punishment, under the Eighth Amendment, by means of his physical and mental abuse of Plaintiff, as set forth above, beyond all sense of proportionality to her charged Disorderly Person's Offense.

428. EMANUELE deprived Plaintiff of her right to Equal Protection of the Laws, under the Fourteenth Amendment, by means of his discrimination against Plaintiff based on her gender, and his dehumanizing treatment of her.

429. EMANUELE's misconduct proximately caused the violation of Plaintiff's Constitutional rights, injuries, symptoms and damages.

COUNT II.

A CLAIM AGAINST EATONTOWN and the DEPARTMENT for MUNICIPAL (MONELL) LIABILITY, UNDER §1983, for FAILURE TO SUPERVISE and DELIBERATE INDIFFERENCE.

430. Plaintiff repeats and re-alleges paragraphs 1 through 429.

431. In this regard, DEPARTMENT General Order 06-CH1-10 (Constitutional Safeguards) mandates respect for Plaintiff's Constitutional rights.

432. 06-CH1-10(II)(**Exhibit W**) states:

“Respect for the civil liberties of citizens shall be the paramount concern in all enforcement matters. Of all the actions an officer might take during the course of duty, **the ones with the most severe consequences concern Constitutional rights.** These Constitutional safeguards have placed strict limitations on the authority of the police to enforce federal, state and local laws and ordinances. This DEPARTMENT expects officers to observe Constitutional safeguards scrupulously. It will be the policy of this DEPARTMENT to guarantee, without question, the Constitutional rights of all individuals.” (emphasis added).

433. DEPARTMENT General Order 08-CH1-05(II)(A)(**Exhibit X**)(Law Enforcement Role) states:

“The police must not only respect, but also protect the rights guaranteed to each citizen by the Constitution. To the extent each officer considers his or her responsibility to include protection of the constitutionally guaranteed rights of all individuals; the police become the most important employees in the vast structure of government.”

434. DEPARTMENT General Order 08-CH1-05(II)(E)(**Exhibit X**)(Accountability) states:

“The police DEPARTMENT also is not an entity unto itself. Rather, it is a part of government and exists only for the purpose of serving the public to which it must be accountable.”

435. DEPARTMENT General Order 08-CH1-05(II)(F)(**Exhibit X**)(Professionalism) states:

“A profession polices itself. The police DEPARTMENT must ensure that it maintains a system designed to promote the highest level of discipline among its members.”³²

436. DEPARTMENT General Order 08-CH1-05(II)(G)(**Exhibit X**)(Integrity) states:

³² Also according to DEPARTMENT General Order 05-CH12-01(XI)(A):

“Organizational Values - The Department has developed a set of values used to guide the direction of the Department. These values are basically statements of what is important to the Eatontown Police Department. Personnel should take these values into consideration when making decisions.” Emphasis supplied. (EXHIBIT AA)

“The police must always be mindful of this contractual arrangement and never violate that trust. Each member of the police DEPARTMENT must recognize that he or she is held to a higher standard than the private citizen. They must recognize that, in addition to representing the DEPARTMENT, they also represent the law enforcement profession and government. They are the personifications of the law. Their conduct, both on and off duty, must be beyond reproach. There must not be even a perception in the public's mind that the DEPARTMENT's ethics are open to question.”

“By setting forth a clear set of values, articulating what it believes in, the police DEPARTMENT has a foundation to guide itself.”

437. DEPARTMENT General Order 06-CH12-02(IV)(**Exhibit Y**) (Basic Principles) states:

“Recognize that ... individual freedoms are sacred.”

438. The deployment of CI's requires significant internal regulation, external auditing and oversight, in order to prevent deprivations of the above referenced Constitutional rights.

439. The failure to have such regulation in place and/or the failure to enforce it, creates dangerous organizational climate and a failure to protect civilians from unauthorized police and prosecutorial action.

440. At all times relevant herein, GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE were acting under color of law, i.e.: were on duty and exercising law enforcement authority pursuant to

their respective appointments for EATONTOWN and the DEPARTMENT

441. EATONTOWN, the DEPARTMENT, GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE thus had an obligation to protect Plaintiff's Constitutional rights by virtue of their sworn professional and legal obligations, and the ongoing direct CI relationship between EATONTOWN and Plaintiff.

442. There was also a Special Relationship created between Plaintiff and EATONTOWN, the DEPARTMENT, GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE; which created a duty of the Defendants to take proper steps for her safety over and above the duty to the general public.

443. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE were EMANUELE's supervisors with final authority for assuring his compliance with the various EATONTOWN and DEPARTMENT policies and customs with respect to protection of Constitutional rights of civilians under DEPARTMENT custody and/or control.

444. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE are high ranking officers in the DEPARTMENT responsible for creating and executing EATONTOWN's municipal policies and/or

customs with respect to the protection of civilians under DEPARTMENT custody and/or control.

445. For instance, GOLDFARB and TYLER were directly responsible for creating and implementing the municipal policies and customs designed to protect civilians from deprivations of Constitutional rights by members of the Detective Bureau.

446. This finds expression in GOLDFARB's and TYLER's issuance of DEPARTMENT Rules, Regulations and General Orders (referenced above) specifically and expressly intended to prevent harm to civilians including, but not limited to, sexual predation, physical injury, unlawful detentions, cruel and unusual punishment, and/or denial of Equal Protection.

447. GOLDFARB and TYLER were also primarily responsible for creating policy and custom needed for the DEPARTMENT to obtain the CALEA accreditation, a process which GOLDFARB and TYLER publicly announced was established to create procedures for avoiding the very harm inflicted by EMANUELE in this matter. See Exhibit B, Pages 14-15, 28.

448. GOLDFARB and TYLER publicly announced that these protections were in place before and during the time EMANUELE was victimizing the Plaintiff.

449. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE also failed adequately to supervise EMANUELE, by taking care to require his compliance with policies and/or customs, they knew, or should have known, would have prevented the harms suffered by Plaintiff.

450. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE are also the highest ranking officials in the DEPARTMENT responsible for assuring compliance with various municipal policies and customs expressly enacted for the protection of civilians.

451. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE did not, and do not, take the required steps to protect civilians serving as CI's.

452. The failures of GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE to properly supervise EMANUELE are thus attributable to EATONTOWN and the DEPARTMENT as municipal policy and/or custom.

453. By way of example, COFFEY was required to gather papers to comply with DEPARTMENT policy to formally establish Plaintiff as a CI.

454. COFFEY failed to do so despite PLAINTIFF's appearance at the DEPARTMENT at least twice over a two (2) month period after her arrest processing was completed.

455. TYLER failed, as he was required, to review this information and issue a recommendation to GUTHRIE.

456. GUTHRIE also failed, as he was required, to make a final decision as to whether Plaintiff was "reliable" for CI work.

457. GOLDFARB was charged with ensuring that the DEPARTMENT was following CI policies.

458. Since these critical functions were not performed, the Defendants, with Deliberate Indifference, allowed EMANUELE to usurp the roles of his superiors and the actual prosecution function as well.

459. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE also knew that DEPARTMENT employees would confront situations where there is temptation to assert sexual coercion by means of abuse of police authority.

460. This knowledge is expressed in DEPARTMENT policies directly, or indirectly by reference to “females” or individuals of the “opposite sex,” and the additional precautions to protect these individual from sexual predation by DEPARTMENT employees.

461. Plaintiff’s situation also involved a matter that employees had a history of mishandling, thereby creating the need for supervision, oversight and controls.

462. There is because of the existence pattern of sexual coercion by members of law enforcement exercising authority over civilians, nearly always females, often in police vehicles.

463. These multiple nationally publicized incidents, set forth above (see paragraphs 382 through 408), are well known in law enforcement circles, are explained to higher ranking officer during training, and should have been known to the upper echelons of the DEPARTMENT including GOLDFARB, GUTHRIE, TYLER, COFFEY, and JOHN DOE.

464. The above incidents closely mirror EMANUELE’s conduct and neither GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY nor JOHN DOE have any credible way of claiming they were unaware of the problem of police sexual coercion of vulnerable women.

465. A wrong choice by an employee in Plaintiff and EMANUELE's situation will also frequently cause a deprivation of rights to bodily integrity (i.e.: being sexually assaulted); freedom of movement (being held against one's will), to be free from Cruel and Unusual Punishments (penalized beyond all proportion to the charges), to Equal Protection under the Laws.

466. This is so since civilians, both under the custody and control of a police officer, when facing criminal charges, will acquiesce or submit to sexual predation in order to avoid threatened criminal sanctions (see paragraphs 382 through 408, above).

467. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE acted with Deliberate Indifference to Plaintiff's welfare by their inactions which they knew, or should have known, would result in the violation of Plaintiff's rights to bodily integrity (i.e.: that she can be sexually assaulted); freedom of movement (bring held against her will), to be free from Cruel and Unusual Punishments (penalized beyond all proportion to her relatively minor theft charges), and Equal Protection.

