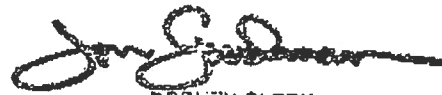


SUPERIOR COURT BERGEN COUNTY
FILED

MAY 08 2012


DEPUTY CLERK

LOUIS A. ZAYAS, ESQ.
LAW OFFICES OF LOUIS A. ZAYAS, L.L.C.
8901 Kennedy Boulevard, 5th Floor
North Bergen, N.J. 07047
Counsel for the Plaintiff
(201) 977-2900

ANTHONY MASTROFILIPPO, DIANE
MASTROFILIPPO,

Plaintiffs,

v.

BOROUGH OF LITTLE FERRY, ANGELA
OROZCO, OFFICER JOHN CLARK,
OFFICER SAMUEL AGUILAR, SERGEANT
JAMES WALTERS, LIEUTENANT SCOTT
CROWL, MICHAEL CAPABIANCO, GINO
TEDESCO, CHIEF RALPH VERDI, and
DETECTIVE HARTLESS,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

L-3552-12

CIVIL ACTION

COMPLAINT

The Plaintiff ANTHONY MASTROFILIPPO, by and through his attorney,
LOUIS A. ZAYAS of the LAW OFFICES OF LOUIS A. ZAYAS, L.L.C. alleges the
following upon information and belief:

INTRODUCTION

1. This is a civil action brought by Plaintiff Anthony Mastrofilippo for civil rights violations arising under Title 42 U.S.C. §1983 and New Jersey Civil Rights Statute, N.J.S.A. §10:6-2, based on unlawful arrest, abuse of process, and malicious prosecution, and for common law negligence and defamation, and by Plaintiff Diane Mastrofilippo for loss of consortium.

PARTIES

2. Plaintiff Anthony Mastrofilippo is a citizen of the State of New Jersey, residing in

the Borough of Little Ferry. He is employed as a Police Officer in Union City.

3. Plaintiff Diane Mastrofilippo is Plaintiff Anthony Mastrofilippo's wife, and is also a resident of the Borough of Little Ferry.

4. Defendant Borough of Little Ferry ("Borough" or "Little Ferry") is a municipality organized by virtue of New Jersey law and pursuant to that law. Defendant Little Ferry is sued to affect the full declaratory, injunctive and compensatory damages demanded by the Plaintiff.

5. Defendant Angela Orozco is citizen of the State of New Jersey, residing in the Borough of Little Ferry.

6. Chief Ralph Verdi is the Chief of Police for the Borough of Little Ferry.

7. Officer John Clark is a Police Officer for the Borough of Little Ferry.

8. Officer Samuel Aguilar is a Police Officer for the Borough of Little Ferry.

9. Sergeant James Walters is a Police Sergeant for the Borough of Little Ferry.

10. Scott Crowl is a Lieutenant for the Borough of Little Ferry.

11. Michael Capabianco is the Administrator of the Borough of Little Ferry.

12. Gino Tedesco is the Property and Maintenance Inspector for the Borough of Little Ferry.

13. Detective Hartless is a Detective for the Borough of Little Ferry.

JURISDICTION

14. The jurisdiction of this Court is invoked by Plaintiff pursuant to 28 U.S.C. § 1343, which confers original jurisdiction on this Court on the ground that the instant action arises under 42 U.S.C. § 1983. Plaintiff also invokes this Court's pendent jurisdiction with respect to Plaintiff's claims based on New Jersey's common law causes of action.

15. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), in as much as the Borough of Little Ferry can be found in the District of New Jersey, and the cause of action occurred in Bergen County.

FACTS

16. Plaintiff lives at 17 Charles Street, in the Borough of Little Ferry, New Jersey.

17. Defendant Angela Orozco owns the property next to Plaintiff, at 21 Charles Street.

18. Orozco has violated laws and regulations countless times through her negligent and improper use and care of her property.

