

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

DISTRICT OF NEW JERSEY

TYRONE K. STEPHENS

Plaintiff

v.

**CITY OF ENGLEWOOD, ET AL -SEE ATTACHED
RIDER**

Defendant

Civil Action No. 14-5362 (WJM)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

CITY OF ENGLEWOOD, ET AL - SEE ATTACHED RIDER

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

TYRONE K. STEPHENS
BERGEN COUNTY JAIL
160 RIVER STREET
HACKENSACK, NEW JERSEY 07601

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

WILLIAM T. WALSH

CLERK OF COURT

Date: 09/04/2014

Dianne C. Richards

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No. 14-5362 (WJM)

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**U.S. District Court
District of New Jersey [LIVE] (Newark)
CIVIL DOCKET FOR CASE #: 2:14-cv-05362-WJM-MF**

RIDER TO SUMMONS

Plaintiff

TYRONE K. STEPHENS

Defendant

CITY OF ENGLEWOOD

Defendant

**ENGLEWOOD POLICE
DEPARTMENT**

Defendant

DET. MARC MCDONALD

Defendant

DET. DESMOND SINGH

Defendant

DET. CLAUDIA CUBILLOS

Defendant

DET. SANTIAGO INCLE, JR.

Defendant

**DET. NATHANIEL KINLAW
*Individually and in official capacity***

Defendant

**NINA C. REMSON
ATTORNEY AT LAW, LLC**

Defendant

COMET LAW OFFICES, LLC

AO 240A (Rev. 01/09, NJ 05/13) Order to Proceed Without Prepaying Fees or Costs

UNITED STATES DISTRICT COURT
for the
DISTRICT OF NEW JERSEY

TYRONE K. STEPHENS,

Plaintiff,,

v.

CITY OF ENGLWOOD, et al,

Defendants.

ORDER ON APPLICATION
TO PROCEED WITHOUT
PREPAYMENT OF FEES

Civil Action No. **14-5362(WJM)**

Having considered the application to proceed without prepayment of fees under 28 U.S.C. §1915, **IT IS ORDERED** the application is:



GRANTED, and



The clerk is ordered to file the complaint,



IT IS FURTHER ORDERED, the clerk issue a summons and the U.S. Marshal serve a copy of the complaint, summons and this order upon the defendant(s) as directed by the plaintiff(s). All costs of service shall be advanced by the United States.



DENIED, for the following reasons:



IT IS FURTHER ORDERED, the clerk is ordered to close the file. Plaintiff(s) may submit payment in the amount of **\$400** within **14** days from the date of this order to reopen the case without further action from the Court.

ENTERED this 2 day of Sept 2014.

s/

Signature of Judicial Officer

William J. Martini, U.S.D.J.
Name and Title of Judicial Officer

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
Clerk's Office – Newark, NJ**

TYRONE K. STEPHENS.

Plaintiff,

v.

Case No.: 2:14-cv-05362-WJM-MF

Judge William J. Martini

CITY OF ENGLEWOOD, et al.

Defendant.

Dear Litigant:

The Clerk's Office has received and processed your complaint and has assigned the above docket number to it. The docket number and Judge's initials (as it appears above) must appear on any paper that is submitted to the court.

We are also enclosing United States Marshal form 285 for you to complete and immediately return to the U.S. Marshal's Service; otherwise, your complaint will not be served. **(one 285 form is to be completed for each named defendant to be served)**. Note, if you are suing the United States, Its agencies, Officers or Employees, please complete a 285 form for the U.S. Attorney for New Jersey and the Attorney General of the United States, see F.R.C.P. 4 (i). The U.S. Marshal's Service will not serve the summons and complaint without this form completed for each defendant. A sample of a completed 285 form is attached.

Upon completion of this USM 285 form(s), return to the U.S. Marshal's Service at:

**UNITED STATES MARSHAL'S SERVICE
50 Walnut Street
Newark, NJ 07101**

Very truly yours,

**William T. Walsh, Clerk
By Deputy Clerk, dr**

cc: USM Service

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

MARC AND TYRONE STEPHENS,
Plaintiffs,
v.

**CITY OF ENGLEWOOD,
ENGLEWOOD POLICE DEPARTMENT,
DET. MARC MCDONALD,
DET. DESMOND SINGH,
DET. CLAUDIA CUBILLOS
DET. SANTIAGO INCLE JR.,
AND DET. NATHANIEL KINLAW,**
Individually and in official capacity
**NINA C. REMSON ATTORNEY AT LAW,
LLC, AND COMET LAW OFFICES, LLC**
Defendants

CASE NO **14-5362 (WJM)**
**CIVIL RIGHTS
COMPLAINT AND TRIAL
BY JURY DEMAND**

RECEIVED

AUG 26 2014

**11:30 AM
WILLIAM T. WALSH, CLERK**

INTRODUCTION

1. This is an action arising under (1) 42 U.S.C. § 1983, (2) the New Jersey Civil Rights Act, N.J.S.A. 10:6-1, et seq., (3) Article I, Paragraphs 1, and 12 of the New Jersey Constitution, and (4) the Fourth, Fifth, Eighth and Fourteenth Amendments of the United States Constitution for damages and equitable relief in the amount of no less than \$35 million dollars due to false arrest, false imprisonment, falsifying evidence, intentional infliction of emotional distress, negligence, negligent hiring and retention, failure to implement appropriate policies customs and practices, defamation, conspiracy, legal malpractice, breach of contract, ineffective assistance of counsel, and malicious prosecution against Plaintiffs.

JURISDICTION AND VENUE

2. Pursuant to 28 U.S.C.A. § 1391 and § 1343, this Court has subject matter jurisdiction over this action because it involves federal questions arising under the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983. Plaintiff further invokes the pendent jurisdiction of this court to consider claims arising under State law, including but not limited to: (a) False Arrest, (b) Failure to Implement Appropriate Policies, Customs and Practices; (c) Unlawful Detention and Confinement; (d) Malicious Prosecution; (e) Intentional Infliction of Emotional Distress; (f) Negligence; (g) Negligent Supervision; (h) Negligent Hiring and Retention; (i) Conspiracy; (j) Negligence / Malpractice;

and (k) Defamation – Slander per se.

3. Venue is proper in this District pursuant to 28 USC § 1391 because Defendants resides, work, and are located in New Jersey, and all acts giving rise to the violation of law complained of occurred in this District.

4. The amount in controversy exclusive of interest and costs exceeds the sum of \$75,000.00.

THE PARTIES

5. Plaintiff, Marc A. Stephens and Tyrone K. Stephens, are citizens of the United States residing in the city of Englewood, New Jersey.

6. Defendant, Marc McDonald, is a Detective employed by the Englewood Police Department in the city of Englewood, New Jersey.

7. Defendant, Desmond Singh, is a Detective employed by the Englewood Police Department in the city of Englewood, New Jersey.

8. Defendant, Nathaniel R. Kinlaw, is a Detective employed by the Englewood Police Department in the city of Englewood, New Jersey.

9. Defendant, Santiago Incle Jr., is a Detective employed by the Englewood Police Department in the city of Englewood, New Jersey.

10. Defendant, Claudia Cubillos, is a Detective Lieutenant employed by the Englewood Police Department in the city of Englewood, New Jersey.

11. At all times referred to herein, Defendants McDonald, Singh, Incle, Cubillos, and Kinlaw were acting in their official capacities as Detectives for the Englewood Police Department and thus, under the color of law.

