

RECEIVED
OPRA

Answers Due
June 8th

Wendy Barras

From: Taeho Kim [opra+request-12808-d6e60567@requests.opramachine.com]
Sent: Wednesday, May 27, 2020 8:26 PM
To: Boro Info
Subject: OPRA request - OPRA - police officer-involved lawsuits 2012-2019

Dear Manville Borough,

This is a request for public records made under OPRA and the common law right of access. I am not required to fill out an official form. Please acknowledge receipt of this message.

Records requested:

1. A list of all lawsuits and cases in which any officer of the police department was involved between 2012 and 2019. For each lawsuit/case, please provide the date (month and year) of the alleged incident at issue, whether the alleged incident was excessive force, settlement amount (if any), and final compensation amount ruled (if any).
2. Please provide copies of the complaint in any lawsuits and cases described in above.

Yours faithfully,

UC Research

Please use deliver records electronically via email to the below UNIQUE address for all replies to this request:

opra+request-12808-d6e60567@requests.opramachine.com

Is boroinfo@manvillenj.org the wrong address for OPRA requests to Manville Borough? If so, please contact us using this form:

https://opramachine.com/change_request/new?body=manville_borough

Disclaimer: This message and any reply that you make will be published on the internet. Our privacy and copyright policies:

<https://opramachine.com/help/officers>

View this OPRA request & responses online:

https://opramachine.com/request/opra_police_officer_involved_law_408

Please note that in some cases publication of requests and responses will be delayed.

If you find this service useful as an OPRA custodian, please ask your web manager to link to us from your organisation's website.

Tracking #176
Completed 6/2/2020
W. Barras

**Manville Borough
LEL Claims
2012 to 2019**

Manville Borough	CLAIMANT NAME	INCIDENT DATE	LOSSES PAID	CLAIM DESCRIPTION
EXCESSIVE FORCE	[REDACTED]	11/28/2013 \$	135,000.00	EXCESSIVE FORCE
OTHER MISCELLANEOUS OFFENSES	[REDACTED]	3/20/2014 \$	-00	PERSONAL INJURY-OTHER [REDACTED] FILED NOTICE OF CLAIM ALLEGING OFF DUTY PROFESSIONAL-
OTHER MISCELLANEOUS OFFENSES	[REDACTED]	11/13/2012 \$	-00	MISCELLANEOUS/ALLEGED DAMAGE DUE TO "HOME

BOROUGH OF MANVILLE

325 NORTH MAIN STREET, MANVILLE, NJ 08835 • PHONE: (908) 725-9478
FAX: (908) 231-8620



March 9, 2015

Boynton-Genova Insurance Agency
362 East Main Street
P.O. Box 933
Somerville, NJ 08876

RECEIVED MAR 16 2015

Attention: Ann Marie

Re: ~~David H. Hilly vs. [REDACTED]~~ et al.
Docket No.: 3:15-CV-00722-FLW-TJB

Dear Ann Marie:

I have enclosed herewith a copy of a Summons and Complaint with regard to the above-captioned matter. By copy of this letter, and am also forwarding these documents to our Borough Attorney

Kindly process in the usual manner. Your cooperation in this matter is greatly appreciated.

If you have any questions, please feel free to contact me. Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Gary P. Garwacke".

Gary P. Garwacke, P.E.
Administrator

GPG:nk

Enclosures

cc: Thaddeus R. Maciag, Esq., w/encs.



BOROUGH OF MANVILLE

325 NORTH MAIN STREET, MANVILLE, NJ 08835 • PHONE: (908) 725-9478
FAX: (908) 231-8620



March 9, 2015

Boynton-Genova Insurance Agency
362 East Main Street
P.O. Box 933
Somerville, NJ 08876

RECEIVED MAR 16 2015

Attention: Ann Marie

Re: David Weekley vs. Nickolas J. Franzoso, et al.
Docket No.: 3:15-CV-00722-FLW-TJB

Dear Ann Marie:

I have enclosed herewith a copy of a Summons and Complaint with regard to the above-captioned matter. By copy of this letter, and am also forwarding these documents to our Borough Attorney

Kindly process in the usual manner. Your cooperation in this matter is greatly appreciated.