19. Plaintiff has complained to the Borough numerous times about violations on Orozco's property, as well as the illegal basement apartment on her property which Orozco has rented and has lived in herself. Plaintiff has called the police department regarding Orozco's violations, gone in person to City Hall, and sent numerous emails to the Borough Administrator. Orozco continued to reside in the illegal basement apartment on her property for at least eleven months since Plaintiffs complained to Little Ferry, until April 26, 2012.

20. Despite numerous conversations with and emails to Little Ferry Administrator Michael Capabianco Property and Maintenance Inspector, Gino Tedesco, both Capabianco and Tedesco failed to take adequate remedial actions to correct the situation.

21. On many occasions, when Plaintiff attempted to contact the Borough or Police Department, they would refuse to act, stating "why don't you just put up a fence?" or "well what do you want us to do?" or "that is between neighbors, we can't do anything about it."

22. For example, on or around April 7, 2010, Plaintiff called the police after an altercation with one of Orozco's tenants. Lieutenant Crowl and another Officer responded. Lieutenant Crowl told Plaintiff "if you don't like your neighbors why don't you sell your house and move out of Little Ferry?" Plaintiff asked Crowl to leave his property, but Crowl refused.

23. Plaintiff then went to the Little Ferry Police Department to file a complaint against Lieutenant Crowl for his "unprofessional behavior, arrogance, and insubordination, and for agitating an already tense situation." Detective Hartless took Plaintiff's statement, and Chief Verdi and Captain Klien met with Plaintiff. Klien told Plaintiff, "from now on we'll make sure every violation is addressed on Charles St.," which Plaintiff interpreted as a threat.

24. In or around September 2010, the Borough of Little Ferry sent out a newsletter, listing a website for residents to post their concerns or complaints. Plaintiff explained his "disappointment with the Borough's many services and lack of enforcement regarding obviously clear and blatant violations brought to the attention of the Borough." Plaintiff also expressed his opinion, (which is protected under the free speech clause of the Constitution), that the "bulk of the Little Ferry Police Department is useless, specifically the high ranking officers and top level management."

25. In early December 2010, Plaintiff was pulled over by Lieutenant Crowl for using his cell phone while driving. Crowl gave him a warning and said "the next time you contact or call the Borough to complain about me to the Mayor or Chief, make sure you tell them how nice of a guy I am!" Plaintiff interpreted this as a threat and harassment.

26. On or about June 1, 2011, Plaintiff contacted the Borough Administrator

Capabianco, listing the numerous violations on Orozco's property, including the fact that Orozco was living in an illegal basement apartment, the second offense of this violation (she had been renting it the year before).

27. Capabianco failed to take any action. On June 16, 2011, Plaintiff emailed him again, stating that if the Borough failed to act on his complaints, several of which involved health and safety issues, and if he or his family was injured, he would hold the Borough liable.

28. On June 22, 2011, Orozco received a violation notice from the Borough. She came storming over to Plaintiff's house, cursing at him, asking why he had contacted the Borough about her property. Plaintiff called the police, as she was trespassing on his property. Orozco told him "I'm going to get you! You'll pay for this!"

29. Orozco then told Plaintiff's wife, Diane Mastrofilippo, "I'm going to get him! He'll pay for this!"

30. The Chief of Police Verdi arrived in an unmarked car, followed by Officers Aguilar and Clark and Sergeant Walters.

31. Orozco made wild and false allegations against Plaintiff to the police, including allegations of sexual assault and lewdness. She stated "He wants my body and tells me that he doesn't like his wife because she is so fat." When asked when this occurred, she stated that it was two years ago. Chief Verdi responded "two years ago? And yet you never reported it?" To which Orozco stated that Plaintiff had actually sexually assaulted her "seven months ago," then changed her story again and stated that Plaintiff had assaulted her twice in Union City.

