

Rec'd 5/28/2020
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Melissa G. Rasner

20-250

From: Taeho Kim <opra+request-12848-7245d997@requests.opramachine.com>
Sent: Wednesday, May 27, 2020 9:07 PM
To: Melissa G. Rasner
Subject: OPRA request - OPRA - police officer-involved lawsuits 2012-2019

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Dear Ocean City,

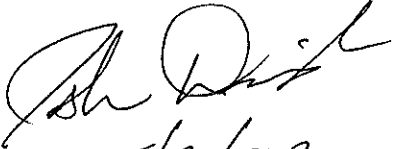
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Records requested:

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



5/26/2020

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

2011 OCT -6 PM 4:17

FILED

OCT 06 2011

CAPE MAY COUNTY
LAW DIVISION

Dean Schoenewald, Deidra Hughes
Name

12 Bell Haven CT Atlantic City, NJ 08401
Address

609-310-8784
Telephone Number

Dean Schoenewald, Deidra Hughes
Plaintiff

- 1) Ocean City NJ Police Chief Collision
 - 2) City of Ocean City NJ
 - 3) Ocean City Police Department
 - 4) Ocean City policeman Koob
- Defendant(s)

Superior Court of New Jersey

Law Division Cape May County

Docket No CPM L-567-11
(to be filled in by the court)

CIVIL ACTION
Complaint

Plaintiff, Dean Schoenewald, Deidra Hughes, residing at
(your name)

12 Bell Haven CT City of Atlantic City
(your address) (your city or town)
County of Atlantic
(your county)

State Of New Jersey, complaining of defendant, states as follows.

1. On at least 8 occasions from 2010-2011, Defendant
(name of person being sued)

(Summarize what happened that resulted in your claim against the defendant. Use additional pages if necessary.)

did terrorize, harass and abuse plaintiff and plaintiff's children. Defendants did also commit civil rights violations, took part in police misconduct including threats to plaintiff, wrote false tickets, engaged in a cover up of police misconduct, attempted to perjure a physical altercation on plaintiff front porch at 3:00 AM, and failed to file both a police report of assault on our daughter on

filed charges against perpetrator, including a second assault by the same individual, a niece of an OC police officer.

The defendant in this action resides at Ocean City NJ City Hall, 08226
(defendant's address)

In the County of Ocean County, State Of New Jersey.
(name of county where defendant lives)

2. Plaintiff is entitled to relief from defendant under the above facts.
3. The harm that occurred as a result of defendant's acts include:

(list each item of damage and injury),

1. Hypertensive stress and two additional
Assaults by the same person as a result of police
having NOT filed charges against perpetrator as plaintiffs
informed police wished to do.
2. Denial Attacker from fear of police.

Frightened and 3. Terrorized Children Ages 13, 11, 7, multiple times.

4. Mental Anguish
5. Lawyer Fees
6. Denial Access to our Home in Ocean City.
7. Wherefore, plaintiff requests judgment against defendant for damages, together
with attorney's fees, if applicable, costs of suit, and any other relief as the court
may deem proper.

Dated: October 3rd 2011

Signature: Debra Hughes

CERTIFICATION OF NO OTHER ACTIONS

I certify that the dispute about which I am suing is not the subject of any other
~~action pending in any other court or a pending arbitration proceeding to the best~~
of my knowledge and belief. Also, to the best of my knowledge and belief no
other action or arbitration proceeding is contemplated. Further, other than the
parties set forth in this complaint, I know of no other parties that should be made

a part of this lawsuit. In addition, I recognize my continuing obligation 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.

Dated: October 5th 2011 Signature: Deidra Hughes

OPTIONAL: If you would like to have a judge decide your case, do not include the following paragraph in your complaint. If you would prefer to have a jury to decide your case, please sign your name after the following paragraph.

JURY DEMAND

The plaintiff demands trial by a jury on all of the triable issues of this complaint, pursuant to New Jersey Court Rules 1:8-2(b) and 4:35-1(a).

Dated: October 5th 2011 Signature: Deidra Hughes

THE DIFAZIO LAW OFFICE
BY: SALVATORE P. DIFAZIO, ESQ.
15 MAIN STREET, SUITE 2
FLEMINGTON, NEW JERSEY 08822
(908)806-3799
FAX (908)806-3110
Attorneys for Plaintiff
Cornelius J. Kilgarriff, IV

CORNELIUS J. KILGARRIFF	:	UNITED STATES DISTRICT COURT
	:	DISTRICT OF NEW JERSEY
Plaintiff,	:	
	:	Civil Action No.:
v.	:	
	:	
THOMAS I. STRUNK, individually,	:	
MATEUSZ RYBA, individually,	:	
COLBY MELOY, individually,	:	
ROBERT PATANELLA, individually,	:	COMPLAINT
TIM SHARPE, individually,	:	
STEPHEN SCHAFFER, individually,	:	
CHAD CALLAHAN, in his official capacity:	:	
OCEAN CITY POLICY DEPARTMENT, :	:	
CITY OF OCEAN CITY, NJ, JOHN DOES:	:	
1-5, supervising officers in the Ocean	:	
City Police Department,	:	
	:	
Defendants.	:	

Plaintiff Cornelius J. Kilgarriff, by and through his attorneys, the DIFAZIO LAW
OFFICE, complains against the Defendants and requests trial by jury as follows:

I. JURISDICTION

1. This action is brought pursuant to 42 U.S.C. Section 1983 and in accordance with the Fourth and Fourteenth Amendments of the Constitution of the United States of America. Jurisdiction is conferred under 8 U.S.C. Section 1331 and Section 1343(3). This Court has supplemental jurisdiction over Plaintiff's pendent state law claims pursuant to 28 U.S.C. Section