If you have any questions, please feel free to contact me. Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Gary P. Garwacke".

Gary P. Garwacke, P.E.
Administrator

GPG:nk

Enclosures

cc: Thaddeus R. Maciag, Esq., w/encs.



UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DAVID WEEKLEY,
Plaintiff

V.

SUMMONS IN A CIVIL CASE

NICKOLAS J. FRANZOSO, ET AL.,
Defendant

CASE
NUMBER: 3:15-CV-00722-FLW-TJB

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

CLERK, TOWN OF MANVILLE
CITY OF MANVILLE
325 NORTH MAIN ST.
MANVILLE, NJ 08835

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States Agency, or an office or employee of the United States described in Fed. R. civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Law Offices of
Thomas R. Ashley Esq.
50 Park Place Suite 1400
Newark, NJ 07102

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

WILLIAM T. WALSH

CLERK

Gina Hernandez-Buckley

(By) DEPUTY CLERK



ISSUED ON 2015-02-02 16:15:36, Clerk
USDC NJD

LAW OFFICE OF THOMAS R. ASHLEY, ESQ.
50 Park Place (Suite #1400)
Newark, N.J. 07102
(973) 623-0501/Fax (973) 623-0329
ATTORNEY ID: 242391967
ATTORNEYS FOR PLAINTIFF DAVID WEEKLEY

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

-----X

DAVID WEEKLEY,
Plaintiff,

v.

CASE No. _____-14

NICKOLAS J. FRANZOSO;
CHRISTOPHER MORRISON;
CITY OF MANVILLE, N.J.;
CITY OF MANVILLE, N.J.
POLICE DEPARTMENT;
JOHN DOES No. 1 TO 10
(gender neutral person(s)
whose true identity is presently
unknown to plaintiff),
Individually and in Their
Respective Official capacities,
Jointly and Severally,
Defendants.

-----X

CIVIL RIGHTS COMPLAINT
PURSUANT TO 42 U.S.C. §§ 1983,
1988; REQUEST FOR DECLARATORY
JUDGMENT PURSUANT TO 28 U.S.C.
§ 2201; REQUEST FOR TEMPORARY
AND PERMANENT INJUNCTIVE
RELIEF; SUPPLEMENTARY STATE
LAW CLAIMS

DAVID WEEKLEY ("plaintiff" or in the alternate "Weekley"), by and through his attorney, THOMAS R. ASHLEY, ESQ., brings this action under 42 U.S.C. §§ 1983, 1988 to redress his civil and legal rights, and alleges as follows:

PRELIMINARY STATEMENT

1. This is a civil rights action in which the plaintiff Weekley seeks relief for the defendants' violations of his rights secured by the Civil Rights Act of 1871, 42 U.S.C. § 1983, by the United States Constitution, including its First, Fourth and Fourteenth Amendments, and by the laws and Constitution of the State of New Jersey. Plaintiff seeks compensatory and punitive damages, an award of costs, interest and attorney's fees, and such other and further relief as this Court deems just and proper.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the United States Constitution. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and 1343, this being an action seeking redress for the violation of the Plaintiff's constitutional and civil rights.

3. Plaintiff further invokes this Court's supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over any and all state law claims and as against all parties that are so related to claims in this action within the original jurisdiction of this court that they form part of the same case or controversy.
4. Venue in this District is proper under 28 U.S.C. §§ 1391(b) and 1391(c) in that the Defendants, and each of them, are administratively located and reside or employed within the District of New Jersey, and the events giving rise to this claim occurred within the boundaries of the District of New Jersey.

