

while driving. See Exhibit B (Complaint – Summons, State of New Jersey v. David J. Carpenter) at page 1.

32. Compounding the number and severity of the charges filed against Mr. Carpenter, Patrolman Chard on February 7, 2018 gave false testimony before the Grand Jury, which led directly to the filing of a two-count Indictment in Superior Court against Mr. Carpenter, charging him with Aggravated Assault on a Police Officer and Eluding a Police Officer (collectively, the “Indicted Crimes”). See Exhibit C (Grand Jury Transcript, February 7, 2018) (including at page 5 Patrolman Chard agreeing with the question: “While you were holding the door handle, did he drive which dragged you across the street?”).

33. The Indictment charged Mr. Carpenter with two Crimes of the Third Degree – Aggravated Assault on a Police Officer and Eluding. See Exhibit D (Indictment, February 7, 2018).

34. As Patrolman Chard had every reason to expect would happen, local press reported on Mr. Carpenter’s Indictment and the Indicted Crimes, portraying him as a criminal and not making a single inquiry to learn Mr. Carpenter’s side of the story.

35. As a result of the filing of charges by Summons and the Indicted Crimes, along with the negative press coverage that followed, Mr. Carpenter was suspended without pay from his long-term employment as a state employee with the Vineland Developmental Center as a Boiler Engineer.

36. The incident that Patrolman Chard chose to lie about, the criminal charges that quickly followed, the negative press coverage that effectively announced to the community that Mr. Carpenter was a criminal, and the dismissal without pay from a job he had held for 24 years, all caused Mr. Carpenter to endure a “dark night of the soul.”

37. As a direct and foreseeable result of Patrolman Chard’s misconduct, Mr. Carpenter experienced shame, humiliation, isolation, the questioning of work colleagues and family members, and worst of all, the prospect of lengthy incarceration if convicted of the Indicted Crimes.

38. In a tell-tale sign of Post-Traumatic Stress Disorder (“PTSD”), Mr. Carpenter began to replay the incident in his mind, hearing Patrolman Chard’s pounding on the side of the Pickup and attempt to open the passenger door, while wondering how Patrolman Chard could have lied about being “dragged” by the Pickup when no such thing had ever happened. The replay of the incident and racing thoughts about it came without warning, and often prevented Mr. Carpenter from sleeping.

39. When charges were dismissed on April 2, 2018, the assigned prosecutor is believed to have stated on the record that the dismissed charges should never have been filed. But even after the dismissal of charges on April 2, 2018, Mr. Carpenter continues to experience the symptoms of PTSD, especially when asked about the incident (even in a well-meaning way) by friends and family.

40. Despite the Prosecutor's wholesale rejection of the case assembled against Mr. Carpenter by Patrolman Chard, he remains an active duty, sworn police officer employed by the City of Millville.

41. By information and belief, no investigation, discipline or other consequences have followed Patrolman Chard's actions directed against Mr. Carpenter.

COUNT I
42 U.S.C. § 1983
DAVID J. CARPENTER v. PATROLMAN ALBERT CHARD, JR.

42. Plaintiffs incorporate the preceding averments of this Complaint by reference.

43. At all times during the events described above, Patrolman Chard misused the authority of his office during the unlawful arrest of Mr. Carpenter, the later filing of pre-textual criminal charges against him, and the providing of false testimony to the Grand Jury concerning the events of the afternoon of January 22, 2018.

44. The actions and statements by Patrolman Chard confirm that he acted maliciously, and with the intent to harm Mr. Carpenter. By information and belief, Patrolman Chard may have taken these actions with the active aid, support and concerted action of other uniformed Millville police officers present at the scene of the incident, whose identities are expected to be revealed in discovery.

45. As a foreseeable and direct result, Mr. Carpenter suffered the following

injuries and damages:

- a. The violation of his constitutional rights under the Fourth and Fourteenth Amendment to the United States Constitution to be free from unreasonable seizure and false arrest;
- b. The violation of his right to equal protection of the laws of the United States of America and of the State of New Jersey;
- c. Loss of physical liberty;
- d. Being made the target of a filed Complaint and Indictment without the support of probable cause;
- e. A panic attack at the scene of his arrest;
- f. Shame, disgrace and public humiliation;
- g. Physical pain and suffering;
- h. Wage loss flowing from the termination of Mr. Carpenter's state employment as a result of the incident;
- i. Emotional trauma and loss of well-being, including symptoms consistent with Post-Traumatic Stress Disorder ("PTSD");
- j. Medical expenses and the financial burden of ongoing medical care as a result of emotional trauma and loss of well-being sustained in the incident.