II. PARTIES

2. At all times relevant hereto, Plaintiff Cornelius J. Kilgarriff was a resident of the Commonwealth of Pennsylvania and a citizen of the United States.
3. At all times relevant hereto, Defendant Thomas I. Strunk (hereinafter referred to as "Strunk") was a citizen of the United States and a resident of the State of New Jersey and was acting under the color of state law in his capacity as a law enforcement officer employed by Defendant Ocean City and/or the Ocean City Police Department.
4. At all times relevant hereto, Defendant Mateusz Ryba (hereinafter referred to as "Ryba") was a citizen of the United States and a resident of the State of New Jersey and was acting under the color of state law in his capacity as a law enforcement officer employed by Defendant Ocean City and/or the Ocean City Police Department.
5. At all times relevant hereto, Defendant Colby Meloy (hereinafter referred to as "Meloy") was a citizen of the United States and a resident of the State of New Jersey and was acting under the color of state law in his capacity as a law enforcement officer employed by Defendant Ocean City and/or the Ocean City Police Department.
6. At all times relevant hereto, Defendant Robert Patanella (hereinafter referred to as "Patanella") was a citizen of the United States and a resident of the State of New Jersey and was acting under the color of state law in his capacity as a law enforcement officer employed by Defendant Ocean City and/or the Ocean City Police Department.
7. At all times relevant hereto, Defendant Tim Sharpe (hereinafter referred to as "Sharpe") was a citizen of the United States and a resident of the State of New Jersey and was acting under the color of state law in his capacity as a law enforcement officer employed by Defendant Ocean City and/or the Ocean City Police Department.

8. At all times relevant hereto, Defendant Stephen Schaffer and John Does 1-5 were citizens of the United States and residents of the State of New Jersey and were acting under the color of state law in their capacity as a law enforcement officer employed by Defendant Ocean City and/or the Ocean City Police Department and at all times herein were acting in such capacities as the agents, servants, and/or employees of the City of Ocean City and were acting under color of law.
9. At all times relevant hereto, Defendant Stephen Schaffer was a Sergeant in the Ocean City Police Department and John Does 1-5 were duly appointed and acting police officers of the Ocean City Police Department and were Defendants Strunk, Ryba, Meloy, Patanella and Sharpe's supervisors. On information and belief, Defendants Schaffer and John Does 1-5 at all times trained and supervised Defendants Strunk, Ryba, Meloy, Patanella and Sharpe.
10. At all times relevant hereto, Defendant Chad Callahan was a citizen of the United States and a resident of the State of New Jersey. Defendants Chad Callahan is sued in his official capacity as the Chief of the Ocean City Police Department, employed by the Defendant Ocean City and/or the Ocean City Police Department and was acting under color of state law.
11. As the Chief of the Ocean City Police Department, Defendant Chad Callahan both exercised and delegated his municipal final decision making power to the Internal Affairs Bureau and others. On information and belief, he also trained and supervised Defendants Strunk, Ryba, Meloy, Patanella, Sharpe and Schaffer.
12. At all times relevant hereto, Defendant Ocean City is a City in Cape May County, New Jersey and is the legal entity responsible for itself and for the Ocean City Police Department. This Defendant is also the employer of the individual defendants and is a proper entity to be sued under 42 U.S.C. section 1983.

13. At all times relevant hereto, Defendant Ocean City, Ocean City Police Department, and Defendant Chad Callahan are properly sued directly under 42 U.S.C. section 1983 for their own and their delegated deliberately indifferent unconstitutional decisions, policies, practice, habits, customs, usage, training and derelict supervision, ratification, acquiescence and intentional failures which were moving forces in the complained of constitutional and statutory violations and resulting injuries.

14. The Defendant Ocean City is also properly sued under 42 U.S.C. section 1983 for the challenged delegated final decisions of Defendant Callahan in his official capacity as the Chief of the Ocean City Police Department, and for those of any final delegated decision makers, with respect to the hereinafter challenged deliberately indifferent policies, decisions, widespread habits, customs, usages and practices.

15. All Defendants are named in their individual and official capacities.

III. FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

16. Plaintiff incorporates all of the preceding paragraphs, including the allegations in the Introduction as if fully set forth herein.

17. On June 21, 2016, Plaintiff, then 18 years old, was a guest at 610 Atlantic Avenue, Ocean City, NJ.

18. While at 610 Atlantic Avenue, several police officers entered the property because they allegedly had a suspicion that an underage drinking party was occurring.

19. Defendant Strunk opened the door to the room that the Plaintiff was located in, with his service weapon drawn and pointed his service weapon in Plaintiff's face.

20. Once the initial shock of having a gun pointed at his face subsided, Plaintiff began to question why it was necessary for Defendant Strunk to act in that manner.

21. Ultimately, Defendant Strunk arrested Plaintiff and placed him in handcuffs.
22. After Plaintiff was handcuffed by Defendant Strunk and defenseless, Defendant Strunk violently assaulted Plaintiff on the front porch of the home, with his fists, arms and knees.
23. Defendant Strunk then took Plaintiff and violently threw his head against a pole on the porch.
24. As Defendant Strunk walked Plaintiff out to the patrol car, Plaintiff protested that Defendant Strunk's actions constituted police brutality at which point, Defendant Strunk slammed Plaintiff's head and/or body into the body of the patrol car before forcing him into the vehicle.
25. At all times that Defendant Strunk was violently beating Plaintiff, he was handcuffed and was not doing anything to resist the arrest.
26. Defendants Ryba, Meloy, Patenella and Sharpe knew or should have known about the brutality perpetrated on Plaintiff by Defendant Strunk. None of the officers took any steps to protect Plaintiff against Officer Strunk's use of excessive force, despite being in a position and having a duty to do so.
27. Plaintiff was then driven to police headquarters where he was processed and despite the beating that he was given by Defendant Strunk, released alone in the middle of the night. At no point did anyone at the Ocean City Police Department ask Plaintiff about his condition.
28. Plaintiff sought medical treatment the next day for injuries.
29. As a result of Defendants' unjustified assault, Plaintiff sustained bodily injuries, incurred medical expenses and legal expenses.

