

SEVENTH COUNT

Battery

290. Plaintiffs incorporate the preceding paragraphs of this Amended Complaint as if set forth at length herein.

291. The actions of Defendants Dixon and Orndorf and/or of John/Jane Doe(s) I and III, as described herein, constituted the common law tort of battery, and Plaintiffs incorporate the allegations set forth in the previous Count.

WHEREFORE, Plaintiff Audra S. Capps respectfully requests that this Honorable Court enter judgment in her favor and against Defendants, Joseph Dixon, Officer Bryan Orndorf, and John/Jane Doe(s) I and III, individually, jointly and severally, in an amount that would reasonably and properly compensate her in accordance with the law, together with punitive damages, prejudgment interest, costs of suit, attorney's fees as may be permitted by law, and such other relief as the Court deems just.

EIGHTH COUNT

Negligent Supervision

292. Plaintiffs incorporate the preceding paragraphs of this Amended Complaint as if set forth at length herein.

293. Defendant, the City of Millville (including John/Jane Doe(s) IV), was, at all relevant times, the employer of Defendants Dixon and Orndorf and the employer of the Supervisory Defendants and others, all of whom were and are responsible for the tortious and unconstitutional actions and omissions committed against Plaintiff Capps.

294. The acts and/or omissions complained of were within the scope of employment of Defendants Dixon and Orndorf, and within the scope of employment of the Supervisory Defendants, all of whom were employed by Defendant, the City of Millville.

295. As described herein, Defendants, the City of Millville and John/Jane Doe(s) II and IV, and the Supervisory Defendants, negligently failed to supervise the actions and conduct of Defendant Officers Dixon and Orndorf and others.

296. In addition to those acts and omissions which may be revealed in discovery, and in the alternative, Defendants, John/Jane Doe(s) I, II and III, and the Supervisory Defendants, upon information and belief, failed to follow New Jersey Attorney General policy and Millville Police Department Rules and Regulations and departmental directives on the use of force, with respect to the provision of medical care, as to the conduct of internal affairs investigations, and failed to train their officers and supervisors on such policies, and/or because they failed to properly evaluate and/or discipline officers of the Millville Police Department.

297. Such failures to supervise proximately caused the injuries sustained by Plaintiff Capps.

298. Defendants John/Jane Doe(s) II and III, and the Supervisory Defendants, had a duty to members of the public and to Plaintiff to make sure that serious injuries and constitutional violations, such as those sustained by Plaintiff Capps, were not inflicted.

299. Defendants John/Jane Doe(s) II and III, and the Supervisory Defendants, breached that duty of care to Plaintiff Capps, and caused her damage, as described elsewhere herein.

300. Accordingly, Defendant, the City of Millville, is responsible and liable as the employer of Defendants Dixon and Orndorf and as the employer of the Supervisory Defendants, whose acts and omissions proximately caused injury and damage to Plaintiff Capps.

WHEREFORE, Plaintiff Audra S. Capps respectfully requests that this Honorable Court enter judgment in her favor and against Defendants, the City of Millville and/or John/Jane Doe(s) IV, individually, jointly and severally, in an amount that would reasonably and properly

compensate her in accordance with the law, together with prejudgment interest, reasonable attorney's fees as may be permitted by law, costs of suit, and such other relief as the Court deems just.

NINTH COUNT
Negligent Retention in Employment

301. Plaintiffs incorporate the preceding paragraphs of this Amended Complaint as if set forth at length herein.

302. Defendants, the City of Millville, John/Jane Doe(s) II and IV, and/or the Supervisory Defendants, upon information and belief, and based on the tendencies of Defendant Officer Dixon and of the Millville Police Department's officers generally, as reported by NJ.com, knew or had reason to know about one or more of the individual defendants' unfitness, incompetence and/or dangerous attributes when they chose to retain such person(s) in employment.

