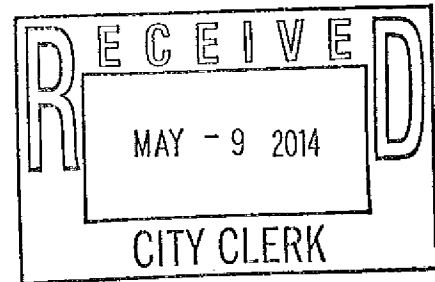


COPIES FOR CITY COUNCIL
CITY MANAGER & ATTORNEY

ANTHONY J. CARIDDI ESQ.
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Attorneys for Plaintiffs



NICOLE HATTON, INDIVIDUALLY
And as GENERAL ADMINISTRATIX
And as ADMINISTRATRIX
Ad Prosequendum of the
THE ESTATE OF
DANIEL C. HOPKINS
and
NICOLE HATTON and DANIEL F.
HOPKINS, *per quod*

Plaintiff(s)

vs.

The CITY OF HACKENSACK, NEW
JERSEY, a municipal
Corporation
Of the State of New Jersey,
County of Bergen,
Its Officials, Employees
and/or agents;

and
MICHAEL MELFI,
Individually and as Mayor;
and

City Council Members,
of the City
of Hackensack;

and
TOMAS PADILLA, Individually
and in His Official capacity
as Acting CHIEF Of POLICE
of the City of Hackensack;
and

CHARLES K. ZISA, Individually
And in His Official Capacity
as Chief of Police of the City
of Hackensack
and

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION BERGEN COUNTY

Docket No. : 1881-14

Civil Action

SUMMONS AND COMPLAINT

WILLIAM INGLIMA, Individually and as Police Officer, CITY OF HACKENSACK; and MATTHEW SWETITIS, Individually and as Police Officer, CITY OF HACKENSACK; and ALLEN BORNTRAGER, Individually and as Police Officer, CITY OF HACKENSACK; and JAMES PRISE, Individually and as Police Officer, City of Hackensack and John Doe(s) (a fictitious names for unidentified individuals) Individually and/or as police officers, public officials, employees or agents of the City of Hackensack	
---	--

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and

serve a written answer or motion (with fee of \$135.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.

s/Michelle M. Smith

Michelle M. Smith, Esq., Clerk of the
Superior Court

Dated: March 6, 2014

Name of Defendant(s) to be served:

City of Hackensack, a Municipal Corporation of the State of New Jersey, County of Bergen, its officials, employees and or agents

Address of Defendant to be served: c/o City Clerk of the City of Hackensack City Hall 65
Central Avenue, HACKENSACK, NJ

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Attorneys for Plaintiffs

RECEIVED

FEB 24 2014

SUPERIOR COURT OF NEW JERSEY
COUNTY OF BERGEN
FINANCE DIVISION

-----:
NICOLE HATTON, INDIVIDUALLY :
And as GENERAL ADMINISTRATIX :
And as ADMINISTRATRIX :
Ad Prosequendum of the :
THE ESTATE OF :
DANIEL C. HOPKINS :

and :
NICOLE HATTON and DANIEL J. :
HOPKINS, per quod :

Plaintiff(s)

vs.

The CITY OF HACKENSACK, NEW :
JERSEY, a Municipal :
Corporation :
Of the State of New Jersey, :
County of Bergen, :
Its Officials, Employees :
and/or agents; :

and :
MICHAEL MELFI, :
Individually and as Mayor; :
and :
City Council Members, :
of the City :
of Hackensack, :

and :
TOMAS PADILLA, Individually :
and in His Official Capacity :
as Acting CHIEF Of POLICE; :
of the City of Hackensack, :

and :
Charles K. Zisa, Individually :
and in His Official Capacity :
as Chief of Police of the City: :
of Hackensack :

and

: SUPERIOR COURT OF NEW JERSEY

: LAW DIVISION BERGEN COUNTY

: Docket No. : 188114

: CIVIL ACTION

: COMPLAINT and JURY DEMAND

: Designation of Trial Attorney

: Pursuant to R. 4:24-4

: Certification of Non-Action

: R.4:5-1(b)(2) and Compliance

: with R.1:38-7

WILLIAM INGLIMA, :
 Individually and as Police :
 Officer, CITY OF HACKENSACK :
 and :
 MATTHEW SWETITS, :
 Individually and as Police :
 Officer, CITY OF HACKENSACK :
 and :
 ALLEN BORINTRAGER, :
 Individually and as Police :
 Officer, CITY OF HACKENSACK :
 and :
 JAMES PRISE, :
 Individually and as Police :
 Officer, CITY OF HACKENSACK :
 and :
 JOHN DOE(s) (fictitious names :
 for unidentified individuals) :
 Individually and/or as police :
 officers, public officials, :
 employees or agents :
 of the City of Hackensack; :
 -----:

