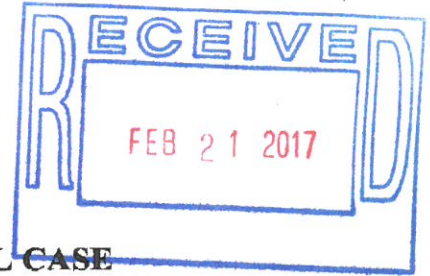


**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**



PRISCILLA SMITH,
Plaintiff

V.

SUMMONS IN A CIVIL CASE

THE TOWNSHIP OF CLINTON, ET AL.,
Defendant

**CASE
NUMBER: 3:17-CV-00935-MAS-DEA**

TO: *(Name and address of Defendant):*

**The Township of Clinton
1225 Route 31 South, Suite 411
Lebanon, NJ 08833**

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 office 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:

**The Law Offices of Spencer A. Leeds
297 Durie Avenue
Closter, NJ 07624**

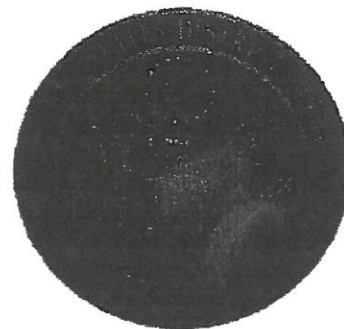
If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

WILLIAM T. WALSH

CLERK

John Moller

(By) DEPUTY CLERK



**ISSUED ON 2017-02-14 11:59:58, Clerk
USDC NJD**

RETURN OF SERVICE	
Service of the Summons and complaint was made by me(1)	DATE
NAME OF SERVER (PRINT)	TITLE
<i>Check one box below to indicate appropriate method of service</i>	
☐ Served personally upon the defendant. Place where served: _____ _____ ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. ☐ Name of person with whom the summons and complaint were left: _____ ☐ Returned unexecuted: _____ _____ ☐ Other (specify) : _____ _____ _____	
STATEMENT OF SERVICE FEES	
TRAVEL	SERVICES
TOTAL	
DECLARATION OF SERVER	
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct. Executed on _____ Date _____ Signature of Server _____ Address of Server _____	

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

PRISCILLA SMITH,

Plaintiff,

-vs-

THE TOWNSHIP OF CLINTON,
CLINTON POLICE DEPTMEN,
POLICE OFFICER JOSEPH SANGIOVANNI,
Shield Number ---- and JOHN/JANE DOE,
Individually, who were each involved in the
incident resulting in Plaintiff's false arrest, search,
seizure, detention and/or injuries.

Defendants.

Docket No. : 17-cv-00935
(MAS) (DEA)

**COMPLAINT AND
JURY DEMAND**

COMPLAINT

PRELIMINARY STATEMENT

1. This is an action for money damages brought pursuant to 42 U.S.C. Sections 1981, 1983, 1985, 1986 and 1988, and the Fourth and Fourteenth Amendments to the United States Constitution, and under the common law of the State of New Jersey, against the Township of Clinton, Police Officer Joseph Sangiovanni ("Sangiovanni"), Individually, and Police Chief John/Jane Doe Individually, in their individual capacities, being police officer(s) employed by the Township of Clinton ("Township"); and against Clinton Police Department ("CPD"). Jurisdiction of this Court is based upon 28 U.S.C. Sections 1331 and 1343, and the Fourth, Fifth and Fifteenth Amendments to the Constitution of the United States, and on the pendent jurisdiction of this Court to entertain claims arising under state law.

2. The amount in controversy exceeds \$150,000.00 excluding interest and costs.

3. Venue is laid within the United States District Court of New Jersey in that Defendants Township of Clinton are both located within, and a substantial part of the events giving rise to the claim occurred within the boundary of the United States District Court of New Jersey.

4. It is alleged that on December 4, 2015, plaintiff Priscilla Smith, age 52, was a lawful and innocent back-seat passenger in a motor vehicle being operated by another. The vehicle was lawfully traveling on Route 78 West in Clinton Township at the time this vehicle was stopped by an employee of Clinton Township Police Department, defendant Police Officer Joseph Sangiovanni. The Clinton Township Police Department and Officer Sangiovanni arrested plaintiff at the scene of the stop and charged her with Receiving Stolen Property pursuant to NJSA 2C:20-7A, a third-degree offense which also requires "knowledge" as an element.

5. She remained in custody for approximately 11 days before finally being released from jail, on or about December 14, 2015.

