

CASTELLANI LAW FIRM, LLC

David R. Castellani, Esquire - ID #: 023691991

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Northfield, New Jersey 08225

(609) 641-2288

Attorneys for Plaintiff

HARRY RESCIGNO, Plaintiff(s), v. CITY OF MARGATE, TOWNSHIP OF EGG HARBOR, OFFICER DUSTIN WIDAS, OFFICER FRANCIS MERCIANTE, DETECTIVE HEATHER STUMPF, INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITY, JOSEPH CLIVER, NJHR 2, LLC, & JOHN DOES 1-10, Defendant(s),	SUPERIOR COURT OF NEW JERSEY LAW DIVISION - ATLANTIC COUNTY DOCKET NO: UNN-L- CIVIL ACTION SUMMONS
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From The State of New Jersey To The Defendant(s) Named Above:

OFFICER FRANCIS MERCIANTE

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at (http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

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

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

http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf.

Dated: April 20, 2020

/s/ Michelle M. Smith
Michelle M. Smith, Clerk of the Superior Court

Name of Defendant to Be Served:
Address of Defendant to Be Served:

Officer Francis Merciante
Margate Police Department
111 North Decatur Avenue
Margate, NJ 08402

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HARRY RESCIGNO, Plaintiff(s), v. CITY OF MARGATE, TOWNSHIP OF EGG HARBOR, OFFICER DUSTIN WIDAS, OFFICER FRANCIS MERCIANTE, DETECTIVE HEATHER STUMPF, INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITY, JOSEPH CLIVER, NJHR 2, LLC, & JOHN DOES 1-10, Defendant(s),	SUPERIOR COURT OF NEW JERSEY LAW DIVISION - ATLANTIC COUNTY DOCKET NO: ATL-L-001144-20 CIVIL ACTION COMPLAINT
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Plaintiff Harry Rescigno currently residing in the city of Marlton, County of Burlington and State of New Jersey, by way of Complaint against the Defendants states:

FIRST COUNT

1. On July 13, 2018, the Plaintiff was falsely arrested by the Defendants Margate and Egg Harbor Township Police Department Officers, Defendants Dustin Widas, Francis Merciante, and Heather Stumpf, and charged with theft and receiving stolen property, without probable cause and without adequate investigation.

2. The arrest of the Plaintiff was caused by false information provided to the Defendant Police Officers and Detective Defendant Joseph Cliver acting as an agent, servant, and employee of Defendant NJHR 2, LLC.

3. At all relevant times, Defendants Officer Widas, Officer Merciante, and Detective Stumpf were the employees, agents, and servants of Defendants Egg Harbor Township Police Department and City of Margate Police Department and were at all times acting in the course of their employment with the Departments and under color of state law. It is alleged that all officers and police departments collaborated in the false arrest, investigation, and malicious prosecution of the Plaintiff and the violation of Plaintiff's New Jersey Constitutional Rights.

4. On July 13, 2018, the Defendants City of Margate, Egg Harbor Township Police Departments, Defendants Officer Widas, Officer Merciante, and Detective Stumpf illegally and improperly caused a criminal complaint to be issued against Plaintiff, which complaint had no basis in fact or law and was issued maliciously and with the motivation to falsely arrest, detain, and imprison Plaintiff, and which falsely accused Plaintiff of receiving stolen property and criminal mischief. Thereafter, Plaintiff was criminally indicted for theft by unlawful taking in the third degree, and criminal mischief in the third degree by an Atlantic County grand jury.

5. Defendant Egg Harbor Township police officers and Margate police officers, including Officer Widas, Officer Merciante, and Detective Stumpf, illegally searched and seized Plaintiff's person and personal property without a warrant in violation of the Plaintiff's New Jersey Constitutional Rights and without due process under the law, and deprived Plaintiff of his personal property contained in a storage unit leased by the Plaintiff. Thereafter, these Defendants named herein or John Doe Egg Harbor Township or Margate employees, agents, or servants 1-10 transferred or delivered the property they seized to Defendant Joseph Cliver and/or NJHR 2, LLC, who had purchased real property at a Sheriff's Sale on May 17, 2018 located at 7506 Winchester Avenue in Margate, New Jersey, where Plaintiff used to reside and which had been owned by Plaintiff's mother. At the time Defendants transferred possession of Plaintiff's property they seized

from Plaintiff's storage unit, the Defendants were aware that Plaintiff had a valid adverse claim or interest in the property.