Introduction

Plaintiff, Nicole Hatton, resident of Bergen County New Jersey, Individually and as the ADMINISTRATRIX *Ad Prosequendum* of the ESTATE OF DANIEL C. HOPKINS, and as general administrator of the estate of Daniel C. Hopkins together with Daniel J. Hopkins brings this action on behalf of the heirs of Daniel C. Hopkins for compensatory damages under New Jersey State common and statutory law, including but not limited to N.J.S.A. 2A:31-1 et. seq., Wrongful Death Act: N.J.S.A.2A:15-3 et. seq., Actions which Survive claiming that Defendants, named and unnamed, jointly and severally acted in a negligent, careless, reckless and or palpably unreasonable manner and or committed other wrongdoing actions; Cause of action has accrued

under N.J.S.A 59:1-1 et. seq., because Defendants, named and unnamed, jointly and severally acted in a palpably unreasonable manner and/or acted in a negligent, careless and or reckless manner and or committed other wrongdoing arising out of their acts or omissions in carrying out ministerial functions and timely notice has been given. Notwithstanding N.J.S.A.59:1-1 et. seq., a claim for failure to supervise employee(s), negligent hiring, retention and/or supervision of named and unnamed individuals is pled against known and unknown individuals and or Officials, employees and or agents of the City of Hackensack, County of Bergen. Both Nicole Hatton and Daniel J. Hopkins as mother and father of Daniel C. Hopkins bring cause(s) of action(s) for the loss of the care, comfort, valuable companionship, services and monetary contributions of their son, Daniel C. Hopkins *per quod*.

Punitive damages are specifically pled pursuant to N.J.S.A.2A:15-5.9.

THE PARTIES

1. Daniel C. Hopkins was 27 years old and in good physical health at the time of his death on May 18, 2012. He died intestate and Nicole Hatton, his mother has been granted Letters Administration *Ad Prosequendum* on June 6, 2012 by the Probate Court of Bergen County, New Jersey. His mother Nicole Hatton and his father Daniel J. Hopkins are his heirs, as he was never married nor had a child, natural or adopted. N.J.S.A. 3B:5-4.

2. Plaintiff, Nicole Hatton, as mother and Administratrix *Ad Prosequendum* of the estate of Daniel C. Hopkins brings this action individually and on behalf other beneficiaries under the Wrong Death Act. N.J.S.A.2A:31-5

3. Plaintiff, Nicole Hatton, as mother and Administratrix *Ad Prosequendum* of the estate of Daniel C. Hopkins and general administrator of the estate of Daniel C. Hopkins brings this action individually and on behalf of the heirs of Daniel C. Hopkins. N.J.S.A.2A:15-3 et. seq.

4. Nicole Hatton, as mother of Daniel C. Hopkins brings this cause of action *per quod*.

5. Daniel J. Hopkins, as father of Daniel C. Hopkins brings this cause of action *per quod*.

6. The City of Hackensack, New Jersey, a municipal corporation, the Mayor and Council, Individually and or as Official Policy Maker, Officials, employees and or agents of the City of Hackensack. It was engaged in and or delegated the operation, maintenance, supervision of the entity commonly known as the City Jail, City of Hackensack, Bergen County, New Jersey.

7. Michael Melfi, Individually and as Mayor of the City of Hackensack and or as Official Policy Maker. He was engaged and or delegated in the operation, maintenance, supervision of the entity commonly known as the City Jail, City of Hackensack, Bergen County, New Jersey.

8. City Council Members, of the City of Hackensack, those individuals elected to the positions as members of the City County of the City of Hackensack, individually and or as Official Policy Makers. The City Council Members engaged and or delegated the operation, maintenance, supervision of the entity commonly known as the City Jail, City of Hackensack, Bergen County, New Jersey.

9. Tomas Padilla, individually and in His Official capacity as Acting Chief of Police of the City of Hackensack and or as Official Policy Maker. He was engaged and or delegated the operation, maintenance, supervision of the entity commonly known as the City Jail, City of Hackensack, Bergen County, New Jersey.

10. Charles K. Zisa, individually and in his official capacity as Chief of Police of the City of Hackensack and or as Official Policy Maker. He was engaged and or delegated the operation, maintenance, supervision of the entity commonly known as the City Jail, City of Hackensack, Bergen County, New Jersey.

to wit, under color of the statutes, ordinances, regulations, policies, customs and usages of the State of New Jersey and or the City of Hackensack.

11. William, ("Billy") Inglema, as Police Officer of the City of Hackensack, or acting under color of law, and/or Individually, at all material times to this Complaint residing in County of Bergen, State of New Jersey.

12. Matthew Swetits as Police Officer of the City of Hackensack, or acting under color of law, and/or Individually, at all material times to this Complaint residing in County of Bergen, State of New Jersey.