FIRST COUNT
SECTION 1983 USE OF EXCESSIVE FORCE

30. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

31. As a direct and proximate result of the above referenced unlawful and malicious physical abuse of Plaintiff by Defendant Strunk committed under color of state law, Plaintiff sustained bodily harm and was deprived of his right to be secure in his person against unreasonable seizure of his person, in violation of the Fourth and Fourteenth Amendments of the Constitution of the United States and U.S.C. Section 1983.

32. As a direct and proximate cause of the malicious and outrageous conduct of Defendants as set forth above, Plaintiff suffered bodily injuries, medical expenses, legal expenses, and will suffer additional special damages in the future in an amount which cannot yet be determined.

33. By reason of the above, Plaintiff was injured and deprived of his constitutional rights as described above.

WHEREFORE, Plaintiff Cornelius J. Kilgariff requests judgment against Defendant Thomas Strunk on this Count, together with compensatory, economic, consequential, special damages, along with punitive damages, attorney's fees, costs of suit, and such other and further relief the court deems proper.

SECOND COUNT
SECTION 1983 FAILURE TO INTERVENE

34. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

35. Defendants Mateusz Ryba, Colby Meloy, Robert Patenella, Tim Sharpe and Stephen Schaffer were Ocean City Police Officers and at all times mentioned herein were acting under color of state law.

36. Defendants Mateusz Ryba, Colby Meloy, Robert Patenella, Tim Sharpe and Stephen Schaffer had a duty to intervene in the unjustified assault of Plaintiff by Defendant Strunk.

37. The unjustified assault of Plaintiff by Defendant Strunk deprived Plaintiff of his right to be secure in his person against unreasonable seizure in violation of the Fourth and Fourteenth Amendments of the Constitution of the United States and made actionable through 42 U.S.C. Section 1983.

38. Defendants Mateusz Ryba, Colby Meloy, Robert Patenella, Tim Sharpe and Stephen Schaffer had a reasonable opportunity to intervene in the unjustified assault of Plaintiff by Defendant Strunk and Defendants Mateusz Ryba, Colby Meloy, Robert Patenella, Tim Sharpe and Stephen Schaffer failed to intervene.

39. As a direct and proximate cause of the conduct of Defendants Mateusz Ryba, Colby Meloy, Robert Patenella, Tim Sharpe and Stephen Schaffer set forth above, Plaintiff was deprived of her constitutional rights; sustained bodily injuries; medical expenses; legal expenses, and will suffer additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Cornelius J. Kilgarriff requests judgment against Defendants Mateusz Ryba, Colby Meloy, Robert Patenella, Tim Sharpe and Stephen Schaffer on this County, together with compensatory, economic, consequential, special damages, along with punitive damages, attorney's fees, costs of suit, and such other and further relief the court deems proper.

THIRD COUNT
SECTION 1983 SUPERVISORY LIABILITY

40. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.
41. Defendants Stephen Schaffer and Chad Callahan were supervisory officials and/or officers in charge at the time Plaintiff was assaulted.
42. Defendants Stephen Schaffer and Chad Callahan had a duty to prevent subordinate officers Strunk, Ryba, Meloy, Patenella and Sharpe from violating the constitutional rights of citizens and/or detainees.
43. Defendants Schaffer and Callahan either directed Defendants Strunk, Ryba, Meloy, Patenella and Sharpe to violate Plaintiff's constitutional rights or had knowledge of and acquiesced in his/their subordinate's violations.
44. Defendants Schaffer and Callahan failed to adequately track departmental excessive force complaints, administrative complaints and/or use of force incidents in violation of Ocean City's Police Department policies, practices, customs and/or guidelines and/or the New Jersey Attorney General's Use of Force and/or Internal Affairs Guidelines, and/or failed to discipline officers for such violations.
45. By reason of the above, Plaintiff was deprived of his constitutional rights, sustained bodily injuries; medical expenses, legal expenses, and will suffer additional special damages in the future in an amount yet to be determined.
46. As a direct and proximate cause of conduct of Defendants set forth above, Plaintiff was deprived of his Fourth and Fourteenth Amendment constitutional rights; sustained bodily injuries, medical expense, legal expenses and will suffer additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Cornelius J. Kilgarriff requests judgment against Defendants Stephen Schaffer and Chad Callahan on this Count, together with compensatory, economic, consequential, special damages, along with punitive damages, attorney's fees, costs of suit, and such other and further relief the court deems proper.

FOURTH COUNT
**SECTION 1983 UNLAWFUL POLICY, CUSTOM,
PRACTICE, INADEQUATE TRAINING**

47. Plaintiff hereby incorporates all other paragraphs of this Complaint as if fully set forth herein.

48. Defendants Ocean City Policy, Ocean City, Chad Callahan, Chief of Police of Ocean City and/or John Does 1-5 are vested by state law with the authority to make policy on the following: (1) the use of force; internal affairs investigations and/or administrative reviews pursuant to the Ocean City Police Department policies, practices and/or customs and/or the New Jersey Attorney General's Use of Force and/or Internal Affairs Guidelines; (2) effectuating arrests; (3) police citizen encounters, and/or (4) disciplining officers.

49. Defendant Callahan, Schaffer and/or John Does 1-5 are responsible for training Police Officers in the use of force and/or were officers in charge when Plaintiff Kilgarriff was assaulted and arrested.