12. Defendant, the City of Englewood is a municipality located in Bergen County, New Jersey.

13. Defendant, the Englewood Police Department is a sub-division of the municipal government of the City of Englewood.

14. Defendant, Comet Law Offices, LLC - Jordan Comet, is a licensed attorney authorized to practice law in the courts of the State of New Jersey, maintaining an office at Comet Law Offices, 1415 Queen Ann Road, Teaneck, New Jersey.

15. Defendant, Nina C. Remson Attorney At Law, LLC, is a licensed attorney authorized to practice law in the courts of the State of New Jersey, maintaining an office at 25 Main Street, Suite 104, Hackensack, New Jersey.

STATEMENT OF FACTS

A. Defendant Nina Remson Breach of Contract and Legal Malpractice.

16. Defendant Nina Remson was hired by Plaintiff Marc Stephens as counsel for Plaintiff Tyrone Stephens, 17, regarding three complaints filed by the Englewood Police Department FJ-02-1706-12C Theft – 2C: 20-3a, FJ-02-1674-08C Robbery – 2C: 15-1, and FJ-02-2186-12C Aggravated Assault – 2C: 12-1b(1). Before hiring Defendant Nina Remson, the Plaintiff Marc Stephens was adamant about not forcing the Plaintiff Tyrone Stephens, a minor, to take any plea deals based on the evidence provided and lack of probable cause, and Defendant Nina Remson agreed in writing.

17. While Plaintiff Marc Stephens was at work, the Defendant Nina Remson took the Plaintiff Tyrone Stephens and his 72 year old mother, who is disabled, to meet with Judge Wilcox before Plaintiff's scheduled hearing, and forced Plaintiff Tyrone Stephens to Plead Guilty to the charges regarding complaints FJ-02-1674-08C Robbery – 2C: 15-1, and FJ-02-2186-12C Aggravated Assault – 2C: 12-1b(1).

B. Altercation at 7-eleven convenient store in Englewood, New Jersey.

18. On November 2, 2012, victim Jeisson Duque, alleges in his sworn statement, audio recorded while being treated at Englewood Hospital with Det. Marc McDonald and Det. Desmond Singh present, that On October 31, 2012 at 10:12 pm, while he was at the store 7-eleven, a person riding a bicycle approached him wearing a black jacket, and a ski-mask, of which he was only able to see his eyes and mouth. The victim Jeisson Duque, alleges that the individual ask for his money, but Jeisson refused to give him any money. Jeisson Duque states, the individual left on his bicycle and came back no longer than 30 secs to a minute, with a group of friends.

19. The victim Jeisson Duque than states the individual approached him and asked for his money again. Jeisson Duque stated that he refused to give up his belongings, and the individual allegedly punched Jeisson in the face, and immediately took off running. Jeisson Duque stated he chased after the individual, and was looking everywhere for him, but could not find him.

20. Jeisson Duque stated he was present with two other individuals that are listed in the complaint, victims Kristian Perdomo and Santiago Cortes. All three of the individuals were allegedly assaulted (broken jaw, dislocated shoulder, bloody nose, lacerations, etc.) by

this one individual riding a bicycle, and wearing a black jacket and Ski mask, who was listed on record as the Plaintiff Tyrone Stephens, age 17, at the time.

21. During the Englewood police department criminal investigation, From October 31, 2012 through November 27, 2012, not one victim, witness, or co-defendant mentioned that the Plaintiff was present or involved, except co-defendant Justin Evans, who was tricked and coerced by Englewood Detectives to perjure himself and to state that the Plaintiff was present and involved.

22. Not one victim or witness identified the Plaintiff from a photo array, or gave an accurate clothing description that matched the Plaintiff's clothing.

23. Despite this fact, the Englewood Police Department and its employees maliciously charged the Plaintiff Tyrone Stephens with three (3) counts of first degree Aggravated Assault, three (3) counts of first degree Robbery, and one (1) count of Riot.

24. On November 8, 2012, the Plaintiff Tyrone Stephens gave a sworn statement to Defendant Detective Marc McDonald and Detective Desmond Singh at the Englewood Police Department adamantly stating that he was not involved or present during the altercation which took place at 7-eleven on Halloween night at 10:12pm. Plaintiff stated he was wearing a "blue adidas track suit with white strips down the sleeves". Englewood Detectives maliciously used Plaintiff's statement and created a false police report and complaint.

25. On November 12, 2012, a complaint was filed against Plaintiff Tyrone Stephens for 3 counts of Aggravated Assault – N.J.S.A 2C: 12-1b(1), 3 counts of Robbery – N.J.S.A 2C: 15-1A(1), and 1 count of Disorderly Conduct – N.J.S.A 2C: 33-1A(1). Case No. W-2013-000162; W-2013-000163; W-2013-000164.

26. On December 20, 2012, a probable cause hearing was held for Plaintiff Tyrone Stephens. Plaintiff's attorney Defendant Jordan Comet attended this hearing unprepared. Despite being unprepared and not in possession of all discovery Jordan Comet proceeded with the hearing. Plaintiff Tyrone Stephens was not released due to the ineffective assistance of counsel by Defendant Jordan Comet and the false testimony of Defendant Det. Marc McDonald. At this hearing, Defendant Detective Marc McDonald testified that he signed the complaint against Plaintiff Tyrone Stephens, stated Natalia Cortez identified Plaintiff from a photo array and that she identified and gave a description of the clothing which the Plaintiff was wearing (adidas track suit with white strips down the sleeves).

27. On February 26, 2013, during a hearing, witness Natalia Cortes testified that she never identified the Plaintiff Tyrone Stephens from a photo array. Plaintiff attorney, Jordan Comet, refused to submit into evidence a letter from co-defendant Justin Evans, dated January 1, 2013, in which he apologized to Plaintiff for falsely accusing him in a crime due to police tricks and coercion by Det. Marc McDonald and Det. Desmond Singh.

28. On March 1, 2013, Defendant Detective Marc McDonald gave a sworn testimony in court. During this testimony McDonald testified that he signed the complaint against the Plaintiff Tyrone Stephens, that Natalia Cortez selected Plaintiff Tyrone Stephens from a photo array, and confirms that co-defendant Kirk Mckintosh stated Justin Evans wore the ski-mask.

29. On March 4, 2013, the Plaintiff's case was moved from Juvenile to adult court, the Plaintiff's bail was set at One Hundred Seventy Thousand Dollars (\$175,000.00) with no 10% percent. Probable cause was found due to the false testimony of Det. Marc McDonald and the ineffective assistance of counsel by Jordan Comet.

30. On May 16, 2013, Dr. Justin Paltrowitz M.D., Psychiatrist provided notes to Plaintiff's guardian Marc Stephens regarding the Plaintiffs mental and physical health. The notes also revealed that the Plaintiff also believed that his charges for Aggravated Assault and Robbery/Shoplifting were dismissed. Dr. Paltrowitz revealed that Plaintiff was placed on Trazodone 100mg due to depression with anxiety, and has trouble sleeping because Plaintiff believes that he will spend years in prison. Trazodone is used to treat major depressive disorder. On multiple occasions, the guards at the detention facility spoke with the Plaintiff's guardian Marc Stephens regarding the Plaintiff's mental state. The guards wanted Marc Stephens to speak with Plaintiff to try and uplift his spirit because the Plaintiff was refusing to eat food and drink water, and was experiencing shifts in his mental state.

