

MONMOUTH COUNTY
SUPERIOR COURT
PO BOX 1269
FREEHOLD

NJ 07728

COURT TELEPHONE NO. (732) 677-4240
COURT HOURS 8:30 AM - 4:30 PM

TRACK ASSIGNMENT NOTICE

DATE: OCTOBER 26, 2015
RE: MYLOD VS BOROUGH OF MANASQUAN ET AL
DOCKET: MON L -003905 15

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 3.

DISCOVERY IS 450 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON JOSEPH P. QUINN

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 001
AT: (732) 677-4256 EXT 4256.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:

ATT: PHILIP G. MYLOD
PHILIP G. MYLOD
PO BOX 484
LAVALETTE NJ 08735

JUNVALO

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 Philip G. Mylod, Esquire		TELEPHONE NUMBER (732) 830-6464	
	FIRM NAME (if applicable)		COUNTY OF VENUE Monmouth	
	OFFICE ADDRESS P.O. Box 484, Lavallette, NJ 08735		DOCKET NUMBER (when available) L 3905-15	
NAME OF PARTY (e.g., John Doe, Plaintiff) Michael G. Mylod, Plaintiff		FILED OCT 20 2015 MONMOUTH VICINAGE CIVIL DIVISION 205		
CASE TYPE NUMBER (See reverse side for listing) 005		HURRICANE SANDY RELATED? ☐ YES ☒ NO		
RELATED CASES PENDING? ☐ YES ☒ NO		IS THIS A PROFESSIONAL MALPRACTICE CASE? ☐ YES ☒ NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
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 ☐ FAMILIAL ☐ FRIEND/NEIGHBOR ☐ BUSINESS ☐ OTHER (explain)		
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:				



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

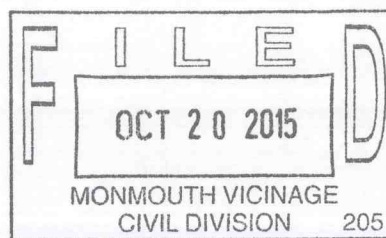
Multicounty Litigation (Track IV)

- | | |
|--|---|
| 271 ACCUTANE/ISOTRETINOIN | 289 REGLAN |
| 274 RISPERDAL/SEROQUEL/ZYPREXA | 290 POMPTON LAKES ENVIRONMENTAL LITIGATION |
| 278 ZOMETA/AREDIA | 291 PELVIC MESH/GYNECARE |
| 279 GADOLINIUM | 292 PELVIC MESH/BARD |
| 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL | 293 DEPUY ASR HIP IMPLANT LITIGATION |
| 282 FOSAMAX | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
| 285 STRYKER TRIDENT HIP IMPLANTS | 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS |
| 286 LEVAQUIN | 297 MIRENA CONTRACEPTIVE DEVICE |
| 287 YAZ/YASMIN/OCELLA | 601 ASBESTOS |
| 288 PRUDENTIAL TORT LITIGATION | 623 PROPECIA |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category ☐ Putative Class Action ☐ Title 59

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Attorney ID 033801987
Attorney for Plaintiff, Michael G. Mylod



MICHAEL G. MYLOD,

Plaintiff,

v.

BOROUGH OF MANASQUAN, GEORGE :
R. DEMPSEY, JR., Individually and in his :
Capacity as Mayor for the Borough of :
Manasquan, POLICE CHIEF ELLIOTT :
CORREIA, Individually and in his :
supervisory capacity as Police Chief for the :
Manasquan Police Department, :
DETECTIVE ADAM PHARO, and JOHN :
and JANE DOES A to Z, members of the :
Manasquan Police Department, :

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MONMOUTH COUNTY

DOCKET NO. **L 3905-15**

CIVIL ACTION

COMPLAINT AND
JURY DEMAND

Plaintiff, Michael G. Mylod, by way of complaint against all the Defendants,
respectfully says:

NATURE OF THE CASE

This is an action for monetary damages (compensatory and punitive) against the Defendants, BOROUGH OF MANASQUAN, MAYOR GEORGE R. DEMPSEY, JR., POLICE CHIEF ELLIOTT CORREIA, DETECTIVE ADAM PHARO, and JOHN AND JANE DOES A TO Z, EMPLOYEES OF MANASQUAN POLICE DEPARTMENT. It arises out of an occurrence that commenced on or about October 24, 2014, wherein the above-named defendants, acting under the color of state law, intentionally and willfully subjected

Plaintiff to, *inter alia*, false arrest, false imprisonment, detention and malicious prosecution for acts of which Plaintiff was clearly innocent. This unconstitutional and unreasonable seizure of the Plaintiff and his property and the subsequent malicious prosecution was in violation of Plaintiff's rights under the Fourth and Fourteenth Amendment to the U.S. Constitution, the Constitution of the State of New Jersey and the New Jersey Civil Rights Act.