13. Allen Borntrager as Police Officer of the City of Hackensack, or acting under color of law, and/or Individually, at all material times to this Complaint residing in the County of Bergen, State of New Jersey.

14. James Prise as Police Officer of the City of Hackensack or acting under color of law and/or Individually, at all material times to this Complaint residing in County of Bergen, State of New Jersey.

15. Unknown Defendants, including John Doe(s) 1-10 (said names being fictitious and presently unknown) individually and or as police officers, public officials, employees and or agents of the State of New Jersey, County of Bergen and or the City of Hackensack who were present on May 18, 2012 at the entity commonly known as the City Jail, City of Hackensack, Bergen County, New Jersey or who were employed and or otherwise engaged in the operation, maintenance, supervision of the entity commonly known as the City Jail, City of Hackensack, Bergen County, New Jersey on May 18, 2012.

16. All Officers, named and unnamed, were at all times relevant to this complaint duly appointed and acting officers of the

police department of the City of Hackensack, Bergen County, New Jersey, acting under color of law, to wit: under color of the statutes, ordinances, regulations, policies, customs and usage of the State of New Jersey, and County of Bergen and or the City of Hackensack. 17. In the alternative, all named or unnamed Defendants, individually, jointly and severally, if acting outside the course of their employment or agency regarding the operation, maintenance, supervision of the entity commonly known as the City Jail, City of Hackensack, Bergen County, New Jersey, created the harm claimed hereunder and are subject to the claims of various actions herein pled.

FACTS

Upon information and belief plaintiffs assert the following:

18. At the time of his death, Daniel C. Hopkins was 27 years old and in good physical health. He died intestate and Nicole Hatton has been granted Letters of Administration *Ad Prosequendum* on June 6, 2012.

19. Officer William Inglema, acting under color of law, on May 18, 2012, placed Daniel C. Hopkins under arrest for a warrant for failure to appear in the Municipal Court of the City of Hackensack. He transported him on May 18, 2012 to a "holding cell"

of the Hackensack Police Department located at 225 State Street, Hackensack, New Jersey.

20. Officer Matthew Swetits, acting under color of law, assisted in the arrest of Daniel C. Hopkins in the late afternoon of May 18, 2012. He transported him on May 18, 2012 to a "holding cell" of the Hackensack Police Department located at 225 State Street, Hackensack, New Jersey.

21. The warrant to arrest was Hackensack Municipal City Warrant (No. W2009-000610) signed by the Hon. Louis J. Dinice, Judge of the Municipal Court, City of Hackensack and caused to be issued on March 6, 2012 for a violation date of May 11, 2009. Upon information and belief, Officer William Inglema, having previously encountered Daniel C. Hopkins, in the late afternoon of May 18, 2012 sought out the warrant.

22. While incarcerated in the holding cell Daniel C. Hopkins was denied the benefit of proper protections and procedures. Daniel C. Hopkins was allowed to remain unsupervised for over a period of forty-one minutes (41 minutes). Upon information and belief the video/monitoring system was not turned on in the holding cell when Daniel C. Hopkins was placed therein, although cameras were contained within the cell.

23. During this period of unsupervised detention in an unsafe environment, Daniel C. Hopkins having access to clothing materials

was not prevented from constructing a noose/ligature. The construction of the noose/ligature would not have caused the death of Daniel C. Hopkins if Daniel C. Hopkins had been detained in a cell with a functioning video/ system and/or suitable supervision. The construction of the noose/ligature would not have caused the death of Daniel C. Hopkins if he had not been detained in a cell that was in an inherently dangerous condition. The construction of the noose/ligature would not have caused the death of Daniel C. Hopkins if he had been physically supervised.

24. Daniel C. Hopkins did not die instantly, but was conscious and cognizant for several minutes and suffered a slow, painful and anguishing death.

25. Upon information and belief Officer William Inglema placed Daniel C. Hopkins in the jail cell. Officers Inglema acting under color of law, left the Hackensack Police Department, without securing Daniel C. Hopkins in a safe and controlled environment.

26. Officers Inglema failed in his ministerial functions or otherwise acted with deliberate indifference to the well being and safety of the decedent, Daniel C. Hopkins. His failure and or deliberate indifference was the proximate cause of the death of Daniel C. Hopkins.

27. Upon information and belief Officer Matthew Swetits, acting

under color of law, assisted in the placement of Daniel C. Hopkins in the jail cell, without securing Daniel C. Hopkins in a safe and controlled environment.

28. Officer Matthew Swetits failed in his ministerial functions or otherwise acted with deliberate indifference to the well being and safety of the decedent, Daniel C. Hopkins. His failure and or deliberate indifference was the proximate cause of the death of Daniel C. Hopkins.

29. Upon information and belief neither Officer William Inglema nor Matthew Swetits informed supervisory personnel of the fact that Daniel C. Hopkins had been locked in a holding cell.