31. On July 29, 2013, during a grand jury hearing, Defendant Detective Marc McDonald testified that he signed the complaint against Plaintiff Tyrone Stephens, stated Natalia Cortez identified Plaintiff from a photo array and that she identified and gave a description of the clothing which the Plaintiff was wearing "adidas track suit with white strips down the sleeves".

32. On August 5, 2013, a grand jury brought back an indictment, # 13-08-01106-I, of only two (2) charges out of seven (7), Robbery and Riot, dropping five charges, which includes 2 counts of Robbery - N.J.S.A 2C: 15-1A(1), and all 3 counts of Aggravated Assault - N.J.S.A 2C: 12-1b(1).

33. The Plaintiff, now 19 years old, has been detained for 1 year and 35 days.

34. On December 13, 2013, co-defendant Justin Evans confessed that he wrote the letter dated January 1, 2013, and stated that he only implicated the Plaintiff because Defendants McDonald and Defendant Singh stated that the Plaintiff snitched on Justin Evans. The state dismissed all charges against Plaintiff Tyrone Stephens, with prejudice, and the Plaintiff was released from the Bergen County Jail.

35. On February 18, 2014, Judge Conte signed the Dismissal Order, with prejudice, fully exonerating the Plaintiff.

CAUSES OF ACTION

36. Plaintiff repeats and reiterates each and every allegation contained in paragraphs 1-148 and incorporates each in all Counts.

COUNT ONE

Violation of Civil Rights Pursuant to 42 U.S.C. § 1983 (False Arrest)

37. Plaintiff Tyrone was never under criminal investigation prior to November 8, 2012, and not one co-defendant, victim, or witness mentioned or identified the plaintiff in a photo array on November 2, 2012. Yet Det. McDonald initiated and filed a complaint against the Plaintiff falsely stating witness Natalie Cortez identified the Plaintiff during a photo array on November 2, 2012, implicating Plaintiff as a criminal without due process of the law, which are violation of Plaintiff's civil rights.

38. In committing the acts complained of herein, Defendants acted under the color of the law to deprive Plaintiff of certain constitutionally protected rights under Article I, Paragraphs 1, and 12 of the New Jersey Constitution, and Fourth, Fifth, Eighth and Fourteenth Amendments of the United States Constitution 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; and c) the right to be free from false arrest.

39. Defendant McDonald confirmed, under oath during direct and cross examination at several probable cause hearings, and a grand jury hearing, that Natalie Cortez identified the Plaintiff's from a photo array, and testified that he did not record Natalie Cortez sworn statement. Defendant McDonald also agreed that it is normal procedure to audio record witness statements. Witness Natalia Cortez during a probable cause hearing and under oath during direct examination testified that she never mentioned or identified the Plaintiff Tyrone

Stephens during any photo array.

40. The Defendants unlawfully created probable cause against the Plaintiff by fabricating the testimony of the victims and a witness. Defendants' acts were not in good-faith, but were willful, wanton, malicious, oppressive and done with conscious disregard and deliberate indifference for Plaintiff's rights. Defendants' policies, practices, conduct and acts alleged herein have resulted and will continue to result in irreparable injury to the Plaintiff.

41. As a direct and proximate cause result of the violation of Plaintiff's Fourth, Fifth, Eighth, and Fourteenth Amendment Constitutional rights and 42 U.S.C. § 1983 by the Defendants, the Plaintiff has spent 1 year and 35 days detained, suffered and continues to suffer physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$2,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Santiago Incle Jr., Det. Claudia Cubillos, and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT TWO

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

42. On the aforementioned date and time, Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually did violate Plaintiff Tyrone Stephens's constitutional rights and did so pursuant and custom to a de-facto pattern and practice of the Defendant's deliberate indifference to the Constitutional rights of Plaintiff Tyrone Stephens.

43. Defendant City of Englewood, and the Englewood Police Department implicitly and explicitly adopted and implemented careless and reckless policies, customs, or practices that included among other things displaying a pattern and unlawful practice of law towards the Plaintiff Tyrone Stephens.

44. The failure of the Defendants City of Englewood, and the Englewood Police Department to adequately train and supervise the Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw amounts to deliberate indifference to the civil rights of Plaintiff Tyrone Stephens to be free from the deprivation of liberty without due process, the right to be free from false arrest, unreasonable search and seizure, and malicious prosecution under the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution.

45. As a direct and proximate result of City of Englewood, and the Englewood Police Department deliberate indifference which was committed under the color of the law, the Plaintiff has spent 1 year and 35 days detained, suffered and continues to suffer physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$2,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Santiago Incle Jr., Det. Claudia Cubillos, and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT THREE

Violation of Civil Rights Pursuant to 42 U.S.C. § 1983 (False Evidence)

46. Plaintiff Tyrone was never under criminal investigation prior to November 8, 2012, and not one co-defendant or victim/witnesses mentioned the Plaintiff's name prior to November 7, 2012. Yet Det. McDonald stated to co-defendant Justin Evans and Ms. Pamela Evans, during Justin Evans interrogation and sworn testimony on November 7, 2012, that Plaintiff Tyrone Stephens was under criminal investigation and was the individual who named Justin as one of the perpetrators, implicating the Plaintiff into a crime without due process of the law, is a violation of the Plaintiff Tyrone Stephens's civil rights.

47. In committing the acts complained of herein, Defendants acted under the color of the law to deprive Plaintiff of certain constitutionally protected rights under Article I,

Paragraphs 1, and 12 of the New Jersey Constitution, and the Fourth, Fifth, Eighth and Fourteenth Amendments of the United States Constitution 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; and c) the right to be free from false arrest.

48. Defendants' acts were willful, wanton, malicious, oppressive and done with conscious disregard and deliberate indifference for Plaintiff's rights. Defendants' policies, practices, conduct and acts alleged herein have resulted and will continue to result in irreparable injury to the Plaintiff.

49. As a direct and proximate cause result of the violation of Plaintiff's Fourth, Fifth, Eighth, and Fourteenth Amendment Constitutional rights and 42 U.S.C. § 1983 by the Defendants, the Plaintiff has spent 1 year and 35 days detained, suffered and continues to suffer physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$2,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Santiago Incle Jr., Det. Claudia Cubillos, and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT FOUR

Violation of Civil Rights Pursuant to 42 U.S.C. § 1983 (False Evidence)

50. Plaintiff Tyrone was never under criminal investigation prior to November 8, 2012, and not one co-defendant or victim/witnesses mentioned the Plaintiff's name or description of clothing worn on the night of October 31, 2012 prior to November 7, 2012. Yet Det. McDonald filed a false complaint against the Plaintiff Tyrone Stephens stating that Plaintiff was identified by witness Natalie Cortez who allegedly testified on November 2, 2012 that the Plaintiff was wearing a black colored adidas jacket with strips down the sleeves. The only person that mentioned an adidas suit was the Plaintiff Tyrone Stephens during his audio sworn testimony on November 8, 2012. Implicating the Plaintiff into a crime without

due process of the law is a violation of the Plaintiff Tyrone Stephens's civil rights.

51. In committing the acts complained of herein, Defendants acted under the color of the law to deprive Plaintiff of certain constitutionally protected rights under Article I, Paragraphs 1, and 12 of the New Jersey Constitution, and the Fourth, Fifth, Eighth and Fourteenth Amendments of the United States Constitution 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; and c) the right to be free from false arrest.

