

SHAMY, SHIPERS & LONSKI, P.C.
251 Livingston Avenue
New Brunswick, New Jersey 08901
(732) 247-1133
Attorney for Plaintiffs

ROBERT THIBAUT,

Plaintiff,

vs.

**BOROUGH OF HIGHTSTOWN, BOROUGH
OF HIGHTSTOWN POLICE
DEPARTMENT, DETECTIVE BENJAMIN
MILLER,**

Defendant

t.

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION-MERCER COUNTY**

DOCKET NO. MER-L-2039-11

CIVIL ACTION

SUMMONS

THE STATE OF NEW JERSEY,

TO THE ABOVE NAMED DEFENDANT: Borough of Hightstown

The plaintiff(s), named above, has filed a lawsuit against you in the Superior Court of New Jersey. The Complaint attached to this Summons states the basis of 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 after service of the Summons and Complaint upon you, exclusive of the day of service. (The address of the Deputy Clerk of the Superior Court is provided herewith.) A \$135.00 filing fee payable to the Clerk of the Superior Court 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 the plaintiff's attorney whose name and address appear above. A telephone call will not protect your rights; you must file and serve a written Answer or Motion (with fee and completed Case Information Statement) if you want the Court to hear your case.

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 (phone number provided herewith).

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 the Lawyer Referral Service in the County where you live (phone number provided herewith).