468. The Deliberate Indifference consists of their failure to cause EMANUELE to comply with even the slightest regulation of his interactions with Plaintiff.

469. EATONTOWN's, the DEPARTMENT's, GOLDFARB's, GUTHRIE's, TYLER's, COFFEY's, HEALY's and JOHN DOE's Deliberate Indifference proximately caused the violation of Plaintiff's Constitutional rights, injuries, symptoms and damages.

470. The harm suffered by Plaintiff was the result of GOLDFARB's, GUTHRIE's, TYLER's, COFFEY's, HEALY's and JOHN DOE's acts or omissions, and such acts or omissions, were accompanied by a Deliberate Indifference and/or wanton and willful disregard of the fact that Plaintiff foreseeably might be harmed by those acts or omissions.

COUNT III.

A CLAIM AGAINST EATONTOWN and the DEPARTMENT for MUNICIPAL (MONELL) LIABILITY, UNDER §1983, for FAILURE TO ENACT SUFFICIENT PROTECTIONS FOR FEMALE CI's and DELIBERATE INDIFFERENCE.

471. Plaintiff repeats and re-alleges paragraphs 1 through 470.

472. EATONTOWN and the DEPARTMENT failed to adopt sufficient policies and/or customs to protect female CI's dealing with male officers.

473. Specifically, GOLDFARB has the sole, exclusive and final policy making authority to enact and/or enforce policy and custom to protect females from abduction and sexual predation.

474. The risk of police coercion of vulnerable females is sufficiently obvious to have in place procedures to prevent this harm from happening.

475. Such a was also sufficiently foreseeable given, not only that it has occurred in nationally publicized incidents, but also since DEPARTMENT policy expressly recognizes it as a problem, and men, in positions of power over women, have traditionally abused their powers, when precautions are not in place and/or enforced.

476. Such precautions, policies and/or customs include, but are not limited to, enforcing current protections for female CI's, detainees, arrestees and/or transportees, the mandatory video monitoring of transportation of civilians of the opposite sex; strict radio reporting, recording and preservation of the time, starting and ending legs of transportation of female CI's by males³³; and mandatory presence of a second officer when transporting CI's of the opposite sex.

³³ Currently EATONTOWN destroys any record of such things after thirty (30) days as per their response to an Open Public Records Act (OPRA) request for such records with respect to Plaintiff. This policy renders these records useless as many forms of police misconduct are not disclosed until months or years after the fact.

477. EATONTOWN and the DEPARTMENT are liable under this Count III since it was Deliberately Indifferent to the high probability that the failure to have such protections in place would result in the deprivation of federal rights presented in this lawsuit.

478. EATONTOWN's and the DEPARTMENT's Deliberate Indifference, and lack of sufficient protections, constitutes policy and/or custom under §1983 and federal precedent.

479. For example, sexual coercion of females has been reported with increasing frequency in the past decade, leading up to EMANUELE's misconduct, as set forth above.

480. Such sexual predation can be eliminated with the simple use of mandatory video monitoring³⁴, strict radio monitoring of the transportation of all females³⁵, and/or the presence of another officer during the transportation of civilians of the opposite sex or simply the use of officers of the same sex as the transportee.³⁶

³⁴ Currently EATONTOWN leaves video monitoring to the discretion of the officer in the field, the very individual the video monitoring seeks to deter from sexual abuse of civilians. (Exhibit T).

³⁵ Currently EATONTOWN only extends this protection to "arrested persons," but not CI's which typically work with the DEPARTMENT long after they are "arrested." (Exhibit U).

³⁶ Currently EATONTOWN prohibits "meetings alone" with CI's and generally states, "Officers must exercise care in their relationships with confidential informants, especially confidential informants of the opposite sex." See DEPARTMENT General Order 08-CH42-02. (Exhibit O).

481. EATONTOWN, the DEPARTMENT, and its policy making officials, including GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE, in some instances intentionally failed to provide such protections or ignored the ones they had previously announced.

482. EATONTOWN, the DEPARTMENT, and its policy making officials, including GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE, also expressed clear understanding of the need to protect civilians in the custody and care of its officers, and created the appearance and pretense of having protections in place, but in reality the enacted protections left individuals in Plaintiff's situation, totally vulnerable to sexual predation.

483. This includes not providing for the Plaintiff's situation at all, leaving the use of significant protections to the discretion of the offending officer, and/or destroying evidence of compliance, all while publicly claiming the DEPARTMENT had "guidelines to follow for everything they do that has been recognized nationally and by the state chiefs of police as being the best practices, being the best way to handle various situations."³⁷

³⁷ GOLDFARB made this statement to the Altanticville Magazine on October 6, 2011.