6. Defendant Officers Dustin Widas, Francis Merciante, Detective Stumpf and Defendant Joseph Cliver, a private citizen, without probable cause and with malice, maliciously prosecuted Plaintiff, and/or conspired to do the same, by filing false charges of receiving stolen property, theft, and related criminal charges against the Plaintiff. These Defendants also illegally and tortiously converted the personal property of Plaintiff and deprived him of the same without due process under the law in violation of Plaintiff's New Jersey Constitutional Rights. The actions of these Defendants also constitute a common law malicious prosecution of the Plaintiff and common law tortious conversion of property. The Defendants were also negligent and/or grossly negligent in releasing the Plaintiff's personal property to Defendant Cliver or N2HR, LLC at the site of the arrest of the Plaintiff despite notice that the Plaintiff had an adverse claim to the property released and in violation of Plaintiff's Due Process Rights under the New Jersey Constitution relating to the seizure of property upon arrest and civil forfeiture and bailment of property pending criminal charges, in violation of policies and procedures within the Defendants' Police Departments.

7. It is further alleged that the conduct of Defendants Officer Widas, Officer Merciante, and Detective Stumpf, acting individually and in conspiracy with others, including Defendant Cliver, resulted in Plaintiff being falsely, maliciously, and unlawfully arrested, detained, and prosecuted, and thereby deprived Plaintiff of his New Jersey Constitutional Right to be free from unreasonable and unlawful seizure of his property and person, to equal protection under the law, and taking of property without due process and the right not to have excessive fines imposed, all in violation of New Jersey Constitutional Rights and the laws of the State of New Jersey, constituting a violation of the New Jersey Civil Rights Act; NJSA 10:6-2 et. seq.

8. All of the acts described above were taken in a willful and malicious manner, with an immoral purpose, to unjustly enrich Defendants and to injure the reputation, standing, and integrity of the Plaintiff, to his detriment. Defendants are therefore liable to Plaintiff for punitive damages in addition to compensatory damages.

9. After Plaintiff's arrest, the Defendant officers provided false and misleading testimony to a grand jury and failed to provide exculpatory evidence, which resulted in the indictment of the Plaintiff for theft by unlawful taking and criminal mischief on February 5, 2019.

10. The Plaintiff was successful in having the above-mentioned criminal indictments dismissed on July 11, 2019 by the Atlantic County Prosecutor's Office. The Defendants Township of Egg Harbor and City of Margate are vicariously liable for the actions of these agents, servants, and/or employees under principals of respondeat superior in respect to all constitutional claims.

11. As a direct and proximate result of the Defendants' actions as described above, and particularly of their willful, intentional, false, malicious, reckless, or grossly negligent actions in arresting, detaining, and unlawfully searching and seizing the Plaintiff and his property, and maliciously prosecuting the Plaintiff, Plaintiff was greatly humiliated, disgraced, suffered great mental and physical anguish, suffered severe harm to his reputation and standing in the community, was forced to undergo the rigors and strain of a false arrest, detention, unlawful search and seizure, and malicious prosecution, and has otherwise been damaged and injured in diverse other manners to his great detriment.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly, severally, and in the alternative for damages, interest, costs of suit, attorneys' fees, punitive damages, and such other relief as the court deems just and equitable.

SECOND COUNT

1. Plaintiff hereby repeats and incorporates each and every allegation contained in the First Count as though herein set forth at length.
2. As a result of the false charges filed against the Plaintiff and malicious prosecution of the Plaintiff by Defendants, Plaintiff was compelled to retain the services of an attorney to represent and defend him on such charges.
3. There was no reasonable or probable cause for the charges or prosecution of the Plaintiff by Defendants, and Defendants knew or should have known this to be the case prior to the false arrest, detention, prosecution and unlawful search and seizure of the Plaintiff and prior to the trial date.
4. The Defendants Joseph Cliver, NJHR 2, LLC, and John Does 1-10, intentionally and maliciously provided false information and false statements to the Defendant Police Officers and Detective for the purpose of having criminal charges filed against the Plaintiff all for Defendant Cliver and NJHR, LLC's commercial gain and advantage over Plaintiff, thereby constituting the torts of trade libel, defamation, slander, false light, invasion of privacy, malicious prosecution, and conversion of property.
5. The Defendant NJHR 2, LLC is vicariously liable for the acts of Defendant Joseph Cliver, their agent, servant, or employee pursuant to the principal of respondeat superior, agency, or master servant.
6. As a direct and proximate result of the Defendants' actions as described above, and particularly of their willful, intentional, false, malicious, reckless, or grossly negligent actions in arresting, detaining, and unlawfully searching and seizing the Plaintiff and his property, Plaintiff was greatly humiliated, disgraced, suffered great mental and physical anguish, suffered severe