JURY TRIAL DEMANDED

5. Plaintiff demands a trial by jury on each and every one of his claims as pleaded herein.

PARTIES

6. At all times relevant to this action, Plaintiff Weekley was a resident of the City of Irvington, County of Essex, State of New Jersey.
7. Defendant CITY OF MANVILLE, NEW JERSEY ("Manville") is and was at all times relevant a municipal entity created and authorized under the laws of the State of New Jersey. It is authorized by law to establish and maintain a police

department which acts as its agent in the area of law enforcement and for which it is ultimately responsible. Pursuant thereto Manville has established and maintains defendant CITY OF MANVILLE, NEW JERSEY POLICE DEPARTMENT ("POLICE").

8. Defendant Manville assumes the risks incidental to the maintenance of defendant police and the employment of police officers.
9. Defendant Manville was at all times relevant the public employer of Defendants MANVILLE POLICE OFFICERS NICKOLAS J. FRANZOSO ("Franzoso"), CHRISTOPHER MORRISON ("Morrison") and JOHN DOE No. 1 to 10 ("Doe") (gender neutral person(s) whose true identity is presently unknown to plaintiff).
10. Defendants Franzoso, Morrison and Doe (collectively the "Officers") are and were at all times relevant duly appointed and acting police officers, servants, employees and agents of the Manville Police Department, a municipal agency of Defendant Manville.
11. Defendants JOHN DOE No. 1 - 10 (collectively "Doe"), name being gender neutral and fictitious whose true identity is presently unknown to Plaintiff, at all times relevant herein are and were employed by Manville, as either employees, agents, servants, or sub-contractors, and involved in the

illegal false arrest and assault of Plaintiff, as hereinafter described.

12. At all times relevant herein, the individual defendants were acting under color of the laws, statutes, ordinances, regulations, policies, customs and/or usages of the State of New Jersey and the Manville Police Department, in the course and scope of their duties and functions as officers, agents, servants, and employees of Defendant Manville, were acting for, and on behalf of, and with the power and authority vested in them by Manville and the Manville Police Department, and were otherwise performing and engaging in conduct incidental to the performance of their lawful functions in the course of their duties. They are sued and judgment sought individually and in their respective official capacity.
13. By the conduct, acts, and omissions complained of herein, Defendants Officers violated clearly established constitutional standards under the First, Fourth, and Fourteenth Amendments to the United States Constitution of which a reasonable police officer under the circumstances would have known.

NOTICE OF TORT CLAIM

14. Plaintiff timely filed a Notice of Tort Claim with the State of New Jersey, Manville, the Police and the Officers, setting forth the facts underlying Plaintiff's tort claim against defendants.
15. To date, no answer has been received by Plaintiff and no compensation has been offered by any Defendant in response to the notice of tort claim.
16. This action has been commenced within two years of the date of occurrence of the events giving rise to this Complaint.

STATEMENT OF FACTS

17. In the early morning hours of November 28, 2013, plaintiff was legally and lawfully on the grounds and in the parking lot of RHYTHMS OF THE NIGHT, a Manville, New Jersey night club, as a business invitee.
18. Defendant Officers, without warning or justification or provocation from Mr. Weekley, falsely arrested Mr. Weekley for defiant trespassing, obstruction of the administration of law and resisting arrest.
19. Defendants officers then and there handcuffed plaintiff and manipulated the handcuffs in such a manner as to

intentionally and deliberately cause and inflict pain on plaintiff's wrists and hands.

20. Upon plaintiff attempting to lessen the pain caused by the defendant officers' manipulation of the handcuffs, the defendant officers assaulted plaintiff by exerting unnecessary additional force upon Mr. Weekley's arms, bodily picked plaintiff in the air and body-slammed Mr. Weekley to the asphalt ground.
21. The assault and body-slamming immediately caused plaintiff excruciating pain and discomfort and inflicted painful, bleeding injuries to plaintiff's face, head, neck, mouth and jaw, of a permanent nature.
22. Upon information and belief, defendant officers, while aware plaintiff had suffered bodily injuries requiring medical examination and treatment, deliberately and intentionally delayed and did not immediately seek to obtain medical attention for plaintiff.
23. Defendants officers were acting in concert when they approached and attacked and assaulted plaintiff.
24. At all times relevant to this complaint, defendant officers were engaged in a joint venture, assisting each other in performing the actions described herein and lending their physical presence and support and the authority of their offices to one another.