WHEREFORE, the Plaintiff, David J. Carpenter, demands judgment in his favor and against the defendants, jointly and severally, in an amount exceeding

\$75,000, to be trebled pursuant to law, together with an award of punitive damages, attorney's fees pursuant to 42 U.S.C. § 1988, equitable relief, and taxable costs.

COUNT II

42 U.S.C. § 1983

**DAVID J. CARPENTER v. THE CITY OF MILLVILLE and POLICE
CHIEF JODY FARABELLA**

46. Plaintiffs incorporate the preceding averments of this Complaint by reference.

47. At all times relevant to this action, the City of Millville developed and maintained policies and customs that: (i) encouraged police officers to engage in improper "shock and awe" tactics against persons suspected of committing minor offenses, particularly where, as in this case, the suspect momentarily claims a right to engage in the conduct at issue; and (ii) refrained from providing effective training, oversight, and discipline to members of the Police Department, as a result of which Patrolman Chard expected that his lies and false testimony under oath about Mr. Carpenter would not result in adverse consequences, but could instead be inflicted with impunity under color of law.

48. At all times relevant to this action, Chief Farabella was vested by state law with the duty and authority to make effective municipal policy on: (i) police-citizen encounters; (ii) properly effectuating arrests; (iii) measures to discourage and provide consequences for the use of exaggerated and false testimony by police officers; (iv) internal affairs investigations; and (v) disciplining officers.

49. Chief Farabella did not arrange for the adequate training of Patrolman Chard or his fellow officers on police-citizen encounters or properly effectuating arrests, and did not enact or enforce measures to discourage and provide consequences for the use of exaggerated and false testimony by police officers.

50. Similarly, Chief Farabella did not provide for adequate internal affairs investigations, or for sufficient discipline of police officers, following incidents where police officers engaged in improper conduct during police-citizen encounters such as roadside stops, or in extreme cases, the provision of false or misleading testimony by police officers.

51. At all times relevant to this action, it was the policy and/or custom of the City of Millville to inadequately and improperly investigate citizen's complaints of police misconduct, and acts of misconduct were instead tolerated by the City.

52. At all times relevant to this action, it was the policy and/or custom of the City of Millville, as implemented by Chief Farabella, to inadequately supervise and train police officers, including Patrolman Chard, thereby failing to discourage further false testimony and constitutional violations by its police officers.

53. At all times relevant to this action, Chief Farabella did not require appropriate monitoring, in-service training, retraining, or employment discipline of officers, including but not limited to Patrolman Chard, who were known to have engaged in police misconduct.

54. As a result of the above described policies and customs, Patrolman

Chard misused the authority of his office during the unlawful arrest of Mr. Carpenter, the later filing of pretextual criminal charges against him, and the providing of false testimony to the Grand Jury concerning the events of the afternoon of January 22, 2018, and further believed that his illegal actions directed to Mr. Carpenter would not be investigated, remedied, or sanctioned, but would instead be tolerated.

55. The above described policies and customs demonstrated a deliberate indifference on the part of Chief Farabella and other policy makers of the City of Millville to the constitutional rights of persons within the city and were a proximate and/or factual cause of the violations of Mr. Carpenter's rights and resulting damages.

WHEREFORE, the Plaintiff, David J. Carpenter, demands judgment in his favor in an amount exceeding \$75,000, to be trebled pursuant to law, attorney's fees pursuant to 42 U.S.C. § 1988, equitable relief, and taxable costs.

COUNT III
DAVID J. CARPENTER v. PATROLMAN CHARD, CHIEF FARABELLA,
AND THE CITY OF MILLVILLE
VIOLATIONS OF NEW JERSEY CIVIL RIGHTS ACT

56. Plaintiffs incorporate the preceding averments of this Complaint by reference.

57. The acts of the Defendants violated Mr. Carpenter's rights under the New Jersey Civil Rights Act and the New Jersey Constitution, in that Mr. Carpenter was deprived of the following fundamental rights:

- a. The right to safety and happiness. (N.J. Const. Art I (1);

- b. The right to responsible Government action, which “is instituted for the protection, security, and benefit of the people.” (N.J. Const. Art I (2a))
- c. The right to be free from unreasonable arrest and seizure. (N.J. Const. Art I (7));
- d. The right (no less than that of a crime victim) to “be treated with fairness, compassion and respect” by all participants in the criminal justice system. (N.J. Const. Art I (22)).