32. On June 23, Plaintiff was told by the Little Ferry Police that when they took

Orozco's complaint, there was a "serious language barrier, but from what we understand, it may have happened three weeks ago." Despite the "language barrier," no attempt was made to obtain an interpreter. Plaintiff was told that Orozco had filed criminal complaints for "sexual contact" and "lewdness" against him.

33. Detective Hartless completely disregarded the many inconsistencies in Orozco's differing accounts, and the fact that she "spoke perfect English" to the Chief of Police the day before.

34. The Little Ferry Police Officers were familiar with Mastrofilippo's complaints about Orozco's disorderly tenants and property violations and Plaintiff, and were aware of Plaintiff's complaints about the efficacy of the Little Ferry Police Department. They knew, or should have known, that Orozco's allegations were false and made in retaliation for Plaintiff's complaints about her property.

35. On July 11, 2011, Plaintiff emailed the Borough Administrator Capabianco, listing the specific ordinances that Orozco was continuing to violate. Capabianco responded: "While at the property on Thursday afternoon, the Property Maintenance Inspector (Gino) Building Inspector (Bolan), and I, observed several violations on *your* property," and stated that if Plaintiff did not provide copies of permits by the end of the week, action would be taken against *him*. Capabianco further stated that Plaintiffs' complaints "could not be verified." Rather than enforcing the clear violations that Plaintiff brought to the Town's attention, the Town chose to harass Plaintiffs.

36. A probable cause hearing was held on June 30, 2011, however, Orozco did not show up. Rather than dismiss the charges, they rescheduled the hearing. An excessive and unheard of number of high ranking Little Ferry Police Officers were present in an

attempt to intimidate Plaintiffs.

37. On July 14, 2011, a second probable cause hearing was held regarding Orozco's allegations against Plaintiff. Again, an excessive and unheard of number of high ranking Little Ferry Police Officers were present in an attempt to intimidate Plaintiffs. Orozco testified through an interpreter, and stated that on June 22, 2011:

I was in my house backyard close to the garbage cans organizing my yard. I gave my back to this gentleman and suddenly I felt that someone grabbed me by my hands, grabbed me by my hands, touched my breasts, grabbed me like this.

After that he turned me around and when I looked at him his intimate parts were outside. He grabbed me, threw me against the wall, and he rubbed his intimate parts against me. And he wanted to grab me like this and kiss me. The only thing that I was able to do because I had my hands like this was try and let go and I tried to scratch his face.

When he felt that he moved back because he felt a fright that I would scratch his face. And he has always been saying that I want you to be my woman. I want to have sex with you. He's always saying that Hispanic women drive me crazy.

And for the last two years he's been harassing me sexually. He stands by the window to look at me. And when I go out to the backyard he goes out to the backyard also to try to talk to me and telling me sexual things such as I want to go to bed with you.

That he's tired because his wife is old. And she's an American woman. And he says that American women are not as hot as Hispanics.

38. Based on Orozco's testimony, claiming an assault on June 22, 2011 (the fifth separate date of alleged violations claimed by Orozco in her continually changing testimony), Plaintiff check his work records and determined that he had been on duty in Union City on a traffic control detail at the time. Therefore, it would have been clearly impossible to have committed the acts alleged.

39. Despite Orozco's conflicting and internally inconsistent testimony, Little Ferry did not question it. Rather, they allowed criminal complaints to be falsely lodged against

Plaintiff in an attempt to retaliate against him.

40. Probable cause was granted, and Plaintiff was arrested and processed that night, July 14, 2011. That night, police passed Plaintiffs' house over fifteen times in marked cars- another attempt to intimate him.

41. The next day, July 15, 2011, Plaintiff was told to surrender his duty weapon at work. On August 31, 2011, Orozco's complaints against Plaintiff were dismissed, a disposition in favor of Plaintiff. (Yet plaintiff was not even notified that these criminal charges against him had been dismissed until October 3, 2011.)