484. This is Deliberate Indifference to Plaintiff's welfare exercised by policy making officials consisting of a policy and custom of EATONTOWN and the DEPARTMENT.

485. EATONTOWN's and the DEPARTMENT's Deliberate Indifference, in failing to enact proper and clear safeguards, proximately caused the violation of Plaintiff's Constitutional rights, injuries, symptoms and damages.

COUNT IV.

A CLAIM AGAINST EATONTOWN and the DEPARTMENT for MUNICIPAL (MONELL) LIABILITY, UNDER §1983, for FAILURE TO ENFORCE EXISTING PROTECTIONS FOR FEMALE CI's and DELIBERATE INDIFFERENCE.

486. Plaintiff repeats and re-alleges paragraphs 1 through 485.

487. EATONTOWN and the DEPARTMENT have a policy and/or custom of having certain protections for female civilians and/or CI's under DEPARTMENT jurisdiction, as set forth above.

488. EATONTOWN and the DEPARTMENT have a policy and/or custom of not requiring strict compliance with these protections.

489. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE are the EATONTOWN and DEPARTMENT officials responsible for the failure to enforce the protections.

490. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE are high government officials of the DEPARTMENT, such that their failure to act, is attributable directly to EATONTOWN and the DEPARTMENT.

491. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE are the DEPARTMENT's highest officials responsible for the enforcement of the protections.

492. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE, by failing to so act, are engaging in Deliberate Indifference to Plaintiff's welfare.

493. Such Deliberate Indifference, in failing to enforce current protections, proximately caused the violation of Plaintiff's Constitutional rights, injuries, symptoms and damages.

COUNT V.

A CLAIM AGAINST GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE, BOTH INDIVIDUALLY and in THEIR OFFICIAL CAPACITIES, UNDER §1983, for FAILURE TO ENFORCE EXISTING PROTECTIONS FOR FEMALE CI's, FAILURE TO SUPERVISE, FAILURE TO PROTECT and DELIBERATE INDIFFERENCE.

494. Plaintiff repeats and re-alleges paragraphs 1 through 493.

495. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE were required to exercise care that inferior officers, under their charge, respect the Constitutional rights of civilians under the custody and care of the DEPARTMENT.

496. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE, knew, or should have known, of EMANUELE's improper and/or *ultra vires* dealings with Plaintiff.

497. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE, knew, or should have known, that sexual predation by officers is a common problem in law enforcement.

498. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE, also knew, or should have known, of an epidemic of coercive sexual predation against females by members of law enforcement offering immunity and/or leniency in exchange for sex.

499. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE, by even minimal effort, in terms of supervision, oversight or control, would have prevented the harm inflicted by EMANUELE.

500. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE failed to do so and thus acted with Deliberate Indifference to Plaintiff's welfare.

501. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE also acted intentionally in many respects including, but not limited to, deliberate choices to avoid certain protections for females, at times leaving the implementation of the protections to the officer in the field.

502. The action and/or inaction of GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE, proximately caused the violation of Plaintiff's Constitutional rights, injuries, symptoms and damages.

COUNT VI.

TORT CLAIMS AGAINST EMANUELE UNDER NEW JERSEY LAW.

503. Plaintiff repeats and re-alleges paragraphs 1 through 502.

504. EMANUELE intentionally placed Plaintiff in fear of harmful or offensive contact (Assault).

505. EMANUELE intentionally contacted Plaintiff physically in a harmful or offensive way (Battery).

506. EMANUELE acted intentionally and outrageously (Intentional Infliction of Emotional Distress).

507. EMANUELE unlawfully confined (False Imprisonment) Plaintiff in a van under false pretenses and also physically during her sexual assault.

508. Plaintiff suffered physical injury and severe and permanent emotional distress.

509. EMANUELE's actions toward Plaintiff constitute civil assault, battery, intentional infliction of emotional distress, and false arrest and/or imprisonment.

510. EMANUELE's misconduct proximately caused Plaintiff's injuries, symptoms and damages.

COUNT VII.

A CLAIM AGAINST GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and BOTH INDIVIDUALLY and in THEIR OFFICIAL CAPACITIES, UNDER NEW JERSEY LAW FOR NEGLIGENT SUPERVISION, NEGLIGENTLY EXECUTION OF DUTY and/or NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS.