303. Defendants, the City of Millville, John/Jane Doe(s) II and IV, and/or the Supervisory Defendants, upon information and belief, knew or should have known about Defendant Officer Dixon's unfitness and high frequency with which he used force, yet they chose to nominate Dixon for an award, chose to not discipline him for his use of excessive force, and kept him employed on the police force, among other known facts about Dixon described elsewhere in this Amended Complaint.

304. Furthermore, when confronted with the knowledge of his police department's and Defendant Officer Dixon's disproportionate use of force numbers, as revealed in The Force Report by NJ.com, Chief Farabella chose to defend Dixon with helpful quotations to the media, and chose to retain Dixon in employment.

305. Defendants, the City of Millville, John/Jane Doe(s) II and IV, and/or the Supervisory Defendants, reasonably should have foreseen the likelihood that the defendant officer(s) through

their employment would come into contact with members of the public, such as Plaintiff Capps, under circumstances that would create a risk of danger to her and to such other persons because of the qualities of the defendant officer(s) involved in this action.

306. Defendants, the City of Millville, John/Jane Doe(s) II and IV, and the Supervisory Defendants, owed Plaintiff Capps, and other members of the public, a duty to not subject them to the conduct of officers who were unfit and/or who have engaged in violent behavior and/or violated the rights of the citizens they are sworn to protect.

307. Defendants, the City of Millville, John/Jane Doe(s) II and IV, and/or the Supervisory Defendants, breached their duties of care to protect Plaintiff Capps, which proximately resulted in the injuries and damages described herein.

308. Accordingly, Defendant, the City of Millville, is responsible and liable as the employer of Defendants Dixon and Orndorf and as the employer of the Supervisory Defendants, whose acts and omissions proximately caused injury and damage to Plaintiff Capps.

WHEREFORE, Plaintiff Audra S. Capps respectfully requests that this Honorable Court enter judgment in her favor and against Defendants, the City of Millville and/or John/Jane Doe(s) IV, individually, jointly and severally, in an amount that would reasonably and properly compensate her in accordance with the law, together with prejudgment interest, reasonable attorney's fees as may be permitted by law, costs of suit, and such other relief as the Court deems just.

TENTH COUNT
Negligence

309. Plaintiff's incorporate the preceding paragraphs of this Amended Complaint as if set forth at length herein.

310. As set forth herein, Defendants conducted and/or supervised law enforcement activities, and injured Plaintiff Capps, within their jurisdiction.

311. Defendants negligently, carelessly, and/or recklessly performed their duties.

312. Defendants breached their respective duties of care to Plaintiff Capps and to the public, based on the facts described in detail herein.

313. Defendants' breaches of their duties of care proximately caused Plaintiff Capps to sustain damages, as alleged herein.

WHEREFORE, Plaintiff Capps respectfully requests that this Honorable Court enter judgment in her favor and against Defendants, Joseph Dixon, Officer Bryan Orndorf, the City of Millville, Chief Jody Parabella, Lt. Michael Colon, Sgt. Lawrence Mulford, Sgt. Ross Hoffinan, Sgt. Harold Duffield, Jr., Lt. Edward Zadroga, Lt. Kevin McLaughlin, Sgt. Cindi Zadroga, Sgt. John Redden, III, Lt. Carl Heger, Sgt. Dan Ayars, and John/Jane Doe(s) I, II, III, and IV, individually, jointly and severally, in an amount that would reasonably and properly compensate her in accordance with the law, together with prejudgment interest, costs of suit, attorney's fees as may be permitted by law, and such other relief as the Court deems just.

ELEVENTH COUNT
Loss of Consortium

314. Plaintiffs incorporate the preceding paragraphs of this Amended Complaint as if set forth at length herein.

315. As a result of the injuries sustained by Plaintiff Capps, her husband, Plaintiff Gibson, was and has been required to provide regular care to his wife by assisting her with transportation to and from medical appointments, treatment, multiple surgical procedures, and time spent in the hospital, and by assisting her with ordinary and everyday tasks she did by herself prior to being

assaulted by members of the Millville Police Department, and Plaintiff Gibson has provided physical and emotional support to Plaintiff Capps, his wife.