6. She was charged with such offense without probable cause or legal justification.

7. The individually-named police officer defendant(s), employed by the Township, acting under color of state law, intentionally and willfully subjected plaintiff, Priscilla Smith, to, *inter alia*, false arrest, false imprisonment and malicious prosecution upon making an unlawful and warrantless search and seizure of the person and belongings of plaintiff. These actions violated plaintiff's rights under the Fourth and Fourteenth Amendments to the United States Constitution. It is further alleged that these violations and torts were committed as a result of policies and customs of both The Township and the CPD.

8. The Township police officer(s) named above carried out each of the illegal activities culminating in plaintiff's false arrest and false imprisonment, the length of which continued for the length of time set forth above.

9. On or about January 29, 2016, the criminal matter against the plaintiff was administratively dismissed.

10. Plaintiff seeks monetary damages (special, compensatory and punitive) against defendants, as well as an award of costs and attorneys' fees, and such other and further relief as the Court deems just and proper.

PARTIES

11. PRISCILLA SMITH ("PLAINTIFF") was at all material times, of full age, and a United States citizen.

12. At all times relevant to this complaint, the defendants The Township of Clinton, The Clinton Police Department, Police Officer Joseph Sangiovanni and Police Chief John/Jane Doe, named herein were duly appointed and acting officers and entities of the Township of Clinton and The Clinton Police Department, acting under color of law, to wit: under color of statutes, ordinances, regulations, policies, customs and usages of the Township of Clinton and State of New Jersey.

13. Township Police Officer Sangiovanni, at all times relevant were Clinton Police Officers. He is sued in his individual and official capacities as a result either of his actions at the scene of the incident giving rise to plaintiff's arrest, or, in their capacity as policymakers with respect to training, supervision and discipline of police officers under their command.

14. The Township of Clinton is a municipal corporation organized under the laws of the State of New Jersey.

15. Clinton Police Chief JOHN/JANE DOE was at all times relevant the Acting Police Chief of the Township of Clinton, and, as such, was a policymaker with respect to training, supervision and discipline of its officers, including the individual defendants. JOHN/JANE DOE is being sued both in his/her individual and official capacities.

16. The Township of Clinton Police Department is a municipal entity and the public employer of the said officers.

FACTS

17. On or December 4, 2015, the plaintiff was traveling in a 1998 Chevrolet Astro Van with her husband to attempt to retrieve a disabled vehicle owned by their daughter, but whom they had permission and authority to operate at the time this other vehicle became disabled. As a way of background, this disabled vehicle had broken down in Eastern Pennsylvania at an earlier date, when plaintiff and her husband were driving this vehicle back toward Brooklyn where they reside. Upon

information and belief, the vehicle was disabled as a result of a mechanical problem relating to the vehicle's radiator causing the disabled vehicle to be towed to an Exxon Station near Route 940 in Mount Pocono, Pennsylvania. [After this vehicle was towed, the plaintiff and her husband secured a ride from Eastern Pennsylvania toward their residence in Brooklyn from a Good Samaritan whom the plaintiff compensated for his services].

18. On the date of the arrest, plaintiff and her husband were being driven by Gregory Carmichael. A female named Bianca Mitchell was a front seat passenger, while plaintiff and her husband were in the backseat of the subject vehicle.

19. Plaintiff had compensated Mr. Carmichael at the outset of their travel with \$130.00 which included a stipend for 'gas money' for the sole purpose of retrieving their disabled vehicle.

20. Mr. Carmichael's van was equipped with a tow hitch on the back. The Plaintiff's intent was to rent a U-Haul dolly and then tow her daughter's vehicle back to New York for repairs and safe-keeping.

21. Neither the plaintiff nor her husband had any connection to either the subject van being operated by Mr. Carmichael or to Mr. Carmichael himself other than entering into an agreement to pay Mr. Carmichael a sum of money to drive her to Eastern Pennsylvania and back. Such an arrangement may be characterized as being similar to an 'Uber'-type travel contract. Neither the plaintiff nor her husband had any connection to Ms. Mitchell.

22. Upon information and belief, defendant Sangiovanni, an employee of the Clinton Police Department and the Township of Clinton, ordered a traffic stop of the van, ordered plaintiff from the van, and then arrested plaintiff along with her husband.

23. Upon information and belief, both Mr. Carmichael, the vehicle's operator, and Ms. Mitchell, the front-seat passenger, were released without any police action being taken against the pair.

24. In contrast, plaintiff was arrested, detained and then transported to the Hunterdon County Jail.

25. While in jail, plaintiff suffered considerable pain related to a condition known as "chronic pain syndrome", and was never afforded medical treatment during the entire length of time she spent in Hunterdon County Jail.

26. Plaintiff remained incarcerated at all times between December 4, 2015 and December 14, 2015, a period of 11 days, until being released from custody. Plaintiff was charged with Receiving Stolen Property pursuant to N.J.S.A. 2C:20-7A.