52. Defendants' acts were willful, wanton, malicious, oppressive and done with conscious disregard and deliberate indifference for Plaintiff's rights. Defendants' policies, practices, conduct and acts alleged herein have resulted and will continue to result in irreparable injury to the Plaintiff.

53. As a direct and proximate cause result of the violation of Plaintiff's Fourth, Fifth, Eighth, and Fourteenth Amendment Constitutional rights and 42 U.S.C. § 1983 by the Defendants, the Plaintiff has spent 1 year and 35 days detained, suffered and continues to suffer physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$2,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Santiago Incle Jr., Det. Claudia Cubillos, and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually for: (a) compensatory and punitive damages, (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT FIVE

**Violation of Civil Rights Pursuant to 42 U.S.C. § 1983
(False Evidence)**

54. Plaintiff Tyrone was never under criminal investigation prior to November 8, 2012, and not one co-defendant or victim/witnesses mentioned the Plaintiff's name or description of clothing worn on the night of October 31, 2012 prior to November 7, 2012. Yet Defendant Det. Kinlaw filed a complaint against the Plaintiff Tyrone Stephens stating that he overheard the Plaintiff admit to being present at the altercation, admitting guilt. According

to Kinlaw, the Plaintiff Tyrone Stephens mentioned, "I know who sold us out, that rat Derrick". Tyrone during his sworn testimony never admitted guilt and strongly denied being involved during his entire sworn testimony, which is also confirmed in the police report/complaint. Implicating the Plaintiff into a crime without due process of the law is a violation of the Plaintiff Tyrone Stephens's civil rights.

55. In committing the acts complained of herein, Defendants acted under the color of the law to deprive Plaintiff of certain constitutionally protected rights under Article I, Paragraphs 1, and 12 of the New Jersey Constitution, and the Fourth, Fifth, Eighth and Fourteenth Amendments of the United States Constitution 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; and c) the right to be free from false arrest.

56. Defendants' acts were willful, wanton, malicious, oppressive and done with conscious disregard and deliberate indifference for Plaintiff's rights. Defendants' policies, practices, conduct and acts alleged herein have resulted and will continue to result in irreparable injury to the Plaintiff.

57. As a direct and proximate cause result of the violation of Plaintiff's Fourth, Fifth, Eighth, and Fourteenth Amendment Constitutional rights and 42 U.S.C. § 1983 by the Defendants, the Plaintiff has spent 1 year and 35 days detained, suffered and continues to suffer physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$2,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Santiago Incle Jr., Det. Claudia Cubillos, and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT SIX
Defamation of Character

58. Plaintiff Tyrone was never under criminal investigation prior to November 8, 2012, and not one co-defendant or victim/witnesses mentioned the Plaintiff's name prior to

November 7, 2012. Defendant McDonald also testified at a probable cause hearing on December 20, 2012, that none of the victims identified the Plaintiff. On November 7, 2012, the only other co-defendant that gave a sworn statement before Justin Evans, was Kirk Mckintosh, and Kirk never mentioned that the Plaintiff was present or involved. Yet Defendant McDonald stated to co-defendant Justin Evans and his mother Ms. Pamela Evans, during Justin Evans interrogation and sworn testimony on November 7, 2012, that Plaintiff Tyrone Stephens was under criminal investigation and was the individual who named Justin as one of the perpetrators.

59. Det. McDonald stated and/or implied that Tyrone, an innocent citizen, was a guilty criminal to a third party during co-defendant Justin Evans interrogation and sworn testimony on November 7, 2012 which is defamation of character – Slander per se.

60. The elements of a defamation are “(1) the assertion of a false and defamatory statement concerning another; (2) the unprivileged publication of that statement to a third party; and (3) fault amounting at least to negligence by the publisher.” *Leang v. Jersey City Bd. of Educ.*, 969 A.2d 1097, 1114 (N.J. 2009) (quoting *DeAngelis v. Hill*, 847 A.2d 1261, 1267-68 (N.J. 2004)).

61. Under common law, there are 4 statements that are considered automatically defamatory: (1) accusing someone of a serious crime; (2) a false statement that “tends to injure another in his or her trade, business or profession,” (3) lying about someone having some “loathsome disease,” (4) false statements about a woman’s “unchastity.” Anything that falls into one of these 4 categories is called “libel per se” or “slander per se.”

62. During co-defendant Justin Evans’s sworn testimony on November 7, 2012, Defendant McDonald asked Justin to name his enemies. Justin named several individuals, one included Plaintiff Tyrone Stephens. The Defendant McDonald’s statements implying and/or accusing the Plaintiff of a serious crime, specifically, “Can I just ask you this? For whatever reason I don’t know how you were able to name everybody that was there, specifically right on point.”, “Did they force you to do this man?”, “Did they say we gonna beat your behind if you don’t go over there and do XYZ for us?” Justin replies, they ain’t force me to do nothing because I don’t even hang out with Tyrone and them”. Again, Defendant McDonald for a second time mentions, “you named everybody that was there pretty much, you left a few people out!”, is slander per se. The Defendant is implying and/or accusing the Plaintiff of brutally beating three (3) individuals who received broken jaws and

bones, dislocated shoulders, and lacerations, in which a victim later died.

63. Where the person defamed is a private party and the statement involves a private matter, the fault element is satisfied by showing that the person communicated the false statement "while acting negligently in failing to ascertain the truth or falsity of the statement before communicating it." *Feggans v. Billington*, 677 A.2d 771, 775 (N.J. Super. Ct. App. Div. 1996). In other words, the person failed to take sufficient care to determine the truth of the statement before uttering it.

64. Each of the slanderous statements made by Defendant McDonald was made with knowledge that no investigation supported the unsubstantiated and obviously false statements. The Defendant uttered these statements willingly and knowing them to be false and unsubstantiated by any reasonable investigation. Even if the Defendant states the facts upon which he bases his opinion, if those facts are incorrect, incomplete or recklessly gathered, or if his assessment of them is erroneous the statement may still imply a false assertion of fact, and the opinion or fair comment privilege will not apply.

65. Not only did Defendant have no reasonable basis to believe these statements, but also had no belief in the truth of the statements and in fact knew the statements to be false. The statements by Defendant were made with malice, and ill will towards the Plaintiff, with a design and intent to injure Plaintiff's good name, reputation, employment, and future employment.

66. Upon information and belief, the Plaintiff alleges that, unless enjoined and restrained by the Court, the Defendant will republish, repeat and continue to disseminate the false statements and the false accusation of being a criminal, all to the continuing injury of the Plaintiff that such continued republication, repetition and dissemination of the defamatory and offensive falsehoods will cause irreparable harm to the Plaintiff by damaging his reputation and adversely affecting his educational and employment efforts as well as his personal relationships.

67. Upon information and belief, the Plaintiff alleges that he lacks an adequate remedy at law insofar as damages will be very difficult to calculate for such on-going injuries. By reason of the foregoing, the Plaintiff is entitled to a permanent injunction enjoining and restraining the Defendant, and any person acting in concert with the Defendant, from republishing, repeating, distributing or otherwise disseminating the false statements and the false accusations of being a guilty criminal, unprofessional, and incompetent to the extent

such are found in this Action to be false.