harm to his reputation and standing in the community, was forced to undergo the rigors and strain of a false arrest, detention, and unlawful search and seizure, was forced to undergo the rigors and strain of preparing for preparation of his defense and appearing in the criminal court to defend himself with the resultant additional anxiety, loss of sleep, and other damages, has been forced to incur legal expenses in connection with the false charges, and has otherwise been damaged and injured in diverse other manners to his great detriment.

WHEREFORE, Plaintiff demands judgment against the Defendants, jointly, severally, and in the alternative for damages, interest, costs of suit, attorneys' fees, punitive damages, and such other relief as the court deems just and equitable.

THIRD COUNT

1. Plaintiff hereby repeats and incorporates each and every allegation contained in the First and Second Counts as though herein set forth at length.

2. At all relevant times, Defendants Officer Widas, Officer Merciante, and Detective Stumpf were the employees, agents, and servants of Defendants Egg Harbor Township Police Department and City of Margate Police Departments and were at all times acting in the course of their employment with the Departments, and Defendants Egg Harbor Township Police Department and City of Margate Police Departments were the employers of the individual Defendants.

3. The Defendants Egg Harbor Township and City of Margate Police Departments failed to use reasonable care and were negligent or reckless in the selection of its employees, agents, and servants, failed to properly train and supervise the individual Defendants, and failed to provide appropriate safeguards to prevent the false arrest, detention, unlawful search and seizure of Plaintiff's person and conversion of Plaintiff's property, and malicious prosecution of Plaintiff.

4. The Defendants Egg Harbor Township and City of Margate Police Departments acted under color of law pursuant to the official policy or custom or practice of the Departments and intentionally, knowingly, recklessly, willfully, or with deliberate indifference, failed to properly and adequately train, supervise, and/or discipline on a continuing basis the individual Defendants in the performance of their duties and otherwise failed to retrain the individual Defendants from unlawfully and maliciously conspiring to cause the false arrest and malicious prosecution of Plaintiff in violation of the rights, privileges, and immunities guaranteed to Plaintiff by the Constitution and laws of the State of New Jersey.

5. The Defendants Egg Harbor Township and City of Margate Police Departments had knowledge of, or had it diligently exercised its duties to instruct, train, supervise, control, and discipline the individual Defendants on a continuing basis should have had knowledge of, the wrongs that were done as alleged above, and intentionally, knowingly, or with deliberate indifference to Plaintiff's rights, failed or refused to prevent their commission.

6. The Defendants Egg Harbor Township and City of Margate Supervisor(s) and Chief of Police, under the color of the law and directly or indirectly, thereby approved or ratified the unlawful, deliberate, malicious, reckless, and wanton conduct of the individual Defendants.

7. As a direct and proximate result of the Defendants' conduct, failure to train, supervise, and failure to act, Plaintiff was falsely arrested, maliciously prosecuted and deprived of his personal property and his New Jersey Constitutional Rights were otherwise violated.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally, and in the alternative for damages, interest, costs of suit, attorneys' fees, punitive damages, and such other relief as the court deems just and equitable.

FOURTH COUNT

1. Plaintiff hereby repeats and incorporates each and every allegation contained in the First, Second, and Third Counts as though herein set forth at length.
2. The Defendants and each of them acting under color of State Law, through the investigation and prosecution of the above referenced indictment, intentionally interfered with Plaintiff's rights, privileges, and immunity secured by the Constitutional laws of the State of New Jersey, including but not necessarily limited to his right to equal protection under the law, right to due process, right against self-incrimination, right to be free from malicious prosecutions undertaken without probable cause by law enforcement officers of the State of New Jersey with malice and a right to be free from unreasonable search and seizure of the person and property pursuant to Article 1, paragraph 7 of the New Jersey Constitution, and the right to be free from malicious prosecution under Article 1, paragraph 1 of the New Jersey Constitution, as well as depriving Plaintiff his New Jersey Constitutional right to his property and liberty, as well as his right to procedural and substantive due process under the law.
3. The Defendants and each of them violated the above Constitutional rights by selectively prosecuting Plaintiff by fabricating and manufacturing false evidence against the Plaintiff, seizing Plaintiff's person and property, and forcing him to endure criminal indictment, deliberately and intentionally suborning false and perjured testimony of witnesses, presenting false testimony to a grand jury, destruction and spoliation of exculpatory evidence and failure to present exculpatory material to a grand jury.
4. The actions of Defendants described above also violated provisions of Title 2C of the Criminal Code of the State of New Jersey. Crimes committed by the Defendants included, but were not limited to:

a. Official misconduct pursuant to N.J.S.A. 2C:30-2 the Defendants knowingly committed acts constituting unauthorized exercise of their official function for the purpose of injuring Plaintiff by depriving him of rights and benefits afforded to him as a law abiding citizen of the State such as the right to due process, equal protection, right to be free from unreasonable searches and seizures, right to remain silent and right to be free from malicious prosecutions initiated by law enforcement personnel;

5. As a direct and proximate result of the purposeful knowing reckless, malicious, intentional and outrageous acts of the Defendants, Plaintiff suffered severe and devastating losses and damages including damage to his business and personal reputation, embarrassment, shock, humiliation in the community, expenditures of large amounts of money for legal expenses and the cost of defending a frivolous action against him and was otherwise damaged.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally, and in the alternative for damages, interest, costs of suit, attorneys' fees, punitive damages, and such other relief as the court deems just and equitable.

FIFTH COUNT

1. Plaintiff hereby repeats and incorporates each and every allegation contained in the First, Second, Third, and Fourth Counts as though herein set forth at length.

2. Prior to May 17, 2018, Plaintiff's mother was the owner and/or actual possessor of real property located at 7506 Winchester Avenue in Margate, New Jersey.

3. Prior to May 17, 2018, Plaintiff was and still is the owner of and entitled to possession of certain personal property Plaintiff lawfully removed from the property where he resided in Margate, NJ, known as 7506 Winchester Avenue, prior to the property being listed for Sheriff's sale to the public with the permission and consent of his mother, the owner of the real property.

4. On July 13, 2018, the Defendant Police Officers Widas and Merciante, Detective Stumpf, and Defendant Joseph Cliver falsely arrested the Plaintiff and removed certain items of personal property that Plaintiff possessed and lawfully owned and belonged to the Plaintiff, from his storage facility leased by the Plaintiff in Egg Harbor Township, NJ.

5. It is further alleged that the Defendants were negligent or grossly negligent, and intentionally, and/or recklessly obtained possession of Plaintiff's personal property in the storage facility Plaintiff leased in Egg Harbor Township, New Jersey, and were negligent or grossly negligent, and recklessly and/or intentionally released the same to Defendant Cliver, NJHR 2, LLC, and/or John Does 1-10, as agents, servants, or owners of Defendant NJHR 2, LLC, at a time where Plaintiff maintained a legal and valid claim of an adverse right and ownership to the same. Defendants, at the time they seized Plaintiff's property, had a duty to hold the property and return the same to Plaintiff upon dismissal of the criminal charge.

6. The Defendants actions aforementioned have wrongfully deprived the Plaintiff of the possession and ownership of his personal property, and the Defendants were negligent or grossly negligent and converted the Plaintiff's personal property for their own use and the use of Defendants Cliver, NJHR 2, LLC, and John Does 1-10 as agents, servants, and employees of Defendant NJHR 2, LLC.

7. Plaintiff has demanded return of the property and Defendants have failed to return the same.

8. The personal property wrongfully released and converted by the Defendants was valued in excess of \$75,000.

9. All named Defendants conspired and committed acts in furtherance of a conspiracy to tortiously convert and deprive Plaintiff of personal property Plaintiff owned in the storage unit

aforementioned, and as a direct and proximate result of Defendants conduct, Plaintiff was deprived of his personal property

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally, and in the alternative for damages, interest, costs of suit, attorneys' fees, punitive damages, and such other relief as the court deems just and equitable.

SIXTH COUNT

1. Plaintiff hereby repeats and incorporates each and every allegation contained in the First, Second, Third, Fourth, and Fifth Counts as though herein set forth at length.

2. At the aforesaid time and place, the Defendants, John Doe(s) 1-10 fictitious name(s) (hereinafter referred to as John Doe), were an unknown person or persons or were unknown incorporated or unincorporated associations authorized to do business in the State of New Jersey, whose actions caused and/or contributed, directly or indirectly, to the malicious prosecution and false arrest herein and the injuries and damages suffered by the Plaintiff Harry Rescigno.