50. At all times mentioned herein, Defendants Strunk, Ryba, Meloy, Patenella and Sharpe as police officers, agents, servants and/or employees of Defendant Ocean City, were acting under the direction and control of Defendants Ocean City Police Department, Callahan, Schaffer and/or John Does 1-5, and were acting pursuant to the official policy, practice or custom of the Ocean City Police Department.

51. Acting under color of law pursuant to official policy, practice, or custom, Defendants Ocean City, Callahan and/or John Does 1-5 intentionally, knowingly, recklessly and/or with deliberate indifference failed to train, instruct, supervise, control, and discipline on a continuing basis, Defendants Strunk, Ryba, Meloy, Patenella and Sharpe in their duties to refrain from (1) unlawfully and maliciously assaulting, arresting 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) using unreasonable and excessive force.

52. Acting under color of law pursuant to official policy, practice or custom, Defendants Ocean City, Callahan and/or John Does 1-5 intentionally, knowingly, recklessly and/or with deliberate indifference implemented and/or conducted superficial and shallow Internal Affairs processes which ignored evidence and patterns of police misconduct on individual and departmental levels. Defendants Ocean City, Callahan and/or John Does 1-5 failed to professionally, objectively and/or expeditiously investigate instances and patterns of police misconduct in violation of the spirit and substance of the New Jersey Attorney General's Guidelines for Internal Affairs Policy and Procedures.

53. Defendants Ocean City, Callahan and/or John Does 1-5 failed to adequately track departmental excessive force complaints, administrative complaints and/or use of force incidents in violation of Ocean city Police Department policies, practices, customs and/or guidelines and/or the New Jersey Attorney General's Use of Force and/or Internal Affairs Guidelines, and/or failed to discipline officers for such violations.

54. Defendants Ocean City, Callahan and/or John Does 1-5 were aware of numerous similar police citizen encounters involving, and/or Internal Affairs complaints and/or civil lawsuits filed against Defendants Strunk, Ryba, Meloy, Patenella, Sharpe, Schaffer, Callahan, John Does 1-5 and/or other Ocean City Police Officers whereby they customarily and frequently subjected citizens held in custody to physical and mental abuse; unlawfully and maliciously assaulted, arrested and harassed citizens; intentionally, recklessly and/or negligently misrepresented the facts of arrests and/or other police citizen encounters; falsified police and/or other official records; made false arrests, mishandled and/or withheld evidence and/or used unreasonable and excessive force on citizens/arrestees.

55. Despite their awareness, Defendants City of Ocean City, Ocean City Police Department, Callahan and/or John Does 1-5 failed to employ any type of corrective or disciplinary measures against Defendants Strunk, Ryba, Meloy, Patenella and Sharpe.

56. Defendants City of Ocean City, Ocean City Police Department, Callahan and/or John Does 1-5 had knowledge of, or had they diligently exercised their duties to instruct, train, supervise, control, and discipline Defendants Strunk, Ryba, Meloy, Patenella, Sharpe, on a continuing basis, should have had knowledge that the wrongs which were done, as heretofore alleged, were about to be committed.

57. Defendants City of Ocean City, Ocean City Police Department, Callahan and/or John Does 1-5 had power to prevent or aid in preventing the commission of said wrongs, could have done so by reasonable diligence, and intentionally, knowingly, recklessly and/or with deliberate indifference failed to do so.

58. Defendants City of Ocean City, Ocean City Police Department, Callahan and/or John Does 1-5, directly or indirectly, under color of state law, approved and/or ratified the unlawful,

deliberate, malicious, reckless, and wanton conduct of Defendants Strunk, Ryba, Meloy, Patenella and/or Sharpe heretofore described.

59. As a direct and proximate cause of conduct of Defendants set forth above, Plaintiff Kilgarriff was deprived of his Fourth and Fourteenth Amendment constitutional rights; sustained bodily injuries, medical expenses, legal expenses, and will suffer additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Cornelius J. Kilgarriff requests judgment against Defendants City of Ocean City, Ocean City Police Department, Chad Callahan and John Does 1-5 on this Count, together with compensatory, economic, consequential, special damages, along with punitive damages, attorney's fees, costs of suit, and such other and further relief the court deems proper.

JURY DEMAND

Plaintiff Cornelius J. Kilgarriff hereby demands a trial by a jury on all issues.

DESIGNATION OF TRIAL COUNSEL

Please be advised that Salvatore P. DiFazio, Esquire is hereby designated trial counsel in the above captioned matter.

Dated: June 3, 2018

/s/Salvatore P. DiFazio
THE DIFAZIO LAW OFFICE
BY: SALVATORE P. DIFAZIO, ESQ.

WILLIAM H. BUCKMAN LAW FIRM

Attorneys at Law
110 Marter Avenue, Suite 209
Moorestown, NJ 08034
(856) 608-9797
Attorneys for Plaintiff, Maira Middleton

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

MAIRA MIDDLETON, :
 : Civil No.:
Plaintiff, :
 :
v. : CIVIL ACTION
 :
CITY OF OCEAN CITY, THROUGH :
ITS POLICE DEPARTMENT; and : **COMPLAINT AND JURY DEMAND**
DETECTIVE STEVEN SCHAEFFER, :
 :
Defendants. :

Plaintiff, Maira Middleton, a resident of the City of Ocean City, County of Ocean, and State of New Jersey, by way of Complaint against the Defendants, says:

INTRODUCTION

This is an action for money damages brought pursuant to 42 U.S.C. § 1983, the Fourth and Fourteenth Amendments to the United States Constitution, the New Jersey State Constitution and New Jersey Civil Rights Act, against Steven Schaeffer, a Detective with the Ocean City Police Department, and the City of Ocean City, through its Police Department. This action stems from the false

arrest and malicious prosecution of Maira Middleton, which took place on or about August 8, 2010.