25. Upon information and belief, onlookers who witnessed the attack and assault specifically requested that the defendant officers at the scene call for medical attention for plaintiff. Those requests were ignored.
26. Eventually, plaintiff was permitted access to and provided with emergency medical assistance to treat the wounds and injuries suffered as a result of the assault.
27. Despite the medical treatment, plaintiff continued to experience trouble breathing, and continues to suffer pain and suffering through the date of the filing of this complaint.
28. At no time during the course of the incident did Mr. Weekley pose a threat to the safety of Defendant officers or the public. Plaintiff was not engaging in any criminal activity.
29. The conduct of the defendant officers, in arresting plaintiff and assaulting and using excessive force against him, was totally without probable cause, was excessive, and was done maliciously, falsely and in bad faith.
30. As a result of the events alleged herein, and due directly to the actions taken by the individual defendant officers, plaintiff David Weekley suffered and continues to suffer physical pain, emotional trauma, discomfort, humiliation, fear, anxiety and embarrassment, among other things.

31. As a direct and proximate result of the said acts of the defendants, Plaintiff suffered the following injuries and damages: Violation of his Constitutional Rights under the First, Fourth, Fifth, Sixth and Fourteenth Amendments to the United States Constitution.
32. Plaintiff suffered emotional trauma as a result of the aforesaid actions of the defendants, which has caused permanent mental and emotional suffering and has been forced to obtain medical treatment.
33. Plaintiff was denied equal protection of the law.
34. Plaintiff was unlawfully seized and deprived of his liberty.
35. Plaintiff was unlawfully and falsely arrested and imprisoned and subjected to excessive and unnecessary force maliciously and deliberately applied by defendants.,
36. The actions of the defendants, and each of them, violated the following clearly established federal constitutional rights of the Plaintiff, including but not limited to: Freedom from the unreasonable search and seizure of his person; Freedom from a deprivation of his liberty without due process and equal protection of the law; Freedom of the use of excessive and unreasonable force; Equal protection of the law; Not to be deprived of property without due process; and, Freedom from summary punishment.

37. The defendants, and each of them, individually and in concert with each other, acted with malice and/or with reckless disregard for whether Plaintiff's rights would be violated by their actions which they knew, or through the exercise of reasonable inquiry would have known, were unlawful and a violation of Plaintiff's federal and state rights, privileges, guarantees and protections.
38. Mr. WEEKLEY at no time committed the offenses for which he was arrested and charged. Plaintiff is totally innocent of the charges for which he was illegally, impermissibly, and reprehensibly subjected to by the false, perjurious acts of the Defendants, and each of them.
39. Plaintiff was humiliated and embarrassed by the criminal proceedings which were public, known to friends, family, and acquaintances, business associates, and neighbors.
40. The actions and conduct of the defendants, their respective agents, servants and employees herein complained of were deliberately undertaken in bad faith.
41. The acts and conduct complained of herein resulted in part from a *de facto* policy or custom of the defendant Manville and Police, implemented or condoned by Manville and the Police which permitted defendants officers, or some of them, to act unreasonably, improperly, capriciously, arbitrarily, and unlawfully under color of law, particularly by means of

making false arrests, filing false charges, and committing perjury regarding said false charges.

42. Despite knowing of the existence of the policy or custom described in the preceding paragraph, supervisory and policy-making officers and officials of Manville and the Police failed to properly and initially scrutinize defendant officers, failed to discipline, suspend or dismiss those who are ultimately malefactors; failed and continues to fail to supervise and/or properly train the individual police officers who engage in the acts and conduct of the sort complained of herein; failed to adopt appropriate procedures to deal with complaints of police misconduct, and failed to make reasonable investigation of such complaints.
43. As a result of the failure of Manville and the Police to properly train, supervise and discipline its police officers, including the defendants officers herein, Manville and the Police tacitly authorized, ratified, condoned, and has been deliberately indifferent to the acts and conduct complained of herein.
44. The preceding paragraphs are each re-alleged and repeated in each of the following paragraphs, as if fully set forth verbatim therein.