27. On January 29, 2016, the sole criminal charge against plaintiff as contained in the matter entitled State of New Jersey v. Priscilla Smith, Hunterdon County Complaint Number W-2015-000226-1027 was dismissed upon prosecutor's motion. The defendants knew, or should have known, that there was insufficient evidence to criminally prosecute plaintiff from the outset of this case.

28. Plaintiff was compelled to make certain criminal court appearances to defend the baseless criminal charges filed against her following her arrest.

29. The actions of the defendants were without probable cause. No warrants were ever produced by the police at any time. The defendant police officers named above each seized, interrogated and searched the plaintiff and her person without a warrant.

30. The warrantless search and seizure was illegal as the Fourth Amendment of the United States Constitution protects *inter alia*, individuals from both unlawful search and seizures as well as against the more traditional seizure of "papers and effects."

31. The plaintiff was arrested and detained without probable cause or legal justification.

32. At no time during the events described above was plaintiff intoxicated, incapacitated, a threat to the safety of themselves or others, or disorderly. Plaintiff had committed no criminal offenses.

33. The defendants had no warrant for the arrest of the plaintiff, no probable cause for the arrest of the plaintiff, and no legal cause or excuse to seize the person of the plaintiff.

34. Plaintiff was arbitrarily and falsely detained.

35. As a direct and proximate result of the said acts of the defendant police officers/federal agents, the plaintiff suffered the following injuries and damages:

- a. Violation of her constitutional rights under the Fourth and Fourteenth Amendments to the United States Constitution to be free from an unreasonable search and seizure of his person;
- b. Loss of her physical liberty;

- c. Physical or mental anguish, pain and suffering and/or emotional trauma and suffering.

36. The actions of the defendant Officers/ violated the long-established and well-settled federal constitutional right of plaintiff, to wit: the freedom from the unreasonable seizure of her person.

COUNT I

42 U.S.C. Section 1983 Against Individual Defendant Township of Clinton Police Officers.

37. Paragraphs 1 through 36 are incorporated herein by reference as though fully set forth hereinafter at length.

38. Plaintiff claims damages for the injuries set forth above under 42 U.S.C. Section 1983 against defendants The Township of Clinton, The Clinton Police Department, Police Officer Joseph Sangiovanni and Police Officer John/Jane Doe who all engaged in the actions and conduct alleged herein in their official capacities as Clinton police officers and under color and authority of federal and state law, regulation, ordinance, custom and usage, for violation of plaintiff's constitutional rights under color of law. Each acted within the course and scope of their employment with the Clinton Police Department.

39. That such actions served to deprive plaintiff of the rights and privileges of the United States Constitution, the Fourteenth Amendment of the U.S. Constitution and Section 1983 of 42 U.S.C. In particular, the plaintiff was deprived of her right to due process of law, of her right to happiness and to liberty.

40. Defendant Clinton Police Officers named not only engaged in intentional conduct, but they did so either with the intent to violate the plaintiff's civil rights, or with a reckless disregard for whether defendants' conduct would violate such rights.

41. Plaintiff has been damaged as a result of defendants' wrongful acts.

COUNT II

New Jersey State Civil Rights Action/State Constitutional Claim

42. Paragraphs 1 through 41 are incorporated herein by reference as though fully set forth hereinafter at length.

43. The illegal, unconstitutional and discriminatory acts of defendants The Township of Clinton, The Clinton Township Police Department, Police Officer Joseph Sangiovanni and Police Chief John/Jane Doe, constituted acts of de facto policy to discriminate, and falsely arrest and detain plaintiff. The actions of the Defendants aforesaid also represent a de facto policy to deny plaintiff of his right to equal protection, contract and privacy. All of these violations contravene Plaintiff's constitutional rights under the New Jersey State Constitution including, but not limited to, Article I, Section I; Article I, Section 5 – denial of rights; and Article I, Section 7 and the New Jersey Civil Rights Act (N.J.S.A. 10:6-2).

44. Each named and unnamed individual defendant above was acting at all relevant times in furtherance of his employer, the Clinton Police Department and The Township of Clinton.

45. As a result of the aforesaid conduct, Plaintiff has been damaged, including violation of her civil rights and has suffered severe emotional pain and suffering.

COUNT III

False Arrest and Illegal Imprisonment Against Individual Defendants Clinton Township Police Officers.

46. Paragraphs 1 through 45 are incorporated herein by reference as though fully set forth hereinafter at length.

47. Defendant City of Clinton Police Officer Sangiovanni, named herein, illegally arrested and illegally imprisoned plaintiff. In doing so, he and this entity not only engaged in intentional conduct, but they did so either with the intent to violate the plaintiff's federal rights, or with a reckless disregard for whether defendants' conduct would violate such rights.