/s/Jennifer M. Perez
JENNIFER M. PEREZ

Dated: August 20, 2012

Name of Defendant to be Served: **Borough of Hightstown**

Address for Service: 148 North Main Street
Hightstown NJ 08520

ATLANTIC COUNTY: Deputy Clerk of the Superior Court Civil Division, Direct Filing Atlantic County Civil Court Bldg. First Floor 1201 Bacharach Boulevard Atlantic City, NJ 08401 (609) 345-5700 LAWYER REFERRAL (609) 345-3444 LEGAL SERVICES (609) 348-4200	CUMBERLAND COUNTY: Deputy Clerk of the Superior Court Civil Case Management Office Cumberland County Courthouse Broad & Fayette Streets P.O. Box 615 Bridgeton, NJ 08302 (856) 451-8000 LAWYER REFERRAL (856) 692-6207 LEGAL SERVICES (856) 451-0003	MERCER COUNTY: Deputy Clerk of the Superior Court Local Filing Office, Courthouse 175 South Broad St., P.O. Box 8068 Trenton, NJ 08650 (609) 278-7986 LAWYER REFERRAL (609) 585-6200 LEGAL SERVICES (609) 695-6249	NEW JERSEY COUNTY: Deputy Clerk of the Superior Court Salem County Courthouse 92 Market Street P.O. Box 18 Salem, NJ 08079 (856) 935-7510 LAWYER REFERRAL (856) 935-6628 LEGAL SERVICES (856) 451-0003
BERGEN COUNTY: Deputy Clerk of the Superior Court Case Processing Section, Room 119 Bergen County Justice Center 10 Main Street Hackensack, NJ 07601-0769 (201) 646-2800 LAWYER REFERRAL (201) 488-0044 LEGAL SERVICES (201) 487-2166	ESSEX COUNTY: Deputy Clerk of the Superior Court 50 West Market Street, Room 131 Newark, NJ 07102 (973) 698-5700 LAWYER REFERRAL (973) 622-6207 LEGAL SERVICES (973) 624-4500	MIDDLESEX COUNTY: Deputy Clerk of the Superior Court Middlesex Administration Building, 3rd Floor 1 Kennedy Square, P.O. Box 2633 New Brunswick, NJ 08903-2633 (732) 981-3200 LAWYER REFERRAL (732) 828-0053 LEGAL SERVICES (732) 249-7600	SOMERSET COUNTY: Deputy Clerk of the Superior Court Civil Division Office New Courthouse, 3rd Floor P.O. Box 3000 Somerville, NJ 08876 (908) 231-7000 LAWYER REFERRAL (908) 685-2323 LEGAL SERVICES (908) 231-0840
BURLINGTON COUNTY: Deputy Clerk of the Superior Court Central Processing Office Attn: Judicial Intake Burlington County Court Facility, First Floor 49 Rancocas Road Mount Holly, NJ 08060 (609) 518-2500 LAWYER REFERRAL (609) 261-4862 LEGAL SERVICES (609) 261-1088	GLOUCESTER COUNTY: Deputy Clerk of the Superior Court Civil Case Management Office Attn: Intake First Floor, Court House 1 North Broad Street, P.O. Box 129 Woodbury, NJ 08096 (856) 853-3200 LAWYER REFERRAL (856) 848-4589 LEGAL SERVICES (856) 848-6360	MONMOUTH COUNTY: Deputy Clerk of the Superior Court Monmouth County Courthouse 71 Monument Park P.O. Box 1269 Freehold, NJ 07728-1269 (732) 431-7872 LAWYER REFERRAL (732) 431-5544 LEGAL SERVICES (732) 866-0020	SUSSEX COUNTY: Deputy Clerk of the Superior Court Sussex County Judicial Center 43-47 High Street Newton, NJ 07860 (973) 679-0675 LAWYER REFERRAL (973) 267-5882 LEGAL SERVICES (973) 383-7400
CAMDEN COUNTY: Deputy Clerk of the Superior Court Civil Processing Office First Floor, Hall of Records 101 South Fifth Street Camden, NJ 08108 (856) 225-5000 LAWYER REFERRAL (856) 964-4520 LEGAL SERVICES (856) 964-2010	HUDSON COUNTY: Deputy Clerk of the Superior Court Civil Records Dept. Brennan Courthouse, First Floor 583 Newark Avenue Jersey City, NJ 07306 (201) 795-6000 LAWYER REFERRAL (201) 798-2727 LEGAL SERVICES (201) 792-6363	MORRIS COUNTY: Deputy Clerk of the Superior Court Civil Division 30 Schuyler Place, P.O. Box 910 Morristown, NJ 07960-0910 (973) 656-4110 LAWYER REFERRAL (973) 267-5882 LEGAL SERVICES (973) 285-6911	UNION COUNTY: Deputy Clerk of the Superior Court Union County Courthouse 2 Broad Street, First Floor Elizabeth, NJ 07207-6073 (908) 659-4100 LAWYER REFERRAL (908) 353-4715 LEGAL SERVICES (908) 354-4340
CAPE MAY COUNTY: Deputy Clerk of the Superior Court Cape May County Courthouse 9 North Main Street Box DN-209 Cape May Court House, NJ 08210 (609) 465-1000 LAWYER REFERRAL (609) 463-0813 LEGAL SERVICES (609) 465-3001	HUNTERDON COUNTY: Deputy Clerk of the Superior Court Civil Division 65 Park Avenue Flemington, NJ 08822 (908) 788-1589 LAWYER REFERRAL (908) 735-2611 LEGAL SERVICES (908) 782-7979	OCEAN COUNTY: Deputy Clerk of the Superior Court Courthouse, Room 119 118 Washington Street Toms River, NJ 08754 (732) 244-2121 LAWYER REFERRAL (732) 240-3666 LEGAL SERVICES (732) 341-2727	WARREN COUNTY: Deputy Clerk of the Superior Court Civil Division Office Warren County Courthouse 413 Second Street Belvidere, NJ 07823-1500 (908) 475-6161 LAWYER REFERRAL (973) 267-5882 LEGAL SERVICES (908) 475-2010
		PASSAIC COUNTY: Deputy Clerk of the Superior Court Civil Division Passaic County Court House 77 Hamilton Street Paterson, NJ 07605 (973) 247-9000 LAWYER REFERRAL (973) 278-9223 LEGAL SERVICES (973) 845-7171	

CLERK OF SUPERIOR COURT
SUPERIOR COURT OF N.J.
MERCER COUNTY
RECEIVED AND FILED

Shamy, Shapers & Lonski, P.C.
251 Livingston Avenue
New Brunswick, NJ 08901
732-247-1133

JUL 30 2012

Attorneys for Plaintiff

ROBERT THIBAUT,

Sue Regan
SUE REGAN, DEPUTY CLERK OF SUPERIOR COURT
Plaintiff,

SUPERIOR COURT OF NEW JERSEY
DIVISION-MERCER COUNTY
DOCKET NO.: MER-L-2039-11

vs.

COMPLAINT, JURY DEMAND AND
DESIGNATION OF TRIAL COUNSEL

BOROUGH OF HIGHTSTOWN, BOROUGH OF
HIGHTSTOWN POLICE DEPARTMENT,
DETECTIVE BENJAMIN MILLER,

Defendant.

Plaintiff, ROBERT THIBAUT, residing at 504 South Main Street, in the Borough of Hightstown, County of Mercer and State of New Jersey (hereinafter known as "Plaintiff"), by way of Complaint against Defendants, BOROUGH OF HIGHTSTOWN (hereinafter known as "Defendant Borough") and DETECTIVE BENJAMIN MILLER, individually and as agent for Defendant Borough of Hightstown, (hereinafter known as "Defendant Miller"), with their principal place of business being 148 North Main Street in the Borough of Hightstown, County of Mercer and State of New Jersey says:

FIRST COUNT

1. On 6 August 2010, Plaintiff was lawfully operating his motor vehicle in the Borough of Hightstown, County of Mercer and State of New Jersey.