JURISDICTION

1. The jurisdiction of this Court is invoked pursuant to 42 U.S.C. § 1983, 42 U.S.C. § 1988, 28 U.S.C. § 1331, and 28 U.S.C. § 1343. Plaintiff invokes this Court's supplemental jurisdiction under 28 U.S.C. § 1367.

PARTIES

2. Plaintiff, Maira Middleton, at all times relevant, is a resident of the City of Ocean City, in the County of Ocean.
3. Defendant, Steven Schaeffer, at all times relevant, is a Detective employed by the City of Ocean City, through its Police Department, and was acting in the course of his employment and/or under color of state law. He is sued in his official and individual capacities.
4. The City of Ocean City, through its Police Department, at all times relevant, is the employer of Defendant Schaeffer and acted under color of state law.

FACTS

5. Maira Middleton is a business woman who, at all times relevant, was the owner, along with her husband, of "Bayview

Marina" in Ocean City, New Jersey.

6. Bayview Marina rents personal water crafts, i.e., jet skis, to the public as part of its business.
7. There is a local competing business known as "Wet and Wild, LLC."
8. Wet and Wild rents jet skis and is a neighboring business with Bayview Marina.
9. Plaintiff's competitor, Wet and Wild, through its principals, has a history of harassing Middleton through her business. The harassing conduct by Plaintiff's competitors culminated on or about August 7, 2010. On this date, the competitors alleged that someone trespassed on their property and removed drain plugs from their jet skis, causing the jet skis to malfunction in the water upon use. Further, the competitors claimed to have found sugar placed on or near the water crafts or the jet skis.
10. On this supposition, Defendant Schaeffer confronted Plaintiff on or about August 8, 2010 at her business. Defendant Schaeffer yelled at Plaintiff, arrested Plaintiff in front of her daughter, placed handcuffs tightly upon Plaintiff and jerked her arms and wrists so as to cause Plaintiff significant pain. Plaintiff at no time resisted arrest. Plaintiff was grandstanded in public and taken to the police station.

11. Once at the police station, Defendant Schaeffer did not simply present Plaintiff with a summons and release her on her own recognizance, since, at most, Plaintiff was charged with disorderly person offenses. Rather, Defendant Schaeffer saw to it that Plaintiff was delayed in processing and continually moved from area to area in the building while he attempted to have a judge sign a warrant with bail against Plaintiff.
12. At times, without apprising Plaintiff of her constitutional rights, Defendant Schaeffer screamed at and attempted to interrogate Plaintiff and illicit a confession to these conjectural charges. Defendant Schaeffer went so far as to make a misstatement in a bail form for the municipal court judge in an effort to have Plaintiff be required to post bail.
13. Ultimately, after more than three hours of being moved around the Ocean City police station and interrogated beyond her consent, including being screamed at by Defendant Schaeffer, Plaintiff was released.
14. As a result of Defendant Schaeffer's actions, Plaintiff has suffered severe emotional trauma and significant pain from the handcuffs.
15. Notably, Defendant Schaeffer signed the complaint-warrant against Plaintiff, rather than allowing the competitors to sign a private complaint on information and belief.
16. As a result of the foregoing, Plaintiff was forced to go to

trial on July 22, 2011. Plaintiff was acquitted of all charges.

17. Defendant, Ocean City through its Police Department, is responsible for the training, supervision and professional deportment of Defendant Schaeffer.

COUNT I
42 U.S.C. § 1983
Defendant Steven Schaeffer

18. Plaintiff repeats the allegations of the previous paragraphs as if set forth at length herein.
19. Defendant Schaeffer, acting under color of state law, violated Plaintiff's constitutional rights through his acts, including:
- A. Falsely arresting Plaintiff;
 - B. Maliciously prosecuting Plaintiff;
 - C. Using excessive force upon Plaintiff;
 - D. Unlawfully restraining, detaining and/or searching Plaintiff.
20. At all times relevant hereto, Defendant Schaeffer knew, or should have known, that there was insufficient probable cause to arrest, detain and/or charge Plaintiff.

COUNT II
42 U.S.C. § 1983
City of Ocean City, through its Police Department

21. Plaintiff repeats the allegations of the previous paragraphs as if set forth at length herein.

22. Defendant City of Ocean City, through its Police Department, acting under color of state law, failed to properly train and/or supervise Defendant Schaeffer, and failed to provide appropriate safeguards to prevent the deprivation of Plaintiff's civil rights.
23. Defendant City of Ocean City, through its Police Department, acting under color of state law pursuant to an official policy or custom and practice of the Department, and intentionally, knowingly, recklessly or with deliberate indifference, failed to properly and adequately control and discipline, and otherwise failed to restrain Defendant Schaeffer from unlawfully causing the deprivation of Plaintiff's civil rights.
24. Defendant City of Ocean City, through its Police Department, had knowledge of, or had it diligently exercised its duties to instruct, supervise, train, control and/or discipline Defendant Schaeffer on a continuing basis, should have had knowledge of, the wrongs that were done as alleged above, and intentionally, knowingly, willfully, or with deliberate indifference to Plaintiff's rights, failed or refused to prevent their commission.
25. Defendant City of Ocean City, through its Police Department, acting under color of state law, thereby approved or ratified the unlawful, deliberate, malicious, reckless and

wanton conduct of Defendant Schaeffer.

COUNT III

**New Jersey State Constitution and New Jersey Civil Rights Act
Defendant Steven Schaeffer**

26. Plaintiff repeats the allegations of the previous paragraphs as if set forth at length herein.
27. Defendant Schaeffer violated Plaintiff's rights under Article I, Paragraph 1 of the New Jersey State Constitution by unlawfully arresting her and maliciously prosecuting her, as well as the New Jersey Civil Rights Act.