316. Plaintiff Gibson has lost the consortium and companionship of his wife as a result of her experience with the Millville Police Department, and because of the severity of the injuries inflicted upon her.

317. As a result of the injuries inflicted upon his wife by the Defendant officers, Plaintiff Gibson has been required to take her to multiple medical appointments and surgical procedures, and he has lost time from work and wages.

318. Plaintiff Gibson will continue to suffer damages on what is expected to be a permanent basis, as his wife, Plaintiff Capps, will never be the same person physically and emotionally as she was before she was assaulted by officers of the Millville Police Department.

WHEREFORE, Plaintiff Douglas Robert Gibson, Jr. respectfully requests that this Honorable Court enter judgment in his favor and against Defendants, Joseph Dixon, Officer Bryan Orndorf, the City of Millville, Chief Jody Farabella, Lt. Michael Colon, Sgt. Lawrence Mulford, Sgt. Ross Hoffman, Sgt. Harold Duffield, Jr., Lt. Edward Zadroga, Lt. Kevin McLaughlin, Sgt. Cindi Zadroga, Sgt. John Redden, III, Lt. Carl Heger, Sgt. Dan Ayars, and John/Jane Doe(s) I, II, III, and IV, individually, jointly and severally, in an amount that would reasonably and properly compensate him in accordance with the law, together with prejudgment interest, costs of suit, attorney's fees as may be permitted by law, and such other relief as the Court deems just.

TWELFTH COUNT
Vicarious Liability

319. Plaintiffs incorporate the preceding paragraphs of this Amended Complaint as if set forth at length herein.

320. At all times hereinafter described, Defendants, the City of Millville and/or John/Jane Doe(s) IV, employed the individual named and unnamed police officer Defendants and employed the Supervisory Defendants.

321. At all times hereinafter described, Defendants, Joseph Dixon, Officer Bryan Orndorf, Chief Jody Farabella, John/Jane Doe(s) I, II, III, and/or the Supervisory Defendants, were employed either as law enforcement officers, policymakers, and/or supervisors for Defendants, the City of Millville and/or John/Jane Doe(s) IV.

322. At all relevant times, said Defendants, together with the Supervisory Defendants, were acting within the scope of their employment for Defendants, the City of Millville and/or John/Jane Doe(s) IV.

323. Under the circumstances described herein, Defendants, the City of Millville and/or John/Jane Doe(s) IV, are vicariously responsible and liable for the conduct of the individual officer Defendants, named and unnamed, and are vicariously responsible and liable for the conduct of the Supervisory Defendants, as may be permitted by law and as may be applicable to each particular Count of this Amended Complaint.

324. As a further direct and proximate result of Defendants' conduct, Plaintiffs were caused to suffer severe damages and injuries described herein.

WHEREFORE, Plaintiffs Audra S. Capps and Douglas Robert Gibson, Jr. respectfully request that this Honorable Court enter judgment in their favor and against Defendants, the City of Millville and John/Jane Doe(s) IV, individually, jointly and severally, in an amount that would reasonably and properly compensate them in accordance with the law, together with punitive damages if appropriate to certain Counts of this Amended Complaint, reasonable attorney's fees

as may be permitted by law, prejudgment interest, costs of suit, and such other relief as the Court deems just.

DEMAND FOR TRIAL BY JURY

Pursuant to Fed. R. Civ. P. 38(b), Plaintiffs hereby demand a trial by jury on the causes of action pleaded in this Amended Complaint.

NOTICE OF DESIGNATION OF TRIAL COUNSEL

Louis Charles Shapiro, Esquire, of the law firm of Louis Charles Shapiro, P.A., is hereby designated as trial counsel on behalf of Plaintiffs, Audra S. Capps and Douglas Robert Gibson, Jr.

Respectfully submitted,

LOUIS CHARLES SHAPIRO, P.A.

By: 

Louis Charles Shapiro, Esquire

Attorney for Plaintiffs, Audra S. Capps and
Douglas Robert Gibson, Jr.

DATED: May 14, 2020