2. At approximately 7:52 a.m., Plaintiff was stopped without probable cause by Defendant Miller.

4. Due to conflicts, these were transferred to the West Windsor Municipal Court for trial and associated Motion practice.

5. Plaintiff filed a Suppression Motion challenging the unlawfulness of the investigation of him that preceded the stop and the stop by Defendant Miller, in the due course of his employment and on behalf of Defendant Borough, as being illegally politically motivated, based on "political profiling," in violation of his rights under the State of New Jersey and the United States' Constitutions.

6. By way of background, at the time of the challenged motor vehicle stop, Plaintiff was the Republican candidate for Mayor of Defendant Borough.

7. As a citizen and mayoral candidate, Plaintiff was an outspoken advocate of a consolidation plan for the East Windsor Police Department to take over police services for Defendant Borough.

8. Plaintiff's position was well known and documented, in the local media, including specifically the Windsor-Heights Herald, the local newspaper.

9. Subsequent to this stop, Plaintiff filed a complaint against Defendant Miller with the Defendant Borough's Police Department, with the Mercer County Prosecutor's office and other Law Enforcement agencies.

10. The internal investigation by the Defendant Borough's Police Department commenced on 20 August 2010.

11. A copy of all relevant information was forwarded to the Mercer County Prosecutor's office by the Defendant Borough's Police Department.

12. The Mercer County Prosecutor's Officer completed a "paper review" of the complaint and returned the matter to Defendant Borough's Police Department with instructions to continue its internal investigation.

13. This Internal Affairs investigation re-commenced on or about 2 February 2011.

14. Based upon the dates of the investigation reports completed by one Sgt. Gendron, the review was finalized on 17 February 2011.

15. Upon being advised of the completion of the investigation, counsel for Plaintiff filed a Motion before the Honorable Mary S. Brennan, J.M.C., seeking the release of a copy of the Internal Investigation file.

16. By letter dated 29 June 2011, Judge Brennan ordered the release of a copy of the report to Plaintiff's Counsel and the Municipal Prosecutor with some limitations on its use and/or reference to the contents of the reports, pending further Order of the Court.

17. Plaintiff promptly filed a Motion seeking to vacate the restrictions on the use of the reports for the purpose of preparing his defense, which application was granted by Judge Brennan on 26 July 2011.

18. A review of this file and its reports confirmed that the actions of Defendants were in violation of Plaintiff's rights

including his civil rights under the New Jersey Constitution and Federal Constitution (1st and 14th Amendments), State Law (N.J.S.A. 10:6-1 et. seq.) and Federal Law (42 U.S.C. §1983 and §1985).

19. Finding that Plaintiff's rights were violated, by decision dated 21 December 2011, The Honorable Mary S. Brennan, J.M.C., suppressed the evidence and dismissed the charges.

20. Plaintiff alleges that the violation of these rights began at least a day prior to the motor vehicle stop, on or about the time Defendant Miller performed an illegal inquiry into Plaintiff's warrant and D.M.V. history, wrongly motivated by a political agenda against the candidate Plaintiff.

21. This illegal conduct, under color of law, continued up to, and including, the 6 August 2010 stop of Plaintiff's motor vehicle and subsequently during the course of the Internal Investigation.

22. Neither Defendant Borough nor Defendant Miller has taken responsibility for this illegal conduct nor has Defendant Borough taken any action against Defendant Miller for his conduct in this matter.

23. As a result of the above-described illegal conduct by Defendants, Plaintiff has suffered non-economic damages, including in the form of pain and suffering, harm to his reputation, humiliation, and loss of self-esteem.

24. As a result of the above-described illegal conduct by Defendants, Plaintiff has suffered economic damages.

25. This Complaint is now timely filed.

WHEREFORE, Plaintiff, **ROBERT THIBAUT**, demands judgment against Defendants, **BOROUGH OF HIGHTSTOWN** and **DETECTIVE BENJAMIN MILLER**, jointly and severally, for compensatory damages, damages as a result of negligent or intentional infliction of emotional distress, pre-judgment interest, post-judgment interest, attorneys fees and costs of suit, and such other relief determined just and equitable by the court.