3. The Plaintiff alleges that an insufficient amount of time has passed within which to determine the identity of any other individuals or business entities who may be responsible in whole or in part for the causation of the aforesaid incident. For the purpose of the within complaint, said individuals and business entities have been nominated as John Doe 1-10. The Plaintiff, pursuant to the Rules of Court for the State of New Jersey, reserves the right to amend the within complaint relative to additional Defendants when, and if, the identity of said individuals or business entities becomes known.

4. As a direct and proximate result of the aforementioned willful, intentional, false, malicious, reckless, or grossly negligent actions of the Defendants, John Doe 1-10, the Plaintiff, Harry Rescigno, sustained certain personal injuries, internal and external and both temporary and

permanent in nature; did suffer, is suffering and may in the future suffer great pain; was compelled, is now being compelled and may in the future be compelled to expend large sums of money in an attempt to cure and alleviate said injuries; has been unable and may in the future be unable to pursue his normal business and social activities, thereby resulting in a loss of income; and has been otherwise damaged.

WHEREFORE, Plaintiff demands judgment against the Defendants jointly, severally, and in the alternative for damages, interest, costs of suit, attorneys' fees, punitive damages, and such other relief as the court deems just and equitable.

SEVENTH COUNT

1. Plaintiff hereby repeats and incorporates each and every allegation contained in the First, Second, Third, Fourth, Fifth, and Sixth Counts as though herein set forth at length.

2. Plaintiff reserves the right to amend this claim any tortious claims in the future as deemed necessary.

JURY DEMAND

Plaintiff hereby demands trial by a jury on all issues herein.

DEMAND PURSUANT TO RULE 4:17-1(b)(iii)

Pursuant to Rule 4:17-1(b)(ii), the Plaintiff hereby demands Answers to Uniform C and Uniform C(2) Interrogatories in lieu of service of the interrogatories themselves.

DEMAND OR PRODUCTION OF INSURANCE AGREEMENTS

Pursuant to Rule 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 in the alternative state, under oath and certification: (a) policy number; (b) name and address of insurer; (c) inception and expiration date; (d) name and address of all persons insured thereunder; (e) personal injury limits; (f) property damage limits; and (g) medical payment limits.

DESIGNATION OF TRIAL COUNSEL

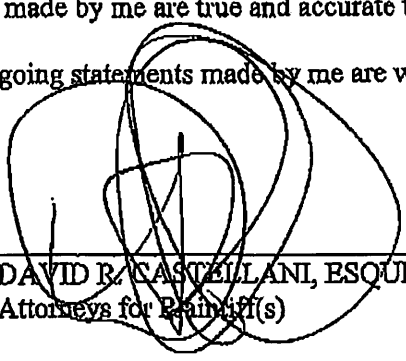
David R. Castellani, Esquire, is hereby designated as trial counsel in this matter.

CERTIFICATION UNDER RULE 4:5-1

I, David R. Castellani, Esquire, by certifying, pursuant to New Jersey Court Rule 4:5-1, that to the best of my knowledge, the claims raised herein are not the subject of any other action pending in any Court of the subject of any arbitration proceeding, and no such other action or arbitration is contemplated.

I certify that the foregoing statements made by me are true and accurate to the best of my knowledge. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment for perjury.

Date: 4/17/20



DAVID R. CASTELLANI, ESQUIRE
Attorneys for Plaintiff(s)

Civil Case Information Statement

Case Details: ATLANTIC | Civil Part Docket# L-001144-20

Case Caption: RESCIGNO HARRY VS CITY OF
MARGATE

Case Initiation Date: 04/17/2020

Attorney Name: DAVID ROCK CASTELLANI

Firm Name: CASTELLANI LAW FIRM, LLC

Address: 450 TILTON ROAD SUITE 245

NORTHFIELD NJ 08225

Phone: 6096412288

Name of Party: PLAINTIFF: Rescigno, Harry

Name of Defendant's Primary Insurance Company

(if known): Unknown

Case Type: CIVIL RIGHTS

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same
transaction or occurrence)? NO

Are sexual abuse claims alleged? NO

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? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? YES

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? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

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 Rule 1:38-7(b)

04/17/2020
Dated

/s/ DAVID ROCK CASTELLANI
Signed