30. Upon information and belief, Officers Allen Borntrager and James Prise, as Police Officers of the City of Hackensack, acting under color of law and/or Individually, were present at the time of the incident, failed to monitor, and failed to secure Daniel C. Hopkins in the holding cell without being safely secured and under surveillance.

31. Officer Allen Borntrager failed in his ministerial functions or otherwise acted with deliberate indifference to the well being and safety of the decedent, Daniel C. Hopkins. His failure and or deliberate indifference was the proximate cause of the death of Daniel C. Hopkins.

32. Officer James Prise failed in his ministerial functions or otherwise acted with deliberate indifference to the well being

and safety of the decedent, Daniel C. Hopkins. His failure and or deliberate indifference was the proximate cause of the death of Daniel C. Hopkins.

33. The above actions of the named and unnamed defendants, Individually and in their official capacities, were negligent, careless and or reckless. As a direct and proximate result of the aforesaid negligence, careless and or recklessness of the Defendants, named and unnamed, Individually, jointly and or severally and or in their Official Capacity caused the death of Daniel C. Hopkins.

34. Defendants, named and unnamed, Individually and in their Official capacity failed to conduct prompt rescue efforts. No attempt to revive Daniel C. Hopkins was made or conducted on his behalf until the Hackensack Fire Department/Ambulance responded to the call made by the Hackensack Police Department. As a direct and proximate result of the aforesaid negligence, careless, recklessness, palpably unreasonable conduct, and or failure of their ministerial function or otherwise deliberate indifference of the Defendants, named and unnamed, Individually, jointly and or severally and or in their Official Capacity caused the death of Daniel C. Hopkins.

35. Due to the direct and proximate cause of the said acts of the named and unnamed defendant Officers, individually, jointly and severally, The City of Hackensack, New Jersey, a municipal corporation, The Mayor, Michael Melfi and City Council, in their Official capacity and/or individually failed to train, supervise or properly oversee and delegate, maintained or allowed to exist

an inherently dangerous condition., Charles K. Zisa, individually and in His Official capacity as Chief of Police of the City of Hackensack failed to train, supervise or properly oversee and delegate, maintained or allowed to exist an inherently dangerous condition, Tomas Padilla, individually and in His Official capacity as Acting Chief of Police failed to train, supervise or properly oversee and delegate, maintained or allowed to exist an inherently dangerous condition.

36. As a direct and proximate cause of the said acts and omissions of the Defendants, named and unnamed, Individually, jointly and severally and/or in their Official capacity, Nicole Hatton, Individually and as the ADMINISTRATRIX *Ad Prosequendum* of the ESTATE OF DANIEL C. HOPKINS, and as general administrator of the estate of Daniel C. Hopkins brings this action Individually and on behalf of the heirs of Daniel C. Hopkins and on behalf of other beneficiaries for the other beneficiaries under the Wrong Death Act. N.J.S.A.2A:31-5; Plaintiff, Nicole Hatton, as mother and general administrator of the estate of Daniel C. Hopkins brings this action individually and on behalf of the heirs of Daniel C. Hopkins and entitled to a cause of action under N.J.S.A.2A:15-3 et. seq., pursuant to:

- N.J.S.A. 2A:31-5 Wrongful Death
- N.J.S.A. 2A:15-3 Rights of Survivorship
- Negligent Hiring, Supervision and Retention
- Doctrine of *Respondeat Superior*
- N.J.S.A.59:1-1 et. seq. New Jersey Tort Claims Act
- *Per quod* claim based on the natural parentage of Nicole Hatton and Daniel J. Hopkins, mother and mother of the deceased
- Punitive Damages pursuant to N.J.S.A.2A:15-5.9 is DEMANDED.

COUNT I WRONGFUL DEATH

N.J.S.A.2A:31-5

37. Plaintiffs repeat and incorporate Paragraphs 1-36 herein by reference as though fully set forth. Counts II-V are incorporated herein by reference as though fully set forth.

38. Plaintiff, Nicole Hatton as General Administratrix and Administratrix Prosequendum of the estate of Daniel C. Hopkins brings this action individually and on behalf other beneficiaries under the Wrong Death Act. N.J.S.A.2A:31-5 which provides for compensation for pecuniary losses suffered by survivors of those killed by the wrongful acts of another.

39. At all times material to this Complaint Defendants, named and unnamed, Individually and in their Official capacity failed to supervise the delegation of the operation, maintenance, supervision of the entity known as the City Jail, City of Hackensack, Bergen County, New Jersey.

40. As a direct and proximate result of the failure to supervise the delegation of the operation, maintenance, supervision of the entity known as the City Jail, City of Hackensack, Bergen County, New Jersey, Defendants, named and unnamed, Individually and or in their Official Capacity the Plaintiffs have lost the society, companionship, valuable services, assistance, care, guidance, advice and counsel of Daniel C. Hopkins. They will and

have suffered present and future financial losses.