COUNT IV

**New Jersey State Constitution and New Jersey Civil Rights
Defendant City of Ocean City, through its Police Department**

28. Plaintiff repeats the allegations of the previous paragraphs as if set forth at length herein.
29. Defendant City of Ocean City, through its Police Department, failed under the New Jersey Constitution and the New Jersey Civil Rights Act to properly train, supervise and/or restrain Defendant Schaeffer.
30. Alternatively, Defendant City of Ocean City was indifferent to Plaintiff's civil rights violated by Defendant Schaeffer by virtue of its failure to properly train, supervise and/or restrain Defendant Schaeffer.

WHEREFORE, the Plaintiff, Maira Middleton, requests that this Court:

- A. Award compensatory and punitive damages to the Plaintiff and against the Defendants jointly and severely;
- B. Award damages to the Plaintiff as allowed under 42 U.S.C. § 1983;
- C. Award reasonable attorneys' fees, costs of suit and interest thereon to the Plaintiff; and
- D. Award such other and further relief as this Court may deem appropriate.

JURY DEMAND

Plaintiff, Maira Middleton, hereby demands a trial by jury of all issues in this action.

DESIGNATION OF TRIAL COUNSEL

Plaintiff designates the William H. Buckman Law Firm as trial counsel in the above-captioned matter.

/s/William H. Buckman
WILLIAM H. BUCKMAN

Dated: February 01, 2012

Joseph C. Grassi, Esquire
Aaron T. Penrod, Esquire
BARRY, CORRADO, GRASSI & GIBSON, P.C.
2700 Pacific Avenue
Wildwood, NJ 08260
(609) 729-1333
jgrassi@capelegal.com
apenrod@capelegal.com
Attorneys for Plaintiff

FILED

DEC 16 2011

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CAPE MAY COUNTY

ROBERT PETNICK,
Plaintiff,

v.

OCEAN CITY; OFFICER ROBERT
KOOB; OFFICER ANTHONY.
FEARNHEAD; OFFICER JOHN VOGT;
SERGEANT CAMPO; JOHN DOES 1-
20,
Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CAPE MAY COUNTY

Civil Action

DOCKET NO. CPM-L- 674-11

COMPLAINT AND JURY DEMAND

Robert Petnick, by way of complaint against defendants,
hereby avers:

PARTIES

1. Plaintiff Robert Petnick is an adult resident of the State of New Jersey.
2. Defendant Ocean City is a municipal corporation organized under the laws of the State of New Jersey, with offices at 829 Atlantic Avenue, Ocean City, New Jersey.
3. On February 26, 2010, the defendant Officer Robert Kobb was employed as a police officer with Ocean City. He is being sued in his individual and official capacity.

4. On February 26, 2010, the defendant Officer John Vogt was employed as a police officer, deployed as a K9 patrol handler and paired with K9 partner Deuce with Ocean City. He is being sued in his individual and official capacity.
5. On February 26, 2010, the defendant Officer Anthony D. Fearnhead was employed as a police officer with Ocean City. He is being sued in his individual and official capacity.
6. On February 26, 2010, the defendant Sergeant Campo was employed as a police officer with Ocean City. He is being sued in his individual and official capacity.
7. On February 26, 2010, the defendants John Does 1-20 are officers or employees of Ocean City, precise identities currently unknown, who caused injuries to plaintiff. They are being sued in their individual and official capacities.

ALLEGATIONS

8. The subsequent events occurred on February 26, 2010.
9. The Ocean City Police Department was notified by an officer of the New Jersey Intensive Supervision Program about an outstanding warrant for the plaintiff, and that the plaintiff was probably located at 2336 Simpson Avenue, Ocean City, New Jersey.
10. Ocean City police officers Sergeant Campo and Patrolman Robert R. Koob reported to the 2300 block of Simpson and Bay

Avenues.

11. Sergeant Campo observed an individual running in the area of the 2300 block alley of Simpson and Bay Avenues. Sergeant Campo and/or unknown officers engaged in a foot chase of the individual.

12. Officers Fearnhead and Vogt ascertained the plaintiff with the assistance of K9 Deuce. They held plaintiff at gunpoint.

13. Officer Koob then dragged the plaintiff on the alley while Officers Fearnhead and Vogt held the plaintiff at gunpoint.

14. The plaintiff offered no resistance to the officers at any time.

15. While plaintiff was offering no resistance to the officers, Officer Vogt released his K-9 dog. The dog bit plaintiff on the left hand and fingers causing plaintiff to suffer physical and emotional injuries.

16. Defendants caused a K-9 police dog to be deployed against plaintiff with no probable cause or justification for so doing.

17. The defendants witnessed the apprehension and failed to intervene.

18. The actions of all defendants were taken under color of state law,

COUNT I

ACTION UNDER N.J.S.A. 10:6-2 FOR VIOLATIONS OF ARTICLE 1,
PARAGRAPH 7 OF THE NEW JERSEY CONSTITUTION

(Against Individual Defendants)

19. Plaintiff incorporates the above allegations.
20. Mr. Petnick has a right under Article I, Paragraph 7 of the New Jersey Constitution to be free from the use of excessive force by agents of the state, and in particular the police.
21. The actions of the individual defendants, as described above, violated those rights.
22. As a proximate result of those violations, Mr. Petnick has been injured as set forth above.

WHEREFORE, plaintiff demands judgment in his favor and against defendants as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. For attorney's fees and costs pursuant to N.J.S.A. 10:6-2(f); and
- d. For costs, fees, and all other appropriate relief.

COUNT II

ACTION UNDER N.J.S.A. 10:6-2 DUE TO A FAILURE TO ADEQUATELY
TRAIN AND SUPERVISE

(Against Defendant Ocean City)

23. Plaintiff incorporates the above allegations.

24. Defendant Ocean City had a duty to oversee the supervision of their employees, including the individual defendants.

25. Defendant Ocean City has a policy which encourages and tolerates assaulting suspects who are arrested.

26. Defendant Ocean City's acts and omissions constitute deliberate indifference to the rights of plaintiff.

27. Defendant Ocean City's indifference is demonstrated by a pattern carried out by officers and the failure of Internal Affairs to investigate and sustain legitimate and bona fide instances of assault.