SECOND COUNT

26. The illegal conduct of Defendants set fourth above had as it purpose to negligently and intentionally emotionally harm Plaintiff.

27. As a result of the illegal conduct by Defendants, jointly and severally, Plaintiff has suffered non-economic damages including to his professional reputation and self-esteem.

WHEREFORE, Plaintiff, **ROBERT THIBAUT**, demands judgment against Defendant, **BOROUGH OF HIGHTSTOWN** and **DETECTIVE BENJAMIN MILLER**, jointly and severally, for compensatory damages, pre-judgment interest, post-judgment interest, attorneys fees and costs of suit, and such other relief determined just and equitable by the Court.

THIRD COUNT

28. Plaintiff repeats and realleges the allegations in the First and Second Count as if set for that length herein.

29. Defendants, by their actions, intentionally, willfully and/or recklessly maligned the professional reputation and integrity of Plaintiff such that his rights and opportunities have been damaged.

30. As a result of the above-described illegal conduct by Defendants, Plaintiff has suffered non-economic damages, including in the form of pain and suffering, harm to his reputation, humiliation and loss of self-esteem

31. As a result of the above-described illegal conduct by Defendants, Plaintiff has suffered economic damages.

WHEREFORE, Plaintiff, **ROBERT THIBAUT,** demands judgment against Defendants, **BOROUGH OF HIGHTSTOWN** and **DETECTIVE BENJAMIN MILLER,** jointly and severally, for compensatory damages, negligent, intentional, willful and/or wreckless maligning of his professional reputation and integrity, punitive damages, pre-judgment interest, post-judgment interest, attorneys fees and costs of suit, and such other relief determined just and equitable by the Court.

FOURTH COUNT

32. Plaintiff repeats and realleges the allegations in the First, Second and Third Counts as if set forth at length herein.

33. As a result of the above-described illegal conduct by Defendants, Plaintiff has been defamed.

34. As a result of the above-described illegal conduct by Defendants, Plaintiff has suffered non-economic damages, including in the form of pain and suffering, harm to his reputation, humiliation and loss of self-esteem.

35. As a result of the above-described illegal conduct by Defendants, Plaintiff has suffered economic damages.

WHEREFORE, Plaintiff, **ROBERT THIBAUT**, demands judgment against Defendant, **BOROUGH OF HIGHTSTOWN** and **DETECTIVE BENJAMIN MILLER**, jointly and severally, for compensatory damages, statutory damages for defamation, plus pre-judgment interest, post-judgment interest, attorneys fees and costs of suit, and such other relief determined just and equitable by the Court.

FIFTH COUNT

36. Plaintiff repeats and realleges the allegations in the First, Second, Third and Fourth Counts as if set forth at length herein.

37. Plaintiff's rights under the New Jersey Constitution to be free from political targeting and/or discrimination have been violated by Defendants.

38. As a result of the above-described illegal conduct by Defendants, Plaintiff has suffered non-economic damages, including in the form of pain and suffering, harm to his reputation, humiliation and loss of self-esteem.

39. As a result of the above-described illegal conduct by Defendants, Plaintiff has suffered economic damages, including having been deprived of income in the form of back pay and front pay, and fringe benefits, and other job rights and he has suffered. Plaintiff has suffered economic damages by way of attorney fees to defend the unconstitutional actions by the defendants.

WHEREFORE, Plaintiff, **ROBERT THIBAUT**, demands judgment against Defendant, **BOROUGH OF HIGHTSTOWN** and **DETECTIVE BENJAMIN MILLER**, jointly and severally, for compensatory damages, statutory damages pursuant to the Constitution of the State of New Jersey, plus pre-judgment interest, post-judgment interest, attorneys fees and costs of suit, and such other relief determined just and equitable by the Court.

SIXTH COUNT

40. Plaintiff repeats and realleges the allegations in the First, Second, Third, Fourth and Fifth Counts as if set forth at length herein.

41. Defendants have violated Plaintiff's civil rights as set forth in N.J.S.A. 10:6-2.

42. As a result of the above-described illegal conduct by Defendants, Plaintiff has suffered non-economic damages, including in the form of pain and suffering, harm to his reputation, humiliation and loss of self-esteem.

43. As a result of the above-described illegal conduct by Defendants, Plaintiff has suffered economic damages.

WHEREFORE, Plaintiff, **ROBERT THIBAUT**, demands judgment against Defendant, **BOROUGH OF HIGHTSTOWN** and **DETECTIVE BENJAMIN MILLER**, jointly and severally, for compensatory damages, statutory damages pursuant to the New Jersey Civil Rights Act, N.J.S.A. 10:6-2, plus pre-judgment interest, post-judgment interest, attorneys fees and costs of suit, and such other relief determined just and equitable by the Court.