CAUSES OF ACTION

FIRST CLAIM: EXCESSIVE FORCE

(DEPRIVATION OF RIGHTS UNDER THE FOURTH AND FOURTEENTH AMENDMENTS
AND 42 U.S.C. §1983)

45. The conduct and actions of Defendants Officers, acting in concert and under color of law, in authorizing, directing, committing and/or permitting the assault upon plaintiff, was excessive and unreasonable, was done intentionally, willfully, maliciously, with a deliberate indifference and/or with a reckless disregard for the natural and probable consequences of their acts, was done without lawful justification or reason, and was designed to and did cause specific and serious physical and emotional pain and suffering in violation of Plaintiff's rights as guaranteed under 42 U.S.C. §1983, and the Fourth and Fourteenth Amendments to the United States Constitution, including the right to be free from an unreasonable seizure of his person and the right to be free from the use of excessive, unreasonable, and unjustified force.
46. As a direct and proximate result of the foregoing, Plaintiff was subjected to great physical and emotional pain and

humiliation, was deprived of his liberty, and was otherwise damaged and injured.

SECOND CLAIM: DENIAL OF MEDICAL CARE

(DEPRIVATION OF RIGHTS UNDER THE FOURTEENTH AMENDMENT AND 42

U.S.C. §1983)

46. Members of the Manville Police Department have an affirmative duty to seek medical attention for persons discovered as being injured or who are injured in the course of being apprehended/arrested by the police.
47. Defendants Officers were in the immediate vicinity of and participated in committing and/or observed the assault and body-slamming committed upon plaintiff and were aware that plaintiff was bleeding and experiencing extreme physical pain as a result of the aforementioned assault and use of excessive and unnecessary force, but took no action to provide, procure or request medical care for plaintiff, disregarding the obvious risk to Plaintiff's health.
48. The conduct and actions of Defendants Officers, acting under color of law, in failing to request or obtain medical attention for plaintiff, was unreasonable, was done intentionally, willfully, maliciously, with a deliberate indifference and/or with a reckless disregard for Plaintiff's

serious medical needs, and was designed to and did cause specific and serious physical and emotional pain and suffering in violation of Plaintiff's substantive due process rights as guaranteed under 42 U.S.C. §1983, and the Fourteenth Amendment to the United States Constitution.

49. As a direct and proximate result of the foregoing, Plaintiff was subjected to great physical and emotional pain and suffering, and was otherwise damaged and injured.

THIRD CLAIM: MUNICIPAL LIABILITY FOR CONSTITUTIONAL VIOLATIONS

(MONELL CLAIM AGAINST THE CITY OF MANVILLE - 42 U.S.C. §1983)

50. Defendant Manville directly caused the constitutional violations suffered by Plaintiff, and is liable for the damages suffered by Plaintiff as a result of the conduct of the defendants officers. The conduct of the defendants officers was a direct consequence of policies and practices of Defendant Manville.
51. At all times relevant to this complaint Defendant Manville, acting through the Police, had in effect policies, practices, and customs that condoned and fostered the unconstitutional conduct of the individual defendants, and were a direct and proximate cause of the damages and injuries complained of herein.