41. At all times material to this complaint Defendants, named and unnamed, Individually and in their Official capacity maintained or allowed to exist an inherently dangerous condition. This condition was obvious in its danger. As a direct and proximate result of the inherently dangerous condition permitted by the Defendants, named and unnamed, Individually and or in their Official Capacity to exist, the Plaintiffs have lost the society, companionship, valuable services, assistance, care, guidance, advice and counsel of Daniel C. Hopkins. They will and have suffered present and future financial losses.

42. At all times material to this Complaint the actions and or omissions of the Defendants, named and unnamed, Individually and in their Official capacity were without discretion and ministerial in nature. As a direct and proximate result of the of the failure to follow ministerial duties the Plaintiffs have lost the society, companionship, valuable services, assistance, care, guidance, advice and counsel of Daniel C. Hopkins. They will and have suffered present and future financial losses.

43. At all times material to this Complaint Defendants, named and unnamed, Individually and in their Official capacity acted in a negligent, careless and or in a recklessly indifferent manner towards Daniel C. Hopkins whose person was entrusted to their care. As a direct and proximate result the Plaintiffs have

lost the society, companionship, valuable services, assistance, care, guidance, advice and counsel of Daniel C. Hopkins. They will and have suffered present and future financial losses.

44. At all times material to this Complaint Defendants, named and unnamed, Individually, and in their Official capacity failed to conduct prompt rescue efforts. Defendants' failure to provide prompt rescue efforts destroyed the reasonable possibility of the rescue of the life of Daniel C. Hopkins. As a direct and proximate result the Plaintiffs have lost the society, companionship, valuable services, assistance, care, guidance, advice and counsel of Daniel C. Hopkins. They will and have suffered present and future financial losses.

45. Defendants, Individually and or through its Officers, employees and/or agents did so negligently, carelessly and recklessly select and or hire incompetent, unskillful and improper persons for the management and or operation of the Hackensack City Jail that they knew or should have ascertained that the persons were not properly qualified to undertake the work in such a manner as to prevent a hazardous and reasonably foreseeable risk of injury which was incurred by to the plaintiffs.

46. Defendants, Individually and or its Officers, employees and/or agents did and or through its agents, servants, employees, so negligently, give poor and or inadequate

instructions and or formulation of policy and or failed in its duty to review the decision of the City of Hackensack Police Department and by said negligence, wrongful act or omission to correct a known improper condition; which hazard and unreasonable condition the defendants had actual or constructive notice of in sufficient time prior to May 18, 2012 to have taken measures to protect against said condition, which action or failure to take action was hazardous and unreasonable.

47. As a direct and proximate result of the aforesaid negligence, careless and or recklessness of the Defendants, named and unnamed, Individually and or in their Official Capacity, Daniel C. Hopkins died an untimely, unnatural and painful and horrible death.

48. In the alternative, all named or unnamed Defendants, if acting outside the course of their employment or agency regarding the operation, maintenance, supervision of the entity commonly known as the City Jail, City of Hackensack, Bergen County, New Jersey, created the harm claimed hereunder and are subject to liability for their actions and/or omissions.

49. As a direct and proximate result of the aforesaid negligence, careless and or recklessness of the Defendants, named and unnamed, Individually and or in their Official Capacity the Plaintiffs have lost the society, companionship, valuable services, assistance, care, guidance, advice and

counsel of Daniel C. Hopkins. They will and have suffered present and future financial losses.

50. This complaint preserves the right to present a cause of action if the Wrongful Death Act is amended to permit consideration of any emotional distress or anguish the survivors may have suffered as a result of Daniel C. Hopkins's death or any loss of emotional satisfaction the survivors may have derived from the society and companionship of Daniel C. Hopkins.

WHEREFORE, Plaintiffs seek compensation for injuries as a result of the personal injury and wrongful death of the decedent Daniel C. Hopkins. A demand for judgment against all named Defendants, Individually and in their official capacity, including John Does 1-10 (said names being fictitious and presently unknown), jointly, severally in an amount sufficient to compensate their injuries, defense counsel fees, and for counsel fees, interest and costs of suit. To the extent that the actions of the named and unnamed Defendants, Individually and or in their Official Capacity acted wantonly and or in disregard of their duty to ensure the safety of Daniel C. Hopkins, or provide the necessary care and medical attention either before or during the death of Daniel C. Hopkins, punitive damage pursuant to N.J.S.A.2A:15-5.9 is DEMANDED. Plaintiffs demand such other relief as this Court deems just and proper under the circumstances.

COUNT II

Rights of Survivorship
N.J.S.A.2A:15-3 et. seq.

51. Plaintiff repeats and incorporates Paragraphs 1-50 herein by reference as though fully set forth. Counts III-V are incorporated herein by reference as though fully set forth.