48. As a result of this false arrest and illegal imprisonment, the plaintiff suffered the damages as aforesaid.

COUNT IV

42 U.S.C. Section 1983 Against Defendants Township of Clinton and Clinton Police Department

49. Paragraphs 1 through 48 are incorporated herein by reference as though fully set forth hereinafter at length.

50. Prior to December 4, 2015, the Township of Clinton Police Department and Police Chief John/Jane Doe developed and maintained policies or customs exhibiting deliberate indifference to the constitutional rights of citizens, which caused the violation of plaintiff's rights.

51. It was the policy and/or custom of the Township of Clinton Police Department to inadequately supervise, train, discipline, sanction or otherwise direct its police officers, including the defendant officers named in this case, thereby failing to adequately discourage further constitutional violations on the part of its police officers. The Township of Clinton Police Department did not require appropriate in-service training of officers on the subject of police misconduct, nor did it take measures to prevent such constitutional abuses such as described herein.

52. As a result of, the Township of Clinton's failure to develop appropriate policies and customs for its employees, police officers of the Township of Clinton Police Department, including the defendant officer(s) named in this case, believed that their actions would not be properly monitored by supervisory officers, and that misconduct would not be investigated or sanctioned, but would be tolerated.

53. The above-mentioned policies, practices and customs demonstrated a deliberate indifference on the part of policymakers of the Township of Clinton Police Department. Said policies, practices and customs have served to encourage and sanction the police officers' unlawful conduct described above, such conduct having adversely impacted upon the constitutional rights of citizens, and were the cause of the violations of the plaintiff's rights alleged herein on December 4, 2015.

54. Plaintiff has been damaged as a result of defendants' wrongful acts.

COUNT V

Malicious Prosecution Against Defendants Township of Clinton, Clinton Police Department and individual Clinton Police Officers named herein

55. Paragraphs 1 through 54 are incorporated by reference as though fully set forth hereinafter at length.

56. Defendants Township of Clinton, Clinton Police Department, Police Officer Sangiovanni and Police Chief John/Jane Doe, each caused false criminal accusatory instruments to be filed against plaintiff and testified falsely against plaintiff.

57. Following her arrest, plaintiff was taken as a prisoner of the Township of Clinton and was placed in their custody. Plaintiff was kept in jail for 11 days as set forth in Paragraph 26 herein.

58. The criminal proceedings were dismissed, thus terminated favorably to plaintiff.

59. Defendants each have deprived plaintiff of her civil, constitutional and statutory rights, and have conspired to deprive her of such rights and are liable to plaintiff under Section 42 USC Section 1983, New Jersey State common law and the New Jersey State Constitution.

60. As a result of the malicious prosecution implemented by the defendants, the plaintiff was damaged.

61. The above acts constituted reckless and wanton misconduct and were willfully and maliciously directed against the plaintiff.

62. As a result of defendants' actions and by reason of these facts, plaintiff suffered great mental and physical anguish and distress; was subjected to humiliation, embarrassment, ridicule, derision and scorn among those who knew her and of her detention; was injured and impaired in her credit, good name, character and reputation; was prevented from attending to her family, work and employment; and was compelled to expend monies and incur expenses in the above proceedings, and was deprived of her liberty.

WHEREFORE, the plaintiff demands judgment against the defendants, jointly and severally, as follows:

- a. In favor of the plaintiff for compensatory damages jointly and severally for each of plaintiff's Causes of Action;
- b. Awarding costs and disbursements of this action to the plaintiff;
- c. Awarding reasonable attorney fees of this action to the plaintiff;
- d. Awarding punitive damages for the plaintiff; and
- e. Awarding such other and further relief as this Court may deem appropriate, just and proper.

JURY DEMAND

The plaintiff hereby demands a jury trial.

DESIGNATION OF TRIAL COUNSEL

Plaintiff designates the undersigned as trial counsel.

Dated: Closter, New Jersey
February 12, 2017

THE PLAINTIFF,
BY



SPENCER A. LEEDS, ESQ.
Attorney for Plaintiff
297 Durie Avenue
Closter, New Jersey 07624
(201) 767-7665

TO:

THE TOWNSHIP OF CLINTON
1225 Route 31 South, Suite 411
Lebanon, New Jersey 08833

THE CLINTON POLICE DEPARTMENT
43 Leigh Street
Clinton Twp., New Jersey 08809

POLICE OFFICER JOSEPH SANGIOVANNI, Shield Number -----
Clinton Police Department
43 Leigh Street
Clinton Twp., New Jersey 08809

POLICE CHIEF JOHN/JANE DOE
Clinton Police Department
43 Leigh Street
Clinton Twp., New Jersey 08809