52. At all times relevant to this complaint, Defendant Manville, acting through defendant police department, and through the individual defendants, had policies, practices, customs, and usages of encouraging and/or tacitly sanctioning the violation of an arrestees rights, such as plaintiff.
53. Upon information and belief, Defendant Manville planned and implemented a policy, practice, custom and usage of illegally detaining persons and using excessive force against persons arrested for minor offenses.
54. Defendant Manville consciously disregarded the illegality and unconstitutionality of said detentions and excessive use of force.
55. These policies, practices, customs, and usages were a direct and proximate cause of the unconstitutional conduct alleged herein.
56. Defendant City of Manville knew or should have known of the defendants officers' custom and habit of using excessive force of arrestees, such as plaintiff.
57. It was the policy and/or custom of the defendant Manville to inadequately train, supervise and discipline its police officers, including the defendants officers, thereby failing to adequately discourage further constitutional violations on the part of its police officers. Manville did not require

appropriate in-service training or re-training of officers who were known to have engaged in police misconduct.

58. As a result of the above described policies and customs, police officers of Manville, including the defendant officers, believed that their actions would not be properly monitored by supervisory officers and that misconduct would not be investigated or sanctioned, but would be tolerated.
59. The wrongful policies, practices, customs and/or usages complained of herein, demonstrated a deliberate indifference on the part of policymakers of Manville and the Police to the constitutional rights of persons within the city, and were the direct and proximate cause of the violations of Plaintiffs' rights alleged herein.

FOURTH CLAIM: ASSAULT AND BATTERY COMMON LAW CLAIM

60. By the conduct and actions described above, Defendants Officers Franzoso and Morrison and Doe inflicted the torts of assault and battery upon Plaintiff. The acts and conduct of defendants Franzoso and Morrison were the direct and proximate cause of injury and damage to Plaintiff and violated Plaintiff's statutory and common law rights as guaranteed by the laws and Constitution of the State of New Jersey.

61. The acts of Defendants Franzoso and Morrison constituted an assault upon Plaintiff in that Franzoso and Morrison intentionally attempted to injure Plaintiff or commit a battery upon plaintiff, and further that the acts of Franzoso and Morrison represented a grievous affront to Plaintiff.
62. The acts of Defendants Franzoso and Morrison constituted a battery upon Plaintiff in that the above described bodily contact was intentional, unauthorized, and grossly offensive in nature.
63. The actions of Defendants Franzoso and Morrison were intentional, reckless, and unwarranted, and without any just cause or provocation, and Defendants Franzoso and Morrison knew, or should have known, that their actions were without the consent of Plaintiff.
64. The injuries sustained by Plaintiff were caused wholly and solely by reason of the conduct described, and Plaintiff did not contribute thereto.
65. As a direct and proximate result of the foregoing, Plaintiff was subjected to great physical and emotional pain and humiliation, was deprived of his liberty, and was otherwise damaged and injured.

FIFTH CLAIM: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS COMMON

LAW CLAIM

66. The conduct and acts of defendants Franzoso and Morrison, as described above, was without provocation or justification, was extreme, outrageous, and utterly intolerable in a civilized community; conduct which exceeded all reasonable bounds of decency.
67. The conduct and acts of defendants Franzoso and Morrison, described above, were intended to and did cause severe emotional distress to Plaintiff.
68. The conduct of defendants Franzoso and Morrison were the direct and proximate cause of injury and damage to Plaintiff and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New Jersey.
69. As a result of the foregoing, Plaintiff was deprived of his liberty, was subjected to serious physical and emotional pain and suffering, and was otherwise damaged and injured.

SIXTH CLAIM: NEGLIGENCE INFLICTION OF EMOTIONAL DISTRESS COMMON

LAW CLAIM

70. The conduct of defendants Franzoso and Morrison, in assaulting and battering Plaintiff, was careless and negligent as to the emotional health of Plaintiff, and caused severe emotional distress to Plaintiff.

71. The acts and conduct of defendants Franzoso and Morrison were the direct and proximate cause of injury and damage to Plaintiff and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New Jersey.

72. As a result of the foregoing, Plaintiff was deprived of his liberty, was subjected to serious physical and emotional pain and suffering, and was otherwise damaged and injured.