On October 24, 2014, at 4:00 p.m., Plaintiff was parked at a Manasquan Park known as Curtis Park located at East Main Street, Manasquan, New Jersey. Plaintiff was cleaning out his vehicle and threw out Dunkin Donuts garbage. He returned to his vehicle and was sitting in the driver's side organizing things and cleaning for transporting patients as a private duty nurse. A Manasquan police officer approached on foot, having exited his patrol car. A second Manasquan police officer approached Plaintiff's passenger side and began to question Plaintiff as to what he was doing. Plaintiff asked the officer if there was a problem. The Officer asked "who is the rose for?" Plaintiff asked if the rose was a problem. At that moment, Defendant Pharo, asked "how many beers have you had today?" Plaintiff responded, "I've been sober 20 years". Defendant Pharo then falsely claimed he smelled alcohol. Defendant Pharo demanded Plaintiff's license and angrily ordered Plaintiff to exit the vehicle. Plaintiff asked "why are you harassing me?" Defendant Pharo angrily replied, "I'll impound your car for starters." Plaintiff was then advised that there has been a child luring incident in the town. Plaintiff advised that he understood and agreed that child luring is a serious offense and he would cooperate but that he did not appreciate the accusation of drunk driving. Defendant Pharo then walked over to the recycling bin. Pharo returned with a beer can in a black bag and falsely claimed he had an eye witness who saw Plaintiff throw it out! Plaintiff replied "that is a lie, I threw out Dunkin Donuts garbage. Look in the trash bin." Defendant Pharo refused to search for a Dunkin Donuts bag. Plaintiff suggested that they call his employer, to check his whereabouts.

Defendant Pharo refused to investigate. Plaintiff then provided the officers with a detail as to his entire day from 5:00 a.m. to 4:00 p.m. Defendant Pharo then got in Plaintiff's face saying "we'll go easy... How many beers have you had? Let us search your car?" Plaintiff refused consent to search his vehicle. Defendant Pharo then became more hostile and out of control, threatening, "I'll impound your car, we have a lady who saw you." Plaintiff responded, "that's a lie". Defendant Pharo then physically jolted in Plaintiff's face and said "are you calling me a liar?" Defendant Pharo then, without any probable cause, demanded Plaintiff to do a field sobriety test. Plaintiff refused and Defendant Pharo threatened that "if you refuse, I'll throw you in County Jail for the weekend and impound your car." Plaintiff did the heel to toe as ordered but Defendant Pharo advised Plaintiff "you failed that test." Defendant Pharo then removed Plaintiff's prescription sunglasses and ordered him to follow his finger. Defendant Pharo then subjected Plaintiff to more field tests and said "I am placing you under arrest for DWI." He then placed handcuffs tightly on Plaintiff's wrists and proceeded to push Plaintiff into the back of the patrol car. Plaintiff asked, "Why so rough? I can't move.....Please, please, please uncuff me so I can straighten myself in the seat." Defendant Pharo then said, "you're resisting arrest." Defendant Pharo angrily grabbed Plaintiff's legs and forcibly pushes his legs, putting Plaintiff in great pain. Defendant Pharo ordered the other officer to grab Plaintiff's shoulders. Plaintiff advised he was in pain while the two officers pulled and tugged him into the back of the patrol car.

Upon arriving at the Manasquan Police Department, Plaintiff was locked in a jail cell. Plaintiff pled with the officers "give me blood test, DNA, breathalyzer." Both before and after being charged, Plaintiff repeatedly informed the arresting officers and Defendant Pharo at Manasquan Police Department that he had not been drinking and Plaintiff adamantly denied involvement in the child luring incident. However, the arresting officer, Defendant Pharo,

falsely stated in his investigation reports that:

- (1) He observed Plaintiff not wearing a seatbelt;
- (2) He personally observed Plaintiff throwing out a black bag;
- (3) He had a witness who saw Plaintiff throw out a black plastic bag;
- (4) He pulled a black plastic bag from the recycling bin and that it contained a 25 oz. can of Bud Ice and that it was the only piece of trash in the recycling container. (This alleged evidence was never produced in discovery).