68. A plaintiff need not show special or actual damages (e.g., damages to the plaintiff's reputation, property, business, trade, profession or occupation, including expenditures that resulted from the defamation) if the statement is defamation per se. Falsely accusing the plaintiff of being under criminal investigation for having committed a serious crime is slander per se.

69. As a direct and proximate result of the above-described conduct by the Defendant, the Plaintiff has spent 1 year and 35 days detained, and suffered injury to his reputation including suffering physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$2,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Santiago Incle Jr., Det. Claudia Cubillos, and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT SEVEN

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

70. Defendants Det. McDonald, Det. Singh, Det. Claudia Cubillos and Det. Kinlaw all conspired to falsify evidence, coerce co-defendants, and make false statements in order to file a complaint against Plaintiff Tyrone Stephens.

71. Plaintiff Tyrone Stephens was never under investigation prior to November 8, 2012, and not one co-defendant or victim/witnesses mentioned his name. Yet Det. McDonald stated to co-defendant Justin Evans and Ms. Evans, during Justin Evans interrogation and sworn testimony on November 7, 2012, that Plaintiff was under investigation and named Justin as one of the perpetrators, implicating and calling Plaintiff a criminal without due process of the law.

72. Defendant McDonald also filed in his police report/complaint that witness Natalie Cortez stated Plaintiff Tyrone Stephens was wearing a black colored adidas jacket with strips

down the sleeves. The only person that ever mentioned an adidas sweat suit was Plaintiff Tyrone Stephens during his sworn testimony on November 8, 2012. In fact, victim Jeisson Duque stated the individual with the ski mask and riding the bicycle had on a black jacket. Natalia Cortes stated the individual with the ski mask and riding the bicycle had on a black sweater. Justin Evans, who is the only co-defendant that placed Plaintiff Tyrone Stephens at the scene of the incident, mentioned that Plaintiff had on a green army jacket and was not riding the bicycle. The Defendant's should have immediately noticed the inconsistencies with co-defendant Justin Evans fabricated story.

73. Defendant McDonald, also stated that Natalia Cortez selected Plaintiff Tyrone Stephens from a photo array, stating while turning the pages she mentioned, "**This one**". McDonald stated he did not record Natalie Cortez during the photo array selection. Natalia Cortez during a probable cause hearing, and under oath during direct examination, stated that she never mentioned or identified the Plaintiff Tyrone Stephens during any photo array. In fact the only photo array that Natalia Cortez actually selected a potential suspect was from a photo array book of adults, which none of the adults were involved with the altercation. In addition, how could anyone including Natalia Cortez identify the Plaintiff Tyrone Stephens from a photo array if Plaintiff was allegedly the suspect with the ski-mask on? McDonald confirmed during a probable cause hearing that he did not record Natalie Cortez, which he also agreed is normal procedure to audio record testimonies.

74. During co-defendant Justin Evans's sworn testimony on November 7, 2012, Defendant McDonald asked Justin to name his enemies. Justin named individuals, one included Plaintiff Tyrone Stephens. McDonald stated, "I don't know how you were able to name everybody that was there specifically right on point". Prior to this Justin Evans mentioned if he had names he would implicate the individuals. As soon as Defendant McDonald mentioned that Tyrone was involved, Justin Evans used Plaintiff Tyrone Stephens's name as the primary suspect and the individual with the ski-mask.

Defendant Kinlaw, the Plaintiff Tyrone Stephens mentioned, "I know who sold us out, that rat Derrick". Plaintiff Tyrone Stephens during his sworn testimony never admitted guilt and strongly denied being involved during his entire sworn testimony, which is confirmed in the police report/complaint.

77. The conspiracy to falsify evidence and sworn testimonies, suppress video and audio testimonies, coerce co-defendants, failure to follow standard procedures, and make false statements in order to file a complaint against Plaintiff Tyrone Stephens was in violation of Plaintiff's Fourth, Fifth, Eighth, and Fourteenth Amendment Constitutional rights and 42 U.S.C. § 1983.

78. As a result of the wrongful acts of the Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually the Plaintiff has spent 1 year and 35 days detained, and suffered injury to his reputation including suffering physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$2,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Santiago Incle Jr., Det. Claudia Cubillos, and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT EIGHT

Violation of Civil Rights Pursuant to 42 U.S.C. § 1983 (Malicious Prosecution)

79. The actions of Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually as described in this Complaint constitute a deprivation of Plaintiffs constitutional rights under Article I, Paragraphs 1, and 12 of the New Jersey Constitution, including but not limited to Plaintiffs right pursuant to the Fourth, Fifth and Fourteenth Amendments of the Constitution of the

United States to be free from malicious prosecution, malicious abuse of process, and unlawful seizure and incarceration.

80. The Defendants arrested the Plaintiff Tyrone Stephens without probable cause and commenced prosecution against Plaintiff willfully and with malice by (a) falsely stating that witness Natalie Cortez identified the Plaintiff in a photo array, (b) falsely stating that witness Natalie Cortez providing a description of the clothes worn by the Plaintiff, (c) pressuring and coercing co-defendant Justin Evans for one hour and twenty minutes (1hr 20mins) to give false testimony, (d) intentionally filing charges based on falsified evidence and testimonies, (e) concealing evidence which would exonerate, (f) falsely testifying under oath during probable cause hearings, and (g) bringing false charges for a crime committed by someone else.

81. The Defendants caused there to be prosecution of the Plaintiff Tyrone Stephens for three (3) counts of Aggravated Assault, three (3) counts of Robbery, and one (1) count of Rioting/Disorderly Conduct. This prosecution was carried out by the Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually with malice and without probable cause.

82. As a result of said prosecution, the Plaintiff Tyrone Stephens received a bail amount of one hundred seventy-five thousand dollars (\$175,000.00) with no ten (10%) percent, was detained for 1 year and 35 days, forced out of school, and required to retain an attorney and appear in court for multiple hearings. Due to lack of probable cause, all charges were dismissed against the Plaintiff.

83. Defendants actions constitutes malicious prosecution of Plaintiff in gross violation of Plaintiff's Fourth, Fifth, Eighth, and Fourteenth Amendment Constitutional rights and 42 U.S.C. § 1983.

84. As a direct and proximate result of the above-described conduct by the Defendant, the Plaintiff has suffered injury to his reputation including suffering physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$2,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Santiago Incle Jr., Det. Claudia Cubillos,

and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT NINE

**Violation of Civil Rights Pursuant to 42 U.S.C. § 1983
(False Imprisonment)**

85. An example of an invalid use of legal authority is the detainment or arrest of a person without a warrant, with an illegal warrant, or with a warrant illegally executed. So long as the person is deprived of his personal liberty, the amount of time actually detained is inconsequential.

86. Law enforcement cannot use illegally seized evidence or information as probable cause for further searches of evidence through a legal precedent known as "the fruit of the poisonous tree doctrine". Illegally seized evidence cannot be used against defendants in criminal proceedings.

87. On November 2, 2012, Defendant McDonald falsely claimed that witness Natalie Cortez identified Plaintiff Tyrone Stephens from a photo array, and provided a description of what the Plaintiff was wearing. During a probable cause hearing witness Natalia Cortez stated under oath that she never identified the Plaintiff Tyrone Stephens from a photo array. From October 31, 2012 to November 7, 2012 not one victim/witness or co-defendant, other than Justin Evans, mentioned that the Plaintiff was present or involved.