511. Plaintiff repeats and re-alleges paragraphs 1 through 510.

512. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE, either supervisors or high ranking officers, owed Plaintiff a duty of care to assure that she is treated with dignity and respect by members of the DEPARTMENT.

513. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE breached this duty to Plaintiff by ignoring EMANUELE's open and notorious evasion of procedure designed to protect women.

514. DEPARTMENT Rule and Regulation 1:4.22 (Neglect of Duty)(**Exhibit Z**) further defines negligence as:

“Failure to give suitable attention to the performance of duty. Examples include, but are not limited to: failure to take appropriate action on the occasion of a crime, disorder, or other act or condition deserving police attention; absence without leave; failure to report to duty at the time and place designated; unnecessary absence from the beat during a tour of duty; failure to perform duties or comply with provisions prescribed in the police manual; failure to conform to the DEPARTMENT operating procedures.”

515. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE had reason to know of EMANUELE’s abuse of authority and deviation from accepted and required operating procedures which were designed to protect females under the jurisdiction, custody and/or control of male officer.

516. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE had reason to know that EMANUELE’s conduct placed Plaintiff in danger.

517. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE had reason to know that their failure to supervise EMANUELE emboldened him to violate Plaintiff’s rights.

518. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE were neither engaging nor ordering adequate safeguards, already in place and available, to prevent Plaintiff from being victimized by EMANUELE.

519. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE also had reason to know that the expertise of the DEPARTMENT's Detective Bureau was vastly reduced in the time frame of Plaintiff's injuries.

520. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE had reason to know that additional oversight was needed.

521. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE could reasonably have foreseen that EMANUELE's conduct, and deviation from protocols, created a risk of harm to Plaintiff.

522. GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE failed to take the steps to place EMANUELE in a position whereby he would be prevented from harming the Plaintiff.

523. The failures of GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE constitute negligent supervision and/or execution of their duties.

524. The failure of GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE to properly supervise EMANUELE, and their negligent execution of duty, proximately caused the injury to the Plaintiff.

COUNT VIII.

**A CLAIM AGAINST EATONTOWN and the DEPARTMENT FOR
NEGLIGENT SUPERVISION, NEGLIGENTLY EXECUTION OF
DUTY, and NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS.**

525. Plaintiff repeats and re-alleges paragraphs 1 through 524.

526. GOLDFARB, GUTHRIE, TYLER, COFFEY, and JOHN DOE were at all times, acting within the scope of their employment for EATONTOWN and the DEPARTMENT.

527. By virtue of New Jersey Common Law and N.J.S.A 59:2-2(a) (Liability of Public Entity), EATONTOWN, as the employer, is vicariously liable for the negligent acts and omissions of GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE, in negligently supervising EMANUELE, otherwise negligently executing their duties and/or negligently inflicting emotional distress on Plaintiff.

528. These failures of GOLDFARB, GUTHRIE, TYLER, COFFEY, HEALY and JOHN DOE proximately caused the injury to the Plaintiff.

REMEDY FOR ALL COUNTS.

WHEREFORE, the Plaintiff demands, on each Count, the following Judgments in an amount to be determined upon trial of this case (monetary amounts are not included as required by Local Civil Rule 8.1):

- Entry of Judgment against the Defendants referenced in each Cause of Action set forth above.
- Compensatory Damages in an amount sufficient to fully compensate the Plaintiff for her injuries, damages and losses; and
- Exemplary (Punitive) Damages in an amount which will adequately punish the defendants for their actions and omissions, as allowed by law; and
- Liquidated Damages as allowed by law; and
- Attorney's Fees as a result of their violation of the Plaintiff's civil rights under 42 U.S.C. §§1983 through 1988, including costs of this lawsuit, filing fees, expert witness fees, witness fees, and deposition costs; and
- An Injunction enjoining the defendants from further damage to the Plaintiff; and
- Court Orders necessary provide Plaintiff with complete relief both before and after Final Judgment; and
- Such other and further relief as this Court may deem just and proper.

TRIAL BY JURY.

Plaintiff hereby demands trial by jury on all issues pursuant to Federal Rule of Civil Procedure 38(b) which allows such a demand to be included in this Pleading.

PUNITIVE DAMAGES.

Plaintiff hereby specifically requests punitive damages pursuant to Federal Law, N.J.S.A. 2A:15-5.11, New Jersey Court Rules, and case law for each cause of action which allows for such damages.

Dated: November 15, 2013

**RULE 11 SIGNATURE
CERTIFICATION:**

A handwritten signature in cursive script, reading "William P. Perniciaro", written in dark ink on a white background.

William P. Perniciaro
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