According to Defendant Pharo's police report, he falsely claims that Patrolman Morton arrived at the police station with a child luring victim who "positively identified the suspect's vehicle." A second officer came in to administer the breathalyzer. The BAC level on both tests was 0.000% and Plaintiff said, "See, you were wrong." Hearing this, Defendant Pharo became outraged and ran down the hall toward Plaintiff and shouted in his face "you're calling me a liar? I will send you to the County for the weekend." Defendant Pharo then asked Plaintiff if he knew anybody in town. Plaintiff advised that his brother is a lawyer and his father-in-law, now deceased, Robert Orthouse, was a former Manasquan Police Officer. Defendant Pharo replied, "Orthouse is dead, he can't help you!!!"

Without probable cause, Defendant Pharo charged Plaintiff with violating *N.J.S.A.* 39:3-29 for failure to produce his insurance card and registration, yet Plaintiff was ordered out of the car before he could produce the documents as requested. Defendant Pharo also charged Plaintiff with violating *N.J.S.A.* 39:4-50, even though the BAC readings clearly proved his innocence. Plaintiff was charged with violating *N.J.S.A.* 39:4-97, careless driving even though there was no evidence to support such a charge. Defendant Pharo falsely planted and/or fabricated evidence, to wit a black plastic bag and an open container of beer, with malicious intent to support a false charge of violating *N.J.S.A.* 39:4-51a for having an open container in a

motor vehicle. As a result of the false arrest, Plaintiff was detained for over four (4) hours. Plaintiff's motor vehicle was impounded and he had to arrange transport from Manasquan to his home in Freehold, New Jersey.

The evidence in the Defendants' possession clearly established that Plaintiff's BAC level was 0.00%. Nevertheless, the Defendants recklessly and with absolute disregard for Plaintiff's rights and liberties persisted in their prosecution of the Plaintiff. After filing the criminal complaint against him, Defendant Pharo intentionally made misstatements in his reports and forwarded false information to prosecutors, thereby undermining Plaintiff's liberties and his rights under the U.S. and New Jersey Constitutions.

Defendants falsely identified Plaintiff as a possible suspect in a child luring investigation and did not clear his name as a suspect until January 14, 2015.

Despite knowing that Plaintiff was innocent of the charges, Defendant Pharo, without explanation or excuse, failed to appear in Court on the first trial date; it was not until December 10, 2014, that Plaintiff appeared in Borough of Manasquan Municipal Court. In order to obtain a dismissal, Plaintiff was forced to plead guilty to failure to produce and failure to wear a seatbelt. The pleas were made without prejudice and marked with a reservation. Plaintiff incurred legal fees in the amount of \$4,500.00 and was forced to pay court costs and fines totaling \$254.00.

Plaintiff also has suffered physical and emotional injury as a direct and proximate result of Defendants' actions.

The Plaintiff, thereafter, timely filed, pursuant to *N.J.S. 59:8-1 et. seq.* a Notice of Claim against the Defendants.

THE PARTIES

1. The Plaintiff, Michael G. Mylod, is an individual residing at 1214 Route 33, Farmingdale, County of Monmouth, State of New Jersey.

2. Defendant, the Borough of Manasquan, is a body politic organized under the laws of the State of New Jersey, having offices at 201 E. Main Street, Manasquan, New Jersey 08736, that maintained and was responsible for the Mayor and all employees and agents of the Manasquan Police Department. Manasquan Police Department, is a governmental unit of the Borough of Manasquan charged with the law enforcement and safety responsibility within Manasquan, maintaining offices at 201 E. Main Street, Manasquan, State of New Jersey, organized under the laws of the State of New Jersey, and is responsible for law enforcement within its jurisdiction as well as the hiring, supervision, training and retention of its police officers and Detectives.

3. Defendant, Mayor George R. Dempsey, Jr. (herein referred to as "Dempsey" or collectively with the other named Defendants as "Defendants") was at all times relevant herein as the Mayor of Manasquan, acting under the color of state law. Dempsey was a policy maker for the Borough of Manasquan and, as such, was responsible for the harm caused to the Plaintiff.

4. At all times relevant herein, the Defendants, Borough of Manasquan and Mayor Dempsey were vicariously liable for the acts of its agents, servants and/or employees acting within the scope of their employment.