28. As a proximate result of these failures, Mr. Petnick was injured as set forth above..

WHEREFORE, plaintiff demands judgment in his favor and against Ocean City as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. For costs, fees, and all other appropriate relief.

COUNT III

NEGLIGENT TRAINING, AND SUPERVISION UNDER STATE LAW

(Against Defendant City of Ocean City)

29. Plaintiff incorporates the above allegations.

30. Defendant Ocean City had a duty to oversee the hiring, training, and supervision of their employees, including the individual defendants.

31. Defendant Ocean City negligently, or willfully and wantonly, failed to properly hire, train, and oversee the individual defendants.

32. As a proximate result of these failures, Mr. Petnick was injured as set forth above.

WHEREFORE, plaintiff demands judgment in his favor and against Ocean City as follows:

- a. Compensatory damages;
- b. Punitive damages; and
- c. For costs, fees, and all other appropriate relief.

COUNT IV

NEGLIGENCE

(Against All Defendants)

33. Plaintiff incorporates the above allegations.

34. By their acts and omissions, defendants violated the duty of care owed to Mr. Petnick.

35. Defendants' acts and omissions were a material element and/or a scheduled factor in bringing harm to the plaintiff.

36. The harms sustained by Mr. Pentick were a reasonable and foreseeable result of defendants' acts and omissions.

37. Defendants are jointly and severally liable for the injuries sustained by Mr. Petnick.

WHEREFORE, plaintiff demands judgment in his favor and against defendants as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. For costs, fees, and all other appropriate relief.

COUNT V

BATTERY

(Against Officer Robert Kobb, Officer John Vogt, Officer Anthony Fearnhead, Sergeant Campo & John Doe Defendants)

38. Plaintiff incorporates the above allegations.

39. The individual defendants ordered and/or allowed a K-9 to attack Mr. Petnick without cause or provocation.

40. The individual defendants' conduct as described above constitutes a civil battery.

41. The individual defendants acted willfully, wantonly, and deliberately in assaulting Mr. Petnick

42. As a proximate result of that conduct, Mr. Petnick was injured as set forth above.

WHEREFORE, plaintiff demands judgment in his favor and against defendants as follows:

- a. Compensatory damages;
- b. Punitive damages; and

c. Costs, fees, and all other appropriate relief.

COUNT VI

ACTION UNDER 42 U.S.C. §1983 FOR VIOLATIONS OF PLAINTIFF'S
FOURTH AMENDMENT RIGHTS

(Against All Defendants)

43. Plaintiff incorporates the included allegations.

44. Mr. Petnick has a right under the Fourth Amendment to the United States Constitution to be free from the use of excessive force by agents of the state and in particular by the police.

45. The actions of the individual defendants, as described above, violated those rights.

46. As a proximate result of that violation, Mr. Petnick was injured as set forth above.

WHEREFORE, plaintiff demands judgment in his favor and against Ocean City as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. For costs, fees, and all other appropriate relief.

COUNT VII

MUNICIPAL LIABILITY UNDER 42 U.S.C. §1983 FOR FAILURE TO HIRE
AND ADEQUATELY SUPERVISE OF PLAINTIFF'S FOURTH AMENDMENT RIGHTS

(Against Ocean City)

47. Plaintiff incorporates the included allegations.

48. Defendant Ocean City has a policy and practice of

failing to adequately train police officers concerning the proper use of force and proper use of K-9 police dogs.

49. In accordance with that policy, the city failed to adequately train and supervise the individual defendants in the use of force and use of a K-9 police dog.

50. The city's policy and practice as set forth above violated Mr. Petnick's rights under the Fourth Amendment to the United States Constitution.

51. As a proximate result of the city's policy and practice, Mr. Petnick was injured as set forth above.

WHEREFORE, plaintiff demands judgment in his favor and against Ocean City as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. For costs, fees, and all other appropriate relief.

COUNT VIII

ACTION UNDER 42 U.S.C. §1983 FOR PARTICIPATING OR FAILING TO INTERVENE DURING A CONSTITUTIONAL VIOLATION

(Against Officer Robert Kobb, Officer John Vogt, Officer Anthony Fearnhead, Sergeant Campo & John Doe Defendants)

52. Plaintiff incorporates the included allegations.

53. Mr. Petnick has a right under the Fourth Amendment to the United States Constitution to be free from the use of excessive force by agents of the state, and in particular by the police.

54. The individual defendants were present at the scene and either used excessive force against Mr. Petnick or failed to take reasonable steps to protect Mr. Petnick from the use of excessive force.

55. The actions of the individual defendants, as described above, violated those rights.

56. As a proximate result of that violation, Mr. Petnick was injured as set forth above.

WHEREFORE, plaintiff demands judgment in his favor and against defendants as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorney's fees and costs pursuant to 42 U.S.C. § 1988; and
- d. All other appropriate relief.

BARRY, CORRADO, GRASSI & GIBSON, P.C.



AARON T. PENROD, ESQUIRE

Dated: 12/15/11

DEMAND FOR JURY TRIAL

Jury trial is demanded as to all issues.

DESIGNATION OF TRIAL COUNSEL

TAKE NOTICE that Joseph C. Grassi, Esquire is hereby designated as trial counsel in this case.

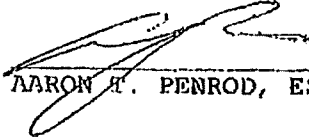
CERTIFICATION

It is hereby certified that there are no other known actions or arbitrations relating to this action and there are no known parties who should be joined with respect to the matter in controversy.