88. On November 7, 2012, the Defendant McDonald provided the Plaintiff's name, implied that Plaintiff was involved and snitched on Justin Evans, Defendant McDonald then coerced Justin Evans to perjure himself and give a false testimony against the Plaintiff Tyrone Stephens.

89. On November 8, 2012, during Plaintiff's sworn testimony Defendant McDonald and Singh states that none of the victims/witnesses selected Plaintiff from a photo array, but that they knew his face from high school.

90. On November 12, 2012, the Defendants filed a complaint against the Plaintiff Tyrone Stephens for three (3) counts of Aggravated Assault, three (3) counts of Robbery, and one (1) count of Rioting/Disorderly Conduct. This prosecution was carried out by the Defendants with malice and without probable cause.

91. On March 1, 2013, Defendant Detective Marc McDonald testified in court that Natalia Cortez selected Plaintiff Tyrone Stephens from a photo array by turning the pages and stating, "This One", and confirms that co-defendant Kirk Mckintosh stated Justin Evans wore the ski-mask.

92. As a result of said prosecution and false imprisonment, the Plaintiff Tyrone Stephens received a bail amount of one hundred seventy-five thousand dollars (\$175,000.00) with no ten (10%) percent, was detained for 1 year and 35 days, and required to retain an attorney and appear in court for multiple hearings. Due to lack of probable cause, all charges were dismissed, with prejudice, against the Plaintiff.

93. Plaintiff alleges that such acts directed towards him were malicious and belligerent and the acts were done with a conscious disregard for Plaintiff's right to be free from such tortious behavior such as to constitute fraudulent, oppression, and malice behavior.

94. It is obvious that no reasonably competent officer would have concluded that a warrant should be issued, or that probable cause was established based on fabricated evidence, and testimonies of victims/witnesses and co-defendants. Defendants actions constitutes false imprisonment of Plaintiff in gross violation of Plaintiff's Fourth, Fifth, Eighth, and Fourteenth Amendment Constitutional rights and 42 U.S.C. § 1983.

95. As a direct and proximate result of the above-described conduct by the Defendant, the Plaintiff has suffered injury to his reputation including suffering physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$2,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Santiago Incle Jr., Det. Claudia Cubillos, and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT TEN
(Intentional Infliction of Emotional Distress)

96. Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood

Police Department jointly, severally and/or individually intentionally and deliberately inflicted emotional distress on to Plaintiff by outrageous and extreme abuse of the legal process by violation of Plaintiff's Fourth, Fifth, Eighth, and Fourteenth Amendment Constitutional rights and 42 U.S.C. § 1983.

97. The Defendants conspiracy to falsify evidence and sworn testimonies, suppress audio testimonies, coerce co-defendants, fail to follow standard procedures, and make false statements in order to file a complaint against Plaintiff Tyrone Stephens was fraudulently, intentionally, and deliberately inflicted emotional distress on Plaintiff in violation of Plaintiff's Fourth, Fifth, Eighth, and Fourteenth Amendment Constitutional rights and 42 U.S.C. § 1983.

98. Plaintiff alleges that such acts directed towards him were malicious and belligerent and the acts were done with a conscious disregard for Plaintiff's right to be free from such tortious behavior such as to constitute fraudulent, oppression, and malice behavior. Defendants' conduct was extreme and outrageous, beyond all possible bounds of decency.

99. As a direct and proximate result of the acts and concerted unlawful, malicious, intentional, and deliberate infliction of emotional distress by the defendants as described in this complaint, Plaintiff has suffered injury to his reputation including suffering physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$2,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Santiago Incle Jr., Det. Claudia Cubillos, and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT ELEVEN
(Negligence)

100. On or about October 31, 2012, Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw, the City of Englewood, State of New Jersey, and the Englewood Police Department jointly, severally

and/or individually were negligent in their performance and/or failure to perform duties undertaken in the course of their employment, including but not limited to, failure to use due care at or about the times of the aforementioned incident.

101. In committing, the aforementioned acts and/or omissions, each Defendant negligently breached said duty to use due care.

102. Any reasonable person would have noticed by conducting a reasonable investigation that (1) the witness Natalia Cortez never identified the Plaintiff Tyrone Stephens during any photo array, which is impossible if the Plaintiff was allegedly the person wearing the ski-mask, (2) witness Natalia Cortez never mentioned that the Plaintiff was wearing a black adidas track suit with white strips down the sleeves, and that the Defendants used the Plaintiff's description of what he was wearing and falsified the complaint stating witness Natalie Cortez provided the description, (3) from October 31, 2012 – November 7, 2012 none of the victims/witnesses or co-defendants, except Justin Evans, mentioned that the Plaintiff was present or involved, (4) Justin Evans was pressured and coerced to testify against the Plaintiff, (5) Justin Evans was not present at the altercation due to his many inconsistencies, some which include stating that the Plaintiff was not riding the bicycles, but was the person wearing the ski-mask, a green army jacket, and jeans. In fact, Justin Evans stated Jaquise Roberts was riding the bicycle and Plaintiff was wearing the ski-mask. All of the witnesses/victims stated the suspect that attacked the victims was riding the bicycle and was wearing a ski-mask and black sweater or jacket; (6) victim Jeisson Duque stated the suspect with the ski-mask punched him and ran from the scene, yet Plaintiff who was alleged to be the suspect with the ski-mask was charged with three counts of Assault, and three counts of Robbery by the Defendants, and (7) that the Defendants actions towards the Plaintiff were malicious.

103. As a result of said prosecution and negligence, the Plaintiff Tyrone Stephens received a bail amount of one hundred seventy-five thousand dollars (\$175,000.00) with no ten (10%) percent, was detained for 1 year and 35 days, and required to retain an attorney and appear in court for multiple hearings. Due to lack of probable cause, all charges were dismissed against the Plaintiff.

104. As a direct and proximate result of Defendants' gross negligence as described in this complaint, Plaintiff has suffered injury to his reputation including suffering physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety,

inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$2,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Santiago Incle Jr., Det. Claudia Cubillos, and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT TWELVE
Violation of Civil Rights Pursuant to 42 U.S.C. § 1983
(Negligent Supervision)

105. On or about October 31, 2012, Defendants City of Englewood, and the Englewood Police Department jointly, severally and/or individually through its agents, servants and/or employees were negligent and otherwise reckless in that they failed to adequately train, supervise and properly control the Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually and did negligently hire the Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw creating an atmosphere of lawlessness within, which officers perpetuated a violation of civil rights based upon false arrest, conspiracy, malicious prosecution, defamation of character, negligence, false imprisonment, deprivation of liberty, and intentional infliction of emotional distress against the Plaintiff, all of which were done in the belief that such acts were justified by the Defendants' authority as Detectives and/or police officers of the City of Englewood and otherwise under the color of the law.

106. Defendants City of Englewood, and the Englewood Police Department jointly, severally and/or individually through its agents, servants and/or employees failed to properly instruct and supervise their subordinate police officers and prevent the negligent acts of their subordinates when, they knew or reasonably should have known of such acts and had the authority and responsibility to prevent these acts.