5. Defendant, Police Chief Elliott Correia (hereinafter referred to as "Correia" or collectively with the other named Defendants, as "Defendants") was at all times relevant herein as the Police Chief of Manasquan Police Department, acting under the color of state law. Correia was a policy maker for the Manasquan Police Department and, as such, was responsible

for the harm caused to Plaintiff.

6. Defendant, Detective Adam Pharo (hereinafter referred to as "Pharo" or collectively with the other named Defendants, as "Defendants") was at all times relevant herein as a Detective of the Manasquan Police Department, who participated in the arrest and prosecution of the Plaintiff and was liable for the harm caused to the Plaintiff.

7. Upon information and belief, John and Jane Does A to Z, were additional employees of the Manasquan Police Department, who participated in and are liable for the harm caused to the Plaintiff.

8. At all times relevant herein, Defendants, Borough of Manasquan, Mayor Dempsey and Police Chief Correia were vicariously liable for the acts of its agents, servants and/or employees acting within the scope of their employment.

JURISDICTION

FIRST COUNT

§1983 FALSE ARREST AND FALSE IMPRISONMENT

9. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

10. At all times relevant to this action, the Defendants acted under color of laws of the State of New Jersey and the Borough of Manasquan, and/or in conspiracy with each other acted under the color of the laws of the State of New Jersey and under authority and custom and usage of the Borough of Manasquan.

11. At no time did Defendants have any information or knowledge that would establish probable cause to believe that Plaintiff was guilty of driving under the Influence of alcohol in violation of *N.J.S.A. 39:4-50*.

12. At no time did Defendants have any information or knowledge that would

establish probable cause to arrest and charge Plaintiff with violating New Jersey Law for driving while under the influence of alcohol in violation of *N.J.S.A. 39:4-50*.

13. Notwithstanding that Plaintiff's Blood Alcohol Level was confirmed to be 0.00%, Defendants arrested and charged Plaintiff with driving under the influence.

14. At no time did Defendants have any information or knowledge that would establish probable cause to believe that Plaintiff had an open container of alcohol in violation of New Jersey Law.

15. In fact, Defendants falsified reports and fabricated evidence to falsely charge Plaintiff with having an open container of alcohol in his vehicle.

16. The actions of Defendants, including Pharo, in arresting Plaintiff without probable cause constituted willful misconduct and denied Plaintiff his right to be free from false arrest and false imprisonment.

17. Defendants, including Pharo, did not reasonably believe in the existence of probable cause at the time they arrested Plaintiff.

18. Defendants, including Pharo, acted in reckless disregard to the rights of Plaintiff, did together and/or in combination with one or more other Defendants arrest, search, fingerprint, photograph and prosecute Plaintiff despite knowing he did not drink alcohol with the purpose to commit an offense therein in violation of *N.J.S.A. 39:4-50*.

19. The aforementioned acts of Defendants deprived Plaintiff of his right to be free from false arrest and false imprisonment, in violation of the Fourth and Fourteenth Amendment to the United States Constitution, made actionable through 42 U.S.C. Section 1983.

20. As a direct and proximate cause of the aforementioned acts, Plaintiff was caused to sustain an extended loss of freedom and reputation, and suffered severe physical and emotional damages in connection with the deprivation of his constitutional rights.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory damages, attorney's fees, costs of suit, and such other relief as the court deems just and equitable.

SECOND COUNT

§ 1983 MALICIOUS PROSECUTION

21. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

22. Plaintiff has a United States Constitutional right to be free from malicious prosecution.

23. The charges initiated against Plaintiff were without legal or factual justification and were not based upon probable cause. Defendants initiated the charges against Plaintiff with malice and with absolute disregard for his rights and liberties. The charges against Plaintiff were ultimately dismissed.

24. At no point during the entire proceeding against Plaintiff, did Defendants possess any evidence against Plaintiff establishing probable cause and/or a legal basis that Plaintiff was drinking alcohol, had an open container of alcohol or was driving careless. Nevertheless, Plaintiff was arrested and prosecuted for a statutory violation which he clearly did not commit.

25. Defendants maliciously and without regard for Plaintiff's liberty and rights initiated a prosecution against Plaintiff by falsely charging him with numerous statutory violations forwarding false information to prosecutors and swearing to a false court complaint.

26. Defendant maliciously intimated and threatened Plaintiff with potential felony criminal charges of child luring.

27. Ultimately, charges initiated by Defendants terminated in Plaintiff's favor on

December 10, 2014 when charges were dismissed.