SEVENTH CLAIM: NEGLIGENCE COMMON LAW CLAIM

73. Defendants Franzoso and Morrison, while acting as agents and employees for Defendant Manville and defendant Police, in their respective official capacity as a law enforcement officer for Manville, owed a duty to Plaintiff to perform their respective police duties without the use of excessive force. Defendants Franzoso's and Morrison's use of force upon Plaintiff, when Plaintiff was unarmed and did not pose a threat of death or grievous bodily injury to defendants Franzoso and Morrison or to others constitutes negligence for which defendants Franzoso and Morrison are each individually liable.

74. Defendants Franzoso's and Morrison's use of excessive force upon Plaintiff constitutes negligence for which defendants Franzoso and Morrison are each individually liable.

75. As a proximate result of the negligent use of excessive force by defendants Franzoso and Morrison, Plaintiff sustained physical and emotional pain and suffering, and was otherwise damaged and injured.

EIGHTH CLAIM: RESPONDEAT SUPERIOR LIABILITY

OF THE CITY OF MANVILLE FOR STATE LAW VIOLATIONS COMMON LAW CLAIM

76. The conduct of defendants Franzoso and Morrison alleged herein occurred while each was on duty and in uniform, in and during the course and scope of his duties and functions as a New Jersey City police officer, and while defendants Franzoso and Morrison were each acting as an agent, officer, servant and employee of Defendant Manville. As a result, Defendant CITY OF Manville is liable to Plaintiff pursuant to the state common law doctrine of respondeat superior.

NINTH CLAIM: NEGLIGENCE SUPERVISION, RETENTION AND TRAINING COMMON

LAW CLAIM

77. Defendants Manville and Police negligently trained, retained, and supervised defendants Franzoso and Morrison. The acts and conduct of defendants Franzoso and Morrison were the direct and proximate cause of injury and damage to Plaintiff and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New Jersey.

78. As a result of the foregoing, Plaintiff was deprived of his liberty, was subjected to great physical and emotional pain and suffering, and was otherwise damaged and injured.

WHEREFORE, Plaintiff DAVID WEEKLEY demands the following relief, jointly and severally, against each and all of the Defendants as to each Claim:

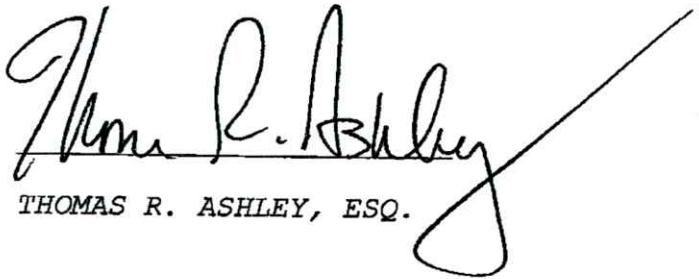
- a. Compensatory damages in the amount to be determined by a jury;
- b. Punitive damages in an amount to be determined by a jury;
- c. A declaratory judgment that the actions and conduct of the defendants complained of herein are unlawful and illegal and violated plaintiff's rights under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution;
- d. Permanently enjoin Defendants, their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of the injunction, from engaging in, undertaking or continuing the actions and conduct of the defendants complained of herein
- e. Costs, pre- and post-judgment interest and attorney's fees;
- f. Any other, further or different relief as to the Court is just and proper.

DESIGNATION OF TRIAL COUNSEL; JURY DEMAND

Pursuant to R. 4:5-1(c), THOMAS R. ASHLEY, ESQ. is designated as trial counsel for the plaintiff before a jury of six in the above matter.

CERTIFICATION OF NO OTHER ACTIONS

Pursuant to R. 4:5-1(b)(2), it is hereby stated that the matter in controversy is not the subject of any other civil action pending in any other court or of a pending arbitration proceeding to the best of our knowledge or belief. Also, to the best of our belief, no other civil action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, we know of no other parties that should be joined in the above action. In addition, we recognize the continuing obligation of each party to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.


THOMAS R. ASHLEY, ESQ.

Dated: JANUARY 20, 2015