107. Acting under the color of the law, Defendants City of Englewood and the

Englewood Police Department jointly, severally and/or individually through its agents, servants and/or employees negligently failed to instruct, supervise control, and discipline on a continuing basis the Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw as to their duty to refrain from: (a) False Arrest, (b) Failure to Implement Appropriate Policies, Customs and Practices; (c) False Imprisonment; (d) Malicious Prosecution; (e) Intentional Infliction of Emotional Distress; (f) Negligence; (g) Negligent Supervision; (h) Negligent Hiring and Retention; (i) Conspiracy; (j) Defamation – Slander per se, (k) False Evidence, and otherwise depriving Plaintiff of his constitutional and statutory rights, privileges, and immunities.

108. Defendants City of Englewood, and the Englewood Police Department jointly, severally and/or individually through its agents, servants and/or employees directly and indirectly under the color of the law, approved or ratified the unlawful 'deliberate, reckless, and wanton conduct of the Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw.

109. As a direct and proximate result of the gross negligent supervision and intentional acts of Defendants City of Englewood, and the Englewood Police Department jointly, severally and/or individually through its agents, servants and/or employees, Plaintiff has suffered injury to his reputation including suffering physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$2,000,000. Plaintiff has also incurred attorneys' fees and court costs, and is entitled to relief under 42 U.S.C. § 1983.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Santiago Incle Jr., Det. Claudia Cubillos, and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT THIRTEEN

**Violation of Civil Rights Pursuant to 42 U.S.C. § 1983
(Negligent Hiring)**

110. Defendants City of Englewood, and the Englewood Police Department jointly, severally and/or individually through its agents, servants and/or employees selected, hired, and retained Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw to perform work under the color of the law.

111. Defendants City of Englewood, and the Englewood Police Department jointly, severally and/or individually through its agents, servants and/or employees failed to exercise reasonable care and were negligent in selecting, hiring and retaining Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw to perform work. At the time, Defendants City of Englewood, and the Englewood Police Department jointly, severally and/or individually through its agents, servants and/or employees selected, hired or retained Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw and at all other relevant times, Defendants knew or reasonably should have known that Defendants would violate Plaintiff Tyrone Stephens's civil and constitutional rights and that as a direct and proximate result of those violations, Plaintiff would suffer damages alleged herein.

112. Defendants' City of Englewood, and the Englewood Police Department jointly, severally and/or individually through its agents, servants and/or employees conduct constitutes negligence per se and is actionable under the laws of the State of New Jersey and the laws of the United States.

113. As a direct and proximate result of Defendants City of Englewood, and the Englewood Police Department jointly, severally and/or individually through its agents, servants and/or employees negligent selection, hiring and retention, Plaintiff has suffered injury to his reputation including suffering physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$2,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem

equitable and just.

COUNT FOURTEEN
Violation of Civil Rights under N.J.S.A. 10:6-1

114. On or about October 31, 2012, Defendants City of Englewood, and the Englewood Police Department jointly, severally and/or individually through its agents, servants and/or employees violated the civil rights of Plaintiff Tyrone Stephens under the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et seq. by (a) False Arrest, (b) Failure to Implement Appropriate Policies, Customs and Practices; (c) False Imprisonment; (d) Malicious Prosecution; (e) Intentional Infliction of Emotional Distress; (f) Negligence; (g) Negligent Supervision; (h) Negligent Hiring and Retention; (i) Conspiracy; (j) Defamation – Slander per se, (k) False Evidence, and otherwise depriving Plaintiff of his constitutional and statutory rights, privileges, and immunities.

115. Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually creating an atmosphere of lawlessness within, which officers perpetuated a violation of civil rights based upon false arrest, conspiracy, malicious prosecution, defamation of character, negligence, detention and confinement, deprivation of liberty, and intentional infliction of emotional distress against the Plaintiff, all of which were done in the belief that such acts were justified by the Defendants' authority as Detectives and/or police officers of the City of Englewood and otherwise under the color of the law.

116. Plaintiff Tyrone Stephens alleges that such acts directed towards him were negligent and/or malicious and the acts were done in violation of Plaintiff's civil rights under the New Jersey Civil Rights Act, N.J.S.A. 10: 6-1 et. seq.

117. As a direct and proximate result of Defendants City of Englewood, and the Englewood Police Department jointly, severally and/or individually through its agents, servants and/or employees violation of Plaintiff's civil rights under the New Jersey Civil Rights Act, N.J.S.A. 10: 6-1 et. seq., Plaintiff has suffered injury to his reputation including suffering physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$2,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT FIFTEEN
(Respondent Superior)

118. Plaintiff is informed and believes, and on that basis alleges that, when engaging in the wrongful conduct alleged herein, Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw were acting as agents of each other. Each Defendant knew or reasonably should have known that the other Defendants were engaging in the wrongful conduct alleged herein, and that this conduct would directly and proximately result in injury to Plaintiff.

119. Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw were at all times herein acting within the scope of their employment, as employees of the City of Englewood, and the Englewood Police Department. While acting within the scope of their employment Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr., and Det. Nathaniel Kinlaw were negligent in their performance and/or failure to perform their duties.

120. Each Defendant had the authority to supervise, prohibit, control, and/or regulate the other Defendants so as to prevent these acts and omissions from occurring.

121. Each Defendant knew or reasonably should have known that unless they intervened to protect Plaintiff and properly to supervise, prohibit, control, and/or regulate the conduct of the other Defendants, those Defendants would perceive their acts and omissions as being ratified and condoned.

122. Each Defendant failed to exercise due care by failing to supervise, prohibit, control, or regulate the remaining Defendants and/or by failing to protect Plaintiff.

123. Under Respondent Superior, the Defendants the City of Englewood and the Englewood Police Department are liable for the acts of, and injury caused by said officers.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Det. Santiago Incle Jr.,

and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT SIXTEEN
Negligence / Malpractice
Nina Remson

124. A client must prove the following elements to be successful in a lawsuit for legal malpractice: (1) attorney-client relationship; (2) breach of duty to client; and (3) breach must be the immediate cause of the injury to the client.

125. Defendant Nina Remson had a duty to use skill, prudence, and diligence as a member of the legal profession commonly possess and exercise in providing legal services to Plaintiff.

126. During the course of Defendant Nina Remson representation of Plaintiff Tyrone Stephens, there were several instances wherein the conduct of the Defendant Nina Remson fell below the applicable standard of care, as set forth herein, but not limited to;

127. Defendant Nina Remson (a) failed to be competent, prompt and diligent, (b) failed to advocate the Plaintiff's theory of the case, (c) failed to investigate mitigating evidence, (d) performance fell below an objective standard of reasonableness, (e) was not prepared within requisite range of competence, (f) provided bad advice, (g) serious errors deprived defendant of fair trial, (h) performance was deficient and prejudiced defendant, (i) was ineffective in investigation, and preparation, (j) Failed to interview/cross witnesses, (k) Failed to object to evidence/suppress evidence, (l) failed to comply with the standard of care required by law in the representation of Plaintiff, all in violation of the Rules of Professional Conduct RPC 1.1, RPC 1.2, RPC 1.3, RPC 1.4, RPC 3, and applicable laws.

128. As a direct and proximate result of Defendant Nina Remson legal malpractice Plaintiff has suffered injury to his reputation including suffering physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$1,000,000.

WHEREFORE, Plaintiff Marc and Tyrone Stephens demands judgment against Defendants for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT SEVENTEEN
Breach of Contract
Nina Remson

129. The Plaintiff re-alleges and incorporates by reference herein all of the allegations contained in paragraphs 1-14 above.