28. As a direct and proximate cause of the actions described herein by Defendants, Plaintiff endured the threat of felony charges, loss of license and potential incarceration during the course of legal proceedings and thereafter until he was cleared as a suspect of child luring in January 2015. Plaintiff suffered the humiliation and degradation of being publicly arrested and prosecuted, and his arrest was published in local newspapers.

29. Defendants, in reckless disregard to the rights of the Plaintiff, did violate and/or conspire to violate Plaintiff's right to be free from malicious prosecution in violation of the Fourth Amendment to the United States Constitution, made actionable through 42 U.S.C. Section 1983.

30. As a direct and proximate cause of the aforementioned acts, Plaintiff was caused to sustain an extended loss of freedom and reputation, and suffered severe physical and emotional damages in connection with the deprivation of his constitutional rights.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory damages, attorney's fees, costs of suit, and such other relief as the court deems just and equitable. Additionally, Plaintiff seeks punitive damages against Defendants, excluding the Borough of Manasquan, but including Defendant police officers individually and not in their official capacities.

THIRD COUNT

§ 1983 UNLAWFUL SEIZURE/FALSE ARREST

31. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

32. Following the unlawful arrest of Plaintiff, Defendants deprived him of his right to be free from unreasonable search and seizure by placing Plaintiff under arrest without probable

cause to do so.

33. As a direct and proximate cause of the aforementioned acts, Defendants violated Plaintiff's right to be free from unreasonable seizures guaranteed by Fourth Amendment to the United States Constitution, made actionable through 42 U.S.C. Section 1983.

WHEREFORE, Plaintiff demands judgment against Defendants on this Count together with compensatory damages, medical expenses, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just. Additionally, Plaintiff seeks punitive damages against Defendants, excluding the Borough of Manasquan, but including Defendant police officers individually and not in their official capacities.

FOURTH COUNT

§1983 UNLAWFUL CUSTOM, PRACTICE, POLICY

34. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

35. Defendant, Borough of Manasquan, is vested by state law with the authority to make policy on the use of force, effectuating arrests and police-citizen encounters.

36. At all times relevant hereto, Defendants, including Pharo, was acting under the direction and control of the Borough of Manasquan and were acting pursuant as agents, servants and/or employees of the Manasquan Police Department.

37. Acting under color of state law, Manasquan Police Department intentionally, knowingly, recklessly and/or with deliberate indifference failed to adequately screen, train, instruct, supervise, control, and/or discipline, on a continuing basis, the officers under its control, including Defendant Pharo, to refrain from: (1) unlawfully and maliciously, arresting, prosecuting and harassing citizens; (2) intentionally, recklessly and/or negligently misrepresenting the facts of arrests and/or other police-citizen encounters; (3) falsifying police

and/or other official records; (4) withholding and/or mishandling evidence; (5) making false arrests, and/or (6) committing unlawful searches and seizures.

38. Despite having such notice, Defendant, Borough of Manasquan, failed to employ any type of corrective or disciplinary measures against Defendants, John and Jane Does A to Z and Defendant Pharo.

39. Defendant, Borough of Manasquan, had knowledge of, or, had they diligently exercised their duties, should have known, that the Constitutional deprivations set forth above were likely to occur and, with deliberate indifference, did nothing to prevent such deprivations from occurring.

40. Defendant, Borough of Manasquan, had vested authority to prevent or aid in preventing the commission of said wrongs, and could have done so by reasonable diligence, and intentionally, knowingly, recklessly and/or with deliberate indifference failed to do so.

41. Defendant, Borough of Manasquan, directly or indirectly, under color of state law, approved or ratified the unlawful, deliberate, malicious, reckless, and wanton conduct of Defendants, including Defendants, John and Jane Does A to Z and Defendant Pharo, as set forth above.

42. As a direct and proximate result of the acts and/or omissions of Defendant, Borough of Manasquan, as set forth herein, Plaintiff suffered lost income and mental anguish in connection with the deprivation of his Constitutional right to be free from false arrest, malicious prosecution, and unreasonable searches and seizures as guaranteed by the Fourth and Fourteenth Amendments to the Constitution of the United States; Article I, Section VII of the New Jersey Constitution; and *N.J.S.A.10:6-2(c)*, also known as the New Jersey Civil Rights Act.