42. To date, it has been almost eleven months since Plaintiff contacted the Town. The Town told Plaintiff, that instead of enforcing the Town ordinances itself, Plaintiff "should file a motion in lieu of a prerogative writ to force their hand." No corrective action has been taken regarding Orozco's numerous property violations. These violations include rubbish next to her garage where animals are known to live.

43. The Town continues to neglect Plaintiffs' safety, blatantly refusing to enforce property violations.

44. On April 20, 2012, Riverside Paving parked two large machines directly in front of Plaintiffs' home, completely obstructing their view while pulling out of their driveway, creating a safety hazard. The Town ignored Plaintiffs' repeated calls to the Police Department asking the machinery be removed, instead allowing it to remain for three days, an act of retaliation and harassment. Instead, the Police Department insisted that there was "no other place" in the whole town (which has many empty lots), where they could be parked.

COUNT ONE
42 U.S.C. § 1983
MUNICIPAL LIABILITY

45. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.

46. The Borough of Little Ferry violated Plaintiff's civil rights to be free from malicious prosecution, false arrest, and abuse of process, and his right to petition the government and right to free speech protected under the New Jersey Constitution.

47. Plaintiff was falsely and maliciously arrested in relation for his complaints about the inefficacy and of the Little Ferry Borough and Police Department.

48. Acting through its policy-makers, Little Ferry intentionally, knowingly, or with deliberate indifference to the rights of the Plaintiff, failed to train, instruct, supervise, control and/or discipline its Police Officers for engaging in the aforementioned constitutional violations.

49. The Chief of Police, whose decisions can be imputed to the Borough, participated in taking Orozco's statement and in charging Plaintiff.

50. As a result of the foregoing, the Plaintiff's constitutional rights have been violated, causing Plaintiff to suffer great anxiety, humiliation, embarrassment, economic damages, and other related injuries in an amount to be determined by a jury.

COUNT TWO
NJ CIVIL RIGHTS STATUTE
MALICIOUS PROSECUTION

51. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.

52. Defendant Angela Orozco charged Plaintiff with indictable offenses.
53. Orozco lacked any probable cause to believe that Plaintiff committed any of the crimes or sexual acts charged.
54. Orozco filed the above charges maliciously, in order to retaliate against Plaintiff for having complained to the Borough about her property violations.
55. The Police Officers of Little Ferry, with knowledge of the history between Plaintiffs and Orozco, recklessly disregarded the inconsistencies in Orozco's accusations, and charged Mastrofilippo in retaliation for his complaints about the Police Department.
56. The criminal charges were dismissed in favor of Plaintiff.
57. As a result of the foregoing, the Plaintiff's civil rights have been violated, causing Plaintiff to suffer great anxiety, humiliation, embarrassment, economic damages and other related injuries, which Plaintiff has suffered and will continue to suffer in an amount to be determined by a jury.

COUNT THREE
FALSE ARREST

58. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.
59. Defendant Angela Orozco charged Plaintiff with an indictable offense, knowingly creating wildly false and heinous allegations.
60. Orozco filed a criminal complaint against Plaintiff maliciously, in order to retaliate against Plaintiff for having complained to the Borough about her property violations.
61. The Police Officers of Little Ferry, with knowledge of the history between Plaintiffs and Orozco, recklessly disregarded the inconsistencies in Orozco's accusations,

and charged Mastrofilippo in retaliation for his complaints about the Police Department.

62. The criminal charges were dismissed in favor of Plaintiff.

63. As a result of the foregoing, the Plaintiff's constitutional rights have been violated, causing Plaintiff to suffer great anxiety, humiliation, embarrassment, economic damages, and other related injuries, in an amount to be determined by a jury.

COUNT FOUR
DEFAMATION PER SE

64. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.

65. Orozco made false and defamatory statements about Plaintiff, accusing him of sexual crimes, constituting defamation per se.