58. As a direct and foreseeable result of the actions and/or inactions of the City of Millville alleged herein, Mr. Carpenter sustained damages as alleged above.

WHEREFORE, the Plaintiff, David J. Carpenter, demands judgment in his favor and against the defendants, jointly and severally, in an amount exceeding \$75,000, to be trebled pursuant to law, together with an award of punitive damages, attorney’s fees, equitable relief, and taxable costs.

**COUNT IV
NEGLIGENCE – RESPONDEAT SUPERIOR
DAVID J. CARPENTER v. CITY OF MILLVILLE**

59. Plaintiff incorporates the preceding averments of this Complaint by reference.

60. The aforementioned incident occurred as a foreseeable and/or factual result of the negligence of Chief Farabella and the Police Department in failing to properly hire, train, retrain, and/or discipline Patrolman Chard and his fellow officers.

61. As a foreseeable and direct result, Mr. Carpenter suffered the following injuries and damages:

- a. The violation of his constitutional rights under the Fourth and Fourteenth Amendment to the United States Constitution to be free from unreasonable seizure and false arrest;
- b. The violation of his right to equal protection of the laws of the United States of America and of the State of New Jersey;
- c. Loss of physical liberty;
- d. Being made the target of a filed Complaint and Indictment that lacked the support of probable cause;
- e. A panic attack at the scene of his arrest;
- f. Shame, disgrace and public humiliation;
- g. Physical pain and suffering;
- h. Wage loss flowing from the termination of Mr. Carpenter's state employment as a result of the incident;
- i. Emotional trauma and loss of well-being, including symptoms consistent with PTSD;
- j. Medical expenses and the financial burden of ongoing medical care as a result of emotional trauma and loss of well-being sustained in the incident.

WHEREFORE, the Plaintiff, David J. Carpenter, demands judgment in his

favor in an amount exceeding \$75,000, together with an award of attorney's fees where available pursuant to law, and taxable costs.

COUNT V
LOSS OF CONSORTIUM
SUSAN CARPENTER v. PATROLMAN CHARD
CHIEF FARABELLA AND THE CITY OF MILLVILLE

62. Plaintiff incorporates the preceding averments of this Complaint by reference.

63. The claimant, Susan Carpenter, is the spouse of David Carpenter. The couple was married on August 28, 1976, and as of January 1, 2018, Susan and David had spent 41 happy years together, without estrangement or separation.

64. Throughout Mr. Carpenter's ordeal, which began on January 22, 2018 and continued unabated until the dismissal on April 2, 2018 of all charges except cell phone use, Susan Carpenter lost the care, companionship and consortium of her husband.

65. Mr. Carpenter was fundamentally "not there" for Susan during this time period. He would spend hours sitting in a recliner, staring into space, and would frequently start to cry when recalling the incident. He was reluctant to leave the house, and would outright refuse to drive or walk anywhere near the scene of the incident.

66. After returning home from her own job, Susan spent evening after evening alone, while Mr. Carpenter brooded over the incident, and wondered how it could have given rise to the Indicted Crimes, the uncertainty of trial, and the

impossible task of explaining a criminal conviction to his family if the worse happened at trial.

67. As a foreseeable and approximate result of Defendants' acts, Mrs. Carpenter suffered the following injuries and damages:

- a. Loss of the consortium, services and care of her husband, Mr. Carpenter;
- b. Loss of family income;
- c. Severe emotional distress and loss of well-being;
- d. Medical expenses and the financial burden of ongoing medical care for Mr. Carpenter as a result of emotional distress sustained in the incident, and the loss of insurance coverage that would otherwise have been available to pay for necessary treatment through Mr. Carpenter's state employment.

WHEREFORE, the Plaintiff, Susan Carpenter, demands judgment in her favor in an amount exceeding \$75,000, together with an award of attorney's fees, and taxable costs.

JURY DEMAND AND DESIGNATION OF TRIAL COUNSEL

68. Plaintiffs demand trial by jury on all issues so triable.

69. Plaintiff designates Charles I. Coant, Esquire and Richard H. Maurer, Esquire as joint trial counsel in this matter.

CERTIFICATION

Plaintiffs, by their counsel, hereby certify that no other actions regarding the matter alleged in this Complaint are related to any other existing case or controversy nor is any related action contemplated at this time.

Respectfully submitted,

FLAMM WALTON HEIMBACH



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