WHEREFORE, Plaintiff demands judgment against Defendant, Borough of Manasquan, on this Count, together with compensatory damages, medical expenses, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

FIFTH COUNT

RESPONDEAT SUPERIOR **(Against Defendant Borough of Manasquan)**

43. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

44. Defendant, Borough of Manasquan, is liable for the actions of the individual Defendants under the doctrine of *respondeat superior*.

PENDENT STATE LAW CLAIMS

SIXTH COUNT

FALSE ARREST/FALSE IMPRISONMENT

45. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

46. The aforementioned acts of Defendants in falsely arresting and/or falsely imprisoning Plaintiff were contrary to the common law and in violation of rights guaranteed by the Constitution of New Jersey.

47. As a direct and proximate cause of the aforementioned acts, Plaintiff was caused to sustain an extended loss of freedom and reputation, and suffered severe physical and emotional damages in connection with the deprivation of his constitutional rights.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory damages, attorney's fees, costs of suit, and such other relief as the court deems just and

equitable.

SEVENTH COUNT

MALICIOUS PROSECUTION

48. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

49. The charges initiated against Plaintiff were without legal or factual justification and were not based upon probable cause. Defendants initiated the charges against Plaintiff with malice and with absolute disregard for his rights and liberties. The charges against Plaintiff were ultimately dismissed.

50. The aforementioned acts of Defendants were contrary to the common law and in violation of rights guaranteed by the Constitution of New Jersey.

51. As a direct and proximate cause of the aforementioned acts, Plaintiff was caused to sustain an extended loss of freedom and reputation, and suffered severe physical and emotional damages in connection with the deprivation of his constitutional rights.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory damages, attorney's fees, costs of suit, and such other relief as the court deems just and equitable.

EIGHTH COUNT

VIOLATION OF THE NEW JERSEY CIVIL RIGHTS ACT

52. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

53. The false arrest, false imprisonment, malicious prosecution, unlawful seizure by Defendants, set forth in length above, deprived Plaintiff of his rights secured by the

Constitution of the United States and the Constitution of the State of New Jersey, in violation of *N.J.S.A. 10:6-1, et. seq.* ("The New Jersey Civil Rights Act").

54. As a direct and proximate cause of the aforementioned acts, Plaintiff was caused to sustain an extended loss of freedom and reputation, and suffered severe physical and emotional damages in connection with the deprivation of his constitutional rights.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory damages, attorney's fees, costs of suit, and such other relief as the court deems just and equitable.

NINTH COUNT

NEGLIGENCE- COMMON LAW

55. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

56. Defendants, in furtherance of their employment, were negligent in searching, arresting, charging, and prosecuting Plaintiff, and were further negligent in failing to comply with standards, guidelines and regulations set forth by the Borough of Manasquan and Manasquan Police Department.

57. The Defendant, Borough of Manasquan, is charged with the responsibility of prescribing the powers of members of the Manasquan Police Department for ensuring that all members of the Manasquan Police Department are properly trained and comprehend the legal limits of their powers, and for adopting rules and regulations for the governing of Defendant, Manasquan Police Department.

58. At all times relevant to this action, the Defendant, Borough of Manasquan, maintained a reckless and grossly inadequate set of procedures, standards, criteria, guidelines, training, disciplining and/or supervisory review of members of its police force.

59. Under the doctrine of *respondeat superior*, the Borough of Manasquan is liable for its agents' negligent torts.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory damages, attorney's fees, costs of suit, and such other relief as the court deems just and equitable. Additionally, Plaintiff seeks punitive damages against Defendants, excluding the Borough of Manasquan, but including Defendant police officers individually and not in their official capacities.

DEMAND FOR TRIAL BY JURY

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

DESIGNATION OF TRIAL COUNSEL

Please be advised that Philip G. Mylod, Esquire is hereby designated trial counsel for Plaintiff in the above-captioned matter.

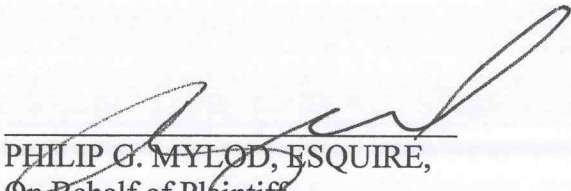
R. 4:5-1 CERTIFICATIONS

I have no knowledge of any other pending or contemplated action or arbitration proceeding related to the subject matter of this action, and no other party is subject to be joined in this action.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: _____

10-19-15



PHILIP G. MYLOD, ESQUIRE,
On Behalf of Plaintiff