130. That Defendant Nina Remson deviated from the agreement not to force Plaintiff Tyrone Stephens to take a plea of guilt, or pleas for reduced charges.

131. During the course of Defendants' representation of Plaintiff Tyrone Stephens, there were several instances wherein the conduct of the Defendants fell below the applicable standard of care, as set forth herein, but not limited to;

132. Defendant Nina Remson (a) failed to be competent, prompt and diligent, (b) failed to advocate the Plaintiff's theory of the case, (c) failed to investigate mitigating evidence, (d) performance fell below an objective standard of reasonableness, (e) was not prepared within requisite range of competence, (f) provided bad advice, (g) serious errors deprived defendant of fair trial, (h) performance was deficient and prejudiced defendant, (i) was ineffective in investigation, preparation, (j) Failed to interview/cross witnesses, (k) Failed to object to evidence/suppress evidence, (l) Failed to file an appeal after probable cause was found, all in violation of the Rules of Professional Conduct RPC 1.1, RPC 1.2, RPC 1.3, RPC 1.4, RPC 3, and applicable laws.

133. As a direct and proximate result of Defendant Nina Remson breach of contract Plaintiff has suffered injury to his reputation including suffering physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$1,000,000.

WHEREFORE, Plaintiff Marc and Tyrone Stephens demands judgment against Defendants for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT EIGHTEEN
Ineffective Assistance of Counsel
Nina Remson

134. To prove ineffective assistance, a defendant must show (1) that their trial lawyer's performance fell below an "objective standard of reasonableness" and (2) "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different."

135. Defendant Nina Remson had a duty to use such skill, prudence, and diligence as a member of the legal profession commonly possess and exercise, in providing legal services to Plaintiff.

136. During the course of Defendants' representation of Plaintiff Tyrone Stephens, there were several instances wherein the conduct of the Defendants fell below the applicable standard of care, as set forth herein, but not limited to;

137. Defendant Nina Remson (a) failed to be competent, prompt and diligent, (b) failed to advocate the Plaintiff's theory of the case, (c) failed to investigate mitigating evidence, (d) performance fell below an objective standard of reasonableness, (e) was not prepared within requisite range of competence, (f) provided bad advice, (g) serious errors deprived defendant of fair trial, (h) performance was deficient and prejudiced defendant, (i) was ineffective in investigation, preparation, (j) Failed to interview/cross witnesses, (k) Failed to object to evidence/suppress evidence, (l) Failed to file an appeal after probable cause was found, all in violation of the Rules of Professional Conduct RPC 1.1, RPC 1.2, RPC 1.3, RPC 1.4, RPC 3, and applicable laws.

138. As a direct and proximate result of Defendant Nina Remson ineffective assistance Plaintiff has suffered injury to his reputation including suffering physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$1,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendant Nina Remson for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT NINETEEN
Negligence / Malpractice
Jordan Comet

139. Plaintiff repeats, reiterates and realleges each and every allegation contained in the preceding paragraphs as if fully set forth at length herein.

140. A client must prove the following elements to be successful in a lawsuit for legal malpractice: (1) attorney-client relationship; (2) breach of duty to client; and (3) breach must be the immediate cause of the injury to the client.

141. During the course of Defendants' representation of Plaintiff Tyrone Stephens, there were several instances wherein the conduct of the Defendants fell below the applicable standard of care, as set forth herein, but not limited to;

142. Defendant Jordan Comet (a) failed to be competent, prompt and diligent, (b) failed to advocate the Plaintiff's theory of the case, (c) failed to investigate mitigating evidence, (d) performance fell below an objective standard of reasonableness, (e) was not prepared within requisite range of competence, (f) provided bad advice, (g) serious errors deprived defendant of fair trial, (h) performance was deficient and prejudiced defendant, (i) was ineffective in investigation, preparation, (j) Failed to interview/cross witnesses, (k) Failed to object to evidence/suppress evidence, (l) Failed to file an appeal after probable cause was found, all in violation of the Rules of Professional Conduct RPC 1.1, RPC 1.2, RPC 1.3, RPC 1.4, RPC 3, and applicable laws.

143. As a direct and proximate result of Defendant Jordan Comet ineffective assistance the courts found probable cause against Plaintiff and bail was set at \$175,000 with no 10%, and Plaintiff has suffered injury to his reputation including suffering physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$1,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendant Jordan Comet for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

COUNT TWENTY
Ineffective Assistance of Counsel
Jordan Comet

144. To prove ineffective assistance, one must show (1) that their trial lawyer's performance fell below an "objective standard of reasonableness" and (2) "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different."

145. Defendant had a duty to use such skill, prudence, and diligence as a member of the legal profession commonly possess and exercise, in providing legal services to Plaintiff.

146. During the course of Defendants' representation of Plaintiff Tyrone Stephens, there were several instances wherein the conduct of the Defendants fell below the applicable standard of care, as set forth herein, but not limited to;

147. Defendant Jordan Comet (a) failed to be competent, prompt and diligent, (b) failed to advocate the Plaintiff's theory of the case, (c) failed to investigate mitigating evidence, (d) performance fell below an objective standard of reasonableness, (e) was not prepared within requisite range of competence, (f) provided bad advice, (g) serious errors deprived defendant of fair trial, (h) performance was deficient and prejudiced defendant, (i) was ineffective in investigation, preparation, (j) Failed to interview/cross witnesses and co-defendants, (k) Failed to object to evidence/suppress evidence, (l) Failed to file an appeal after probable cause was found, all in violation of the Rules of Professional Conduct RPC 1.1, RPC 1.2, RPC 1.3, RPC 1.4, RPC 3, and applicable laws.

148. As a direct and proximate result of Defendant Jordan Comet ineffective assistance the courts found probable cause against Plaintiff, the case was moved from Juvenile to Adult court, and bail was set at \$175,000 with no 10%, and Plaintiff has suffered injury to his reputation including suffering physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish, loss of freedom and education, and other damages in an amount to be determined by the jury and the Court, but no less than \$1,000,000.

WHEREFORE, Plaintiff Tyrone Stephens demands judgment against Defendant Jordan Comet for: (a) compensatory and punitive damages; (b) attorney fees, filing fees and cost of suit; and (c) any further relief which the Court may deem equitable and just.

JURY DEMAND

Plaintiffs hereby demands trial by jury on all issues and cause of actions against All Defendants including Defendants Det. Marc McDonald, Det. Desmond Singh, Det. Claudia Cubillos, Santiago Incles, Jr., and Det. Nathaniel Kinlaw, the City of Englewood, and the Englewood Police Department jointly, severally and/or individually, and in their official capacity.

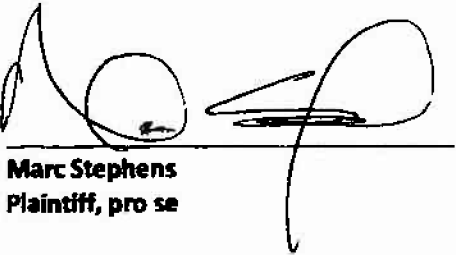
CERTIFICATION PURSUANT TO R 4:5-1

Plaintiffs hereby certify that the matter in controversy is not the subject of any other action, pending in any court or of a pending arbitration proceeding, nor is any such action or arbitration proceeding presently contemplated.

Dated: August 25, 2014



Tyrone Stephens
Plaintiff, pro se



Marc Stephens
Plaintiff, pro se