52. Plaintiff, Nicole Hatton, as General Administratrix and Administrator *Ad Prosequendum* of the estate of Daniel C. Hopkins brings this action individually and on behalf of the heirs of Daniel C. Hopkins under to N.J.S.A.2A:15-3 et. seq., under theories of liability alleged in the preceding and following counts, for such damages Daniel C. Hopkins would have been entitled to recover from the Defendants, named and unnamed, had Daniel C. Hopkins not perished.

53. As a direct and proximate result of the aforesaid negligence, careless and or recklessness of the named and unnamed Defendants, Individually and or in their Official Capacity Daniel C. Hopkins died an unnatural death.

54. Defendants, its Officers, employees and/or agents placed Daniel C. Hopkins in a cell without maintaining close observation. Policy, practice and administrative guidelines recognize that deaths/suicides occur within the first few hours of incarceration. Therefore the Defendants knew or should have known of the vulnerability of Daniel C. Hopkins.

55. Defendants, its Officers, employees and/or agents placed plaintiff Daniel C. Hopkins in a cell, said cell was in violation of established policies and customs in the State of

New Jersey. This constituted a failure to take the reasonable precautions necessary to protect Daniel C. Hopkins who was entrusted to their care.

56. Defendants, its Officers, employees and/or agents placed plaintiff Daniel C. Hopkins in a cell without taking the reasonable precautions necessary to protect Daniel C. Hopkins, who was entrusted to their care. Regardless if Daniel C. Hopkins was in a member of a protected class, said Defendants failed to activate video system and or have access to the cell within a period of time to protect and prevent death of Daniel C. Hopkins and or placed him in a cell, otherwise unsafe. Said Defendants failed to insure that Daniel C. Hopkins was prevented from finding an instrumentality whether on his person or in the holding cell that enabled and or caused him to be placed in harm. Said Defendant(s) violated established policy and custom and therefore subjected Daniel C. Hopkins to an enhanced risk of suicide and or death. Defendants, named and unnamed, Individually and in their Official capacity failed to conduct prompt rescue efforts. No attempt to revive Daniel C. Hopkins was made or conducted on his behalf until the Hackensack Fire Department/Ambulance responded to the call made by the Hackensack Police Department. As a direct and proximate result of the aforesaid negligence, careless, recklessness, palpably unreasonable conduct, and or failure of their ministerial function or otherwise deliberate indifference of the Defendants, named and unnamed, Individually, jointly and or severally and or in their Official Capacity caused the death of Daniel C.

Hopkins. As a result of actions and omissions of the defendants, Daniel C. Hopkins, was assaulted and battered, suffered extreme emotional distress, pain and suffering and was deprived of his liberty and life.

57. The actions of the Defendants, named and unnamed, Individually and or in their Official Capacity acted negligently and with such a degree of recklessness to act wantonly and or in disregard of their duty to ensure the safety of Daniel C. Hopkins, or provide the necessary medical attention either before or during the death of Daniel C. Hopkins.

58. In the alternative, all named or unnamed Defendants, individually, jointly or severally, if acting outside the course of their employment or agency regarding the operation, maintenance, supervision of the entity commonly known as the City Jail, City of Hackensack, Bergen County, New Jersey, created the harm claimed hereunder and are subject to liability for their actions and/or omissions.

WHEREFORE, Plaintiff, as Administratrix, demands judgment against all named defendants, including John Does 1-10 (said names being fictitious and presently unknown, jointly, severally in an amount sufficient is pursuant to N.J.S.A. 2A:15-3 et. seq., for the medical, hospital and funeral expenses, loss of enjoyment, and the pain and suffering which the decedent sustained between during his arrest, detainment and his death at the Hackensack City Jail. Plaintiffs demand such other relief as this Court deems just and proper under the circumstances. Punitive damages are specifically pled pursuant to

N.J.S.A.2A:15-5.9.

COUNT III
NEW JERSEY STATE TORT CLAIMS
N.J.S.A 59:1-1 et. seq.

59. Paragraphs 1-58 are incorporated herein by reference as though fully set forth. Counts IV-V are incorporated herein by reference as though fully set forth.

60. All City and County Entities and Employees have received timely Notice of Tort Claim Action pursuant to N.J.S.A 59:1-1 et. seq. Six (6) months have elapsed since the giving of notice and the filing of this suit.

61. Threshold as set forth in N.J.S.A. 59:9-2(d) has been met as to all parties. Plaintiff(s) have pled sufficient evidence of aggravating circumstances that demonstrate that psychological injuries were permanent and substantial and were of a level sufficient to cross the threshold of the New Jersey Tort Claims Act.