66. Orozco knew the statements to be false.

67. Orozco communicated the false and defamatory statements to the Police, the Court, and others.

68. As a result of the foregoing Plaintiff has suffered great anxiety, humiliation, embarrassment, economic damages, and other related injuries in an amount to be determined by a jury.

COUNT FIVE
NEGLIGENT PROPERTY DAMAGE
ANGELA OROZCO

69. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.

70. Orozco failed to exercise a reasonable degree of care in maintaining her property, or cutting part of a tree on her property, causing damage to Plaintiff's garage and driveway.

71. As a result of the foregoing, Plaintiff's property has been damaged in an amount to be determined by a jury.

COUNT SIX
LOSS OF CONSORTIUM

72. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.

73. Defendants' actions have caused marital issues between Plaintiffs. There is a lot of tension in the household, and at times the parties will not even speak.

74. As a result of the foregoing, both Plaintiffs Diane and Anthony Mastrofilippo have suffered a loss of consortium.

WHEREFORE, Plaintiffs pray that this Court enter an order finding as follows:

- a. That a declaratory judgment be issued that the Plaintiffs' rights have been violated as alleged above;
- b. that the Borough of Little Ferry, Angela Orozco, and the above named officers violated Plaintiffs' civil rights;
- c. that the Plaintiffs recover from the Defendants, jointly and severally, compensatory damages, exemplary and punitive damages, attorney's fees, and such other monetary relief as may be deemed appropriate in amounts to be determined at trial;
- d. that the Plaintiffs recover from the Defendants, jointly and severally, prejudgment interest to the maximum extent permitted by law; and
- e. that the Court grant such other and further relief as it deems just and proper.

PRAYER FOR RELIEF

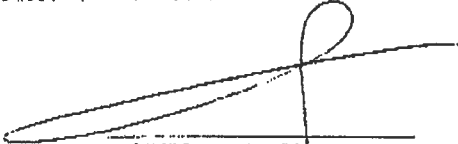
WHEREFORE, Plaintiff demands judgment against the Defendants, jointly and severally, for the following relief:

- a. Compensatory Damages;
- b. Punitive Damages;
- c. Attorney's fees and costs of suit;
- d. Such other and further relief as the Court deems equitable and just.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial as to all issues so triable.

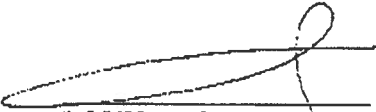
Dated: 5/7/12


LOUIS A. ZAYAS, ESQ.

DESIGNATION OF TRIAL COUNSEL

LOUIS A. ZAYAS, ESQ., is designated as trial counsel in this matter.

Dated: 5/7/12


LOUIS A. ZAYAS, ESQ.

DEMAND FOR PRODUCTION OF INSURANCE AGREEMENTS

Pursuant to R. 4:10-2(b), demand is hereby made that you disclose to the undersigned whether there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy all or part of a judgment which may be entered in the action or to indemnify or reimburse for payment

made to satisfy the judgment. If so, please attach a copy of each, or alternative state, under oath and certification: (a) policy number; (b) name and address of insurer; (c) inception and expiration date; (d) names and addresses of all persons insured thereunder; (e) personal injury limits; (f) property damages limits; and (g) medical payment limits.

Dated: 5/7/12

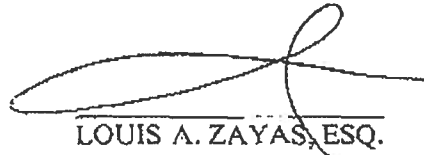


LOUIS A. ZAYAS, ESQ.

CERTIFICATION PURSUANT TO R. 4:5-1

I certify that the matters in controversy in this action are not subject of any other action pending in any other court or of a pending arbitration proceeding, and that no other action or arbitration proceeding is contemplated.

Dated: 5/7/12



LOUIS A. ZAYAS, ESQ.