SEVENTH COUNT

44. Plaintiff repeats and realleges the allegations in the First, Second, Third, Fourth Fifth and Sixth Counts as if set forth at length herein.

45. The illegal conduct of Defendants violated the Constitution of the United States of America, pursuant to 42 U.S.C. §1983 and §1985.

46. As a result of the above-described illegal conduct by Defendant, Plaintiff has suffered non-economic damages, including in the form of pain and suffering, harm to his reputation, humiliation and loss of self-esteem

47. As a result of the above-described illegal conduct by Defendant, Plaintiff has suffered economic damages, including attorney fees to defend the unconstitutional actions of the defendants.

WHEREFORE, Plaintiff, **ROBERT THIBAUT**, demands judgment against Defendant, **BOROUGH OF HIGHTSTOWN** and **DETECTIVE BENJAMIN MILLER**, jointly and severally, for compensatory damages, statutory damages and punitive damages pursuant to 42 U.S.C. §1988, plus pre-judgment interest, post-judgment interest, attorneys fees and costs of suit, and such other relief determined just and equitable by the Court.

DEMAND FOR INSURANCE COVERAGE

Pursuant to the Rules of Court, Demand is made that Defendants disclose to Plaintiff whether or not there are any insurance agreements or policies under which any person or firm carrying on

an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or indemnify or reimburse for payments made to satisfy the judgment and provide Plaintiff with true copies of those insurance agreements or policies including, but not limited to, any and all declaration sheets.

DESIGNATION OF TRIAL COUNSEL

PURSUANT to the Rules of Court, it is advised that WILLIAM SHIPERS, ESQ., is hereby designated as trial counsel.

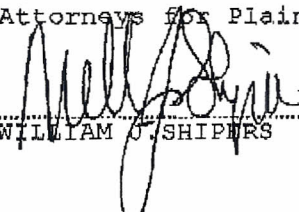
CERTIFICATION

I certify that to the best of my knowledge, information and belief, this action is not now subject of any other litigation or arbitration other than the continuing, without apparent end, departmental hearing referenced in this Complaint, nor is any contemplated at this time and that I know of no other party who should be joined in this action.

I certify that this pleading is timely filed.

I certify that the above statements are true and acknowledge that if they are willfully false, that I may be subject to punishment.

Shamy, Shippers & Lonski, P.C.
251 Livingston Avenue
New Brunswick, NJ 08901
732-247-1133
Attorneys for Plaintiff


WILLIAM J. SHIPPERS

DATED: July 26, 2012

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY		
	Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed		PAYMENT TYPE: ☐ CK ☐ CG ☐ CA CHG/CK NO. _____ AMOUNT: _____ OVERPAYMENT: _____ BATCH NUMBER: _____		
	ATTORNEY / PRO SE NAME William J. Shippers, Esq.		TELEPHONE NUMBER (732) 247-1133		
	COUNTY OF VENUE Mercer		DOCKET NUMBER (when available) _____		
	FIRM NAME (if applicable) Shamy Shippers & Lonski		DOCUMENT TYPE Complaint		
OFFICE ADDRESS 251 Livingston Avenue New Brunswick NJ 08901		JURY DEMAND ☒ Yes ☐ No			
NAME OF PARTY (e.g., John Doe, Plaintiff) Robert Thibault, Plaintiff		CAPTION Robert Thibault vs. Borough of Hightstown, and detective Benjamin Miller			
CASE TYPE NUMBER (See reverse side for listing) 005		IS THIS A PROFESSIONAL MALPRACTICE CASE? ☐ YES ☐ NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.			
RELATED CASES PENDING? ☐ YES ☒ NO		IF YES, LIST DOCKET NUMBERS _____			
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? ☐ YES ☐ NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) _____ ☐ NONE ☐ UNKNOWN			
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.					
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION					
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? ☐ YES ☐ NO		IF YES, IS THAT RELATIONSHIP: ☐ EMPLOYER/EMPLOYEE ☐ FRIEND/NEIGHBOR ☐ OTHER (explain) ☐ FAMILIAL ☐ BUSINESS			
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? ☐ YES ☐ NO					
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION					
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? ☐ YES ☐ NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION _____			
WILL AN INTERPRETER BE NEEDED? ☐ YES ☐ NO		IF YES, FOR WHAT LANGUAGE? _____			
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .					
ATTORNEY SIGNATURE: _____					