62. At all times relevant named Defendants, Charles K. Ziza, Individually and as Chief of Police, Tomas Padilla, Individually and as Acting Chief of Police, Michael Melfi, Individually and as Mayor of the City of Hackensack, City Council, were at the relevant time acting as an officer, employee or agent of the City of Hackensack and or the Hackensack Police Department.

63. At all times relevant, the Defendants, its officers, employees or agents, named and unnamed were acting within the scope of their agency or employment.

64. Defendants, its Officers, employees and/or agents, named and unnamed, actions and or omissions were so negligent, careless and reckless to cause and create a dangerous condition and unreasonable risk of harm to the person, resulting in serious injury and death as described herein to Daniel C. Hopkins.

N.J.S.A.59:4-2a., or

65. The named Defendants as a Public Entity had actual or constructive notice of the dangerous condition and had sufficient time prior to the injury to have taken measure to protect against the condition. N.J.S.A.59:4-2b. Said action or failure to take action was palpably unreasonable.

66. Defendants, its Officers, employees and/or agents, named or unnamed, actions and or omissions were so negligent, careless and reckless that it breached the public interest in protecting the safety of those under its care and protection and had a legal duty to duty so.

67. Decedent Daniel C. Hopkins did not receive necessary attention and assistance during his period of custody at the Hackensack Police. Decedent Daniel C. Hopkins did not receive prompt Plaintiff medical care or an attempt to resuscitate. These negligent, reckless actions and/or failure of ministerial duties resulted in the unnecessary and cruel infliction of pain and suffering and the possibility of continued life.

68. Actions of the Defendants, named and unnamed, Officers,

employees and/or agents were not subject to an exercise of discretion but were caused by faulty equipment, and the maintenance of facilities and personnel to operate in a manner that were palpably unreasonable. Defendants, named and unnamed, Officers, employees and/or agents actions were not subject to an exercise of discretion. N.J.S.A. 59:3-3 does not exonerate a public entity or employee for negligence arising out of acts or omissions in carrying out ministerial functions.

69. In the alternative, all named or unnamed Defendants, if acting outside the course of their employment or agency regarding the operation, maintenance, supervision of the entity commonly known as the City Jail, City of Hackensack, Bergen County, New Jersey, created the harm claimed hereunder and are subject to liability for their actions and/or omissions.

70. Plaintiffs rely on their additional causes of action which is not governed by the Tort Claims Act and has been or is pled in this Complaint.

71. As a direct and proximate result of the aforesaid negligence, careless and or recklessness and or palpably unreasonable actions or ministerial actions of the defendants, the plaintiffs were caused great pain and suffering; loss of enjoyment of life; loss of consortium and society; and the financial losses the survivors have suffered and will suffer in the future, as a result of Daniel C. Hopkins' untimely death.

WHEREFORE, Plaintiffs demand judgment against all named and unnamed defendants, acting under color of state law, individually, jointly and severally including John Does 1-10

(said names being fictitious and presently unknown) jointly, severally in an amount against defendants, in an amount sufficient to compensate them for their injuries, defense counsel fees, counsel fees, interest and costs of suit. Plaintiffs demand such other relief as this Court deems just and proper under the circumstances. Punitive Damages pursuant to N.J.S.A.2A:15-5.9 is DEMANDED.

Plaintiffs demand such other relief as this Court deems just and proper under the circumstances.

Count IV

Cause of action based on Negligent Hiring, Supervision and Retention and the Doctrine of Respondeat Superior

72. Paragraphs 1-71 are incorporated herein by reference as though fully set forth. Count V are incorporated herein by reference as though fully set forth.

73. At the time of the incident, all defendants, named and unnamed were employees, agents and or servants of the City of Hackensack and or the Police Department of the City of Hackensack, named defendants. These defendants were acting within the course and scope of their employment with decedent Daniel C. Hopkins at the time of the arrest and death which is the basis of this lawsuit. As such Defendants are responsible for the conduct of the defendants under the doctrine of

respondeat superior due to the master-servant relations which existed at the time of the incident and are made, in part, the basis of this lawsuit.

74. Defendants, Individually and or its Officers, employees and/or agents did and or through its agents, servants, employees, so negligently, give poor and or inadequate instructions and or formulation of policy and or failed in its duty to review the decision of the City of Hackensack Police Department and by said negligence, wrongful act or omission to correct a known improper action; which hazard and unreasonable condition the defendants had actual or constructive notice of in sufficient time prior to May 18, 2012 to have taken measures to protect against said condition, which action or failure to take action was hazardous and unreasonable in that said defendants: failed to provide safe and proper freedom of movement and loss of liberty which was not reasonably apparent to and would not have been anticipated by the plaintiffs.

75. Defendants, specifically referred to in prior paragraphs are incorporated herein by reference as though fully set forth, City of Hackensack, and its Officers, Mayor and Council, employees and/or agents, Chief(s) of Police and official policy maker, individually and or in their official capacities, did so negligently, carelessly and recklessly select, hire or retain incompetent, unskillful and improper persons for the management

and or operation of the Hackensack City Police Department that they knew or should have ascertained that the persons were not properly qualified to undertake the work in such a manner as to prevent a hazardous and reasonably foreseeable risk of injury which was incurred by the Plaintiffs.

76. Defendants, City of Hackensack, and its Officers, Mayor and Council, employees and/or agents, Chief(s) of Police and official policy maker, individually and or in their official capacities, so negligently, give poor and or inadequate instructions and or formulation of policy and or failed in its duty to review the decision of the City of Hackensack Police Department and by said negligence, wrongful act or omission to correct a known improper action

77. Failure to train and or give poor and or inadequate instructions and or formulation of policy created the abject failure of the arresting and attending Officers to perform their ministerial functions and/or the deficient and improper construction of the holding cell; to wit: improper anchor points, thereby constituting a deficient policy or practice, Daniel C. Hopkins slowly and painfully strangled while conscious and cognizant, as the tips of his feet where able to touch the floor of the holding cell.

- a. Defendants failed to screen or adequately screen;
- b. Defendants failed to train or adequately train;

c. Defendants failed to supervise or adequately supervise;
d. Defendants negligently retained Officers, even though Defendants knew, or should have known the Officers posed a danger to their community.

78. Failure to train and or give poor and or inadequate instructions and or formulation of policy created the abject failure of the arresting and attending Officers to perform their ministerial functions was a substantial factor in diminish the Decedent's chance of recovery.

79. The negligent hiring, supervising and retention of the named and unnamed police officers were the proximate cause of the harm to the Plaintiffs as outlined in the foregoing counts.

80. Negligent hiring, supervising and retention of the police officers, named and unnamed, creates liability regardless if the acts committed where outside the scope of employment.

WHEREFORE, Plaintiffs demand judgment against all named and unnamed defendants, individually, jointly and severally including John Does 1-10 (said names being fictitious and presently unknown) jointly, severally in an amount against defendants, in an amount sufficient to compensate them for their injuries, defense counsel fees, counsel fees, interest and costs of suit. Plaintiffs demand such other relief as this Court deems just and proper under the circumstances. Punitive Damages pursuant to N.J.S.A.2A:15-5.9 is DEMANDED.

Plaintiffs demand such other relief as this Court deems just and proper under the circumstances.

COUNT V
Per Quod Claims

81. Plaintiffs repeat and incorporate Paragraphs 1-80 herein by reference as though fully set forth.

82. Plaintiffs Nicole Hatton and Daniel J. Hopkins, as the natural parents of the decedent suffered the untimely end of their relationship of their son, with the corresponding loss of his income (past and future), services, protection, care, assistance, society, companionship, comfort, guidance, counsel and advice, and was forced to incur funeral and burial expenses.

83. Plaintiffs were entitled to the care, comfort, valuable companionship, and care and services and monetary contributions of their son, Daniel C. Hopkins.

84. As a direct and proximate cause of the negligence, deliberate indifference, intentional acts, omissions, and or other wrongdoing of the Defendants, named and unnamed, aforesaid, Plaintiff have been deprived of, and continue to be deprived of the care, comfort, valuable companionship, and care and services and monetary contributions of their son, Daniel C. Hopkins.

WHEREFORE, Plaintiffs demand judgment against Defendants

individually, jointly, and severally, for compensatory damages, interest, costs of suits as provided by law, and such other relief as the Court may deem just and equitable. Punitive Damages have been pled.



Anthony J. Cariddi,
For the Firm
Attorney for Plaintiff

JURY DEMAND

Demand is hereby made by Plaintiff for trial by jury in this matter.

Anthony J. Cariddi, Esq.
007071981

Dated: February 17, 2014



For the Firm

DESIGNATION OF TRIAL ATTORNEY

Pursuant to R.4:25-4, Anthony J. Cariddi is hereby designated trial attorney.

CERTIFICATION PURSUANT TO R. 1:4-8; R.4:5-1(b)(2) and R. 1:38-7c

Pursuant to R. 1:4-8, I, Anthony J. Cariddi, state that I have read this pleading and it to the best of my knowledge information and belief formed after an inquiry reasonable under the circumstances. I further certify that there is no other matter in controversy pending in any court or arbitration proceeding. R.4:5-1(b)(2) and that personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with R. 1:38-7c.


Anthony J. Cariddi

Dated: February 17, 2014

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to R.4:10-2(b), the plaintiffs requests discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance person may be liable to satisfy part or all of a judgment which may be entered in this action, or to indemnify or reimburse for payments made to satisfy said judgment

By: 
Anthony J. Cariddi

DEMAND FOR INTERROGATORIES

Pursuant to R. 4:17-2, plaintiff hereby request answers to Form C Interrogatories as set forth in Appendix II of the New Jersey Court Rules.