BARRY, CORRADO, GRASSI & GIBSON, P.C.
Attorneys for plaintiff

Dated: 1/3/15/11

By:


AARON T. PENROD, ESQUIRE

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

NORMA POWELL

Plaintiff

vs.

CITY OF OCEAN CITY, OFFICER LAURA A.
HALL, individually, SERGEANT D. DUBBS,
individually, SHORE MEMORIAL HOSPITAL
n/k/a SHORE MEDICAL CENTER, KATHRYN
PAGE, RN, individually, JESSICA RUIZ, APN,
individually, JOHN DOES (1-20),
(fictitious names), j/s/a, ABC CORPORATIONS
(1-20), (fictitious names), j/s/a, RICHARD ROES
(1-20), (fictitious names), j/s/a

Defendants.

CIVIL ACTION

CASE NO:

COMPLAINT

Plaintiff, Norma Powell, by and through her undersigned counsel, brings this complaint against Defendants, City of Ocean City, Officer Laura A. Hall, Sgt. D. Dubbs, Shore Memorial Hospital n/k/a Shore Medical Center, Kathryn Page, RN, Jessica Ruiz, APN, John Does (1-20), ABC Corporations (1-20) and Richard Roes (1-20), and alleges:

INTRODUCTION STATEMENT

Plaintiff, Norma Powell, hereby submits this Complaint involving illegal search and seizure, excessive force, negligence, informed consent, and battery. On or about July 11, 2012, Plaintiff, Norma Powell, was arrested and detained for suspicion of driving under the influence, taken into custody, and given 10 cups of water in an attempt to collect Plaintiff's urine for DUI testing. When Plaintiff was unable to urinate after an hour, Plaintiff was taken to Defendant, Shore Memorial Hospital, where blood was extracted, and urine extracted by catheterization, against Plaintiff's will

and without a warrant, without exigent circumstances and without consent or informed consent, in a medically unreasonable and unsafe manner, so that Plaintiff, among other damages, contracted MRSA.

JURISDICTION

1. This action is brought pursuant to 42 U.S.C. 1983, the Fourth and Fourteenth Amendments of the Constitution, and the laws of the State of New Jersey.

2. The jurisdiction of this Court is predicated on 28 U.S.C. 1331 and 1342 (a)(3) and the supplemental jurisdiction of this Court under 28 U.S.C. 1367 (a). Venue is placed in the United States District of New Jersey because it is where the Defendant parties reside and where the events complained of occurred.

PARTIES

3. Norma Powell, (hereinafter referred to as "Plaintiff"), at all times relevant hereto, was a resident of the City of Ocean City, New Jersey.

4. Defendant, City of Ocean City, (hereinafter referred to as "Ocean City"), is a city duly organized under the Constitution and laws of the State of New Jersey.

5. Defendant, Officer Laura A. Hall, (hereinafter referred to as "Officer Hall"), was at all times referred to herein, a police officer working for the Ocean City Police Department employed with the City of Ocean City and is being sued in her individual capacity and in her capacity as an officer of the Ocean City Police Department.

6. Defendant, Sergeant D. Dubbs, (hereinafter referred to as "Sgt. Dubbs"), was at all times referred to herein, a police sergeant working for the Ocean City Police Department employed with the City of Ocean City and is being sued in his/her individual capacity and in his/her capacity as an officer of the Ocean City Police Department.

7. Defendant, Shore Memorial Hospital n/k/a Shore Medical Center, (hereinafter referred to as "Shore"), upon information and belief, is a hospital located at One East New York Avenue, Somers Point, NJ 08244, and at which invasive medical procedures were performed on Plaintiff and at all times relevant hereto, employed the nurse Defendants, as well as other healthcare providers involved in performing said procedures on Plaintiff.

8. Defendant, Kathryn Page, RN, (hereinafter referred to as "Page RN"), was duly licensed as a nurse, and practicing under the laws of the State of New Jersey at Defendant, Shore, on July 11, 2012. Defendant was an employee of Defendant hospital.

9. Defendant, Jessica Ruiz, APN, (hereinafter referred to as "Ruiz APN"), was duly licensed as a nurse and practicing under the laws of the State of New Jersey at Defendant, Shore, on July 11, 2012. Defendant was an employee of Defendant hospital.

10. Defendant, John Does (1-20), fictitious names, representing individuals employed with Defendant, Shore, and were licensed to practice medicine in the State of New Jersey and/or were staff members, and/or nurses, who were agents, supervisors, partners and/or employees of Defendant, Shore.

11. Defendant, ABC Corporations (1-20), fictitious names, representing a corporation, partnership, sole proprietorship and/or other such business entities licensed to practice medicine in the State of New Jersey whose identities cannot reasonably be ascertained at this time.

12. Defendant, Richard Roes (1-20), fictitious names, representing individuals employed with the City of Ocean City, whose identities cannot reasonably be ascertained at this time and who at all times relevant hereto were police officers, supervisors, agents and/or employees employed with the Ocean City Police Department and/or City of Ocean City, acting in the course and scope of their employment.

13. At all times relevant hereto, all Defendants acted individually and/or by and through their employees, agents, servants, contractors and/or assigns.

14. At all times relevant hereto Defendants, Officer Hall, Sgt. Dubbs, Richard Roes (1-20) and/or other employees of Ocean City and Ocean City Police Department were acting under the color of law as police officers, and in such capacity, as the agents, servants and employees of the City of Ocean City.

15. Plaintiff hereby invokes the doctrine of Respondent Superior, Vicarious Liability and Joint and Several Liability.

FACTUAL ALLEGATIONS

16. On or about July 11, 2012, Plaintiff, Norma Powell, was arrested and detained for suspicion of driving under the influence.

17. Plaintiff was taken into custody by Defendant, Officer Hall, after said Defendant allegedly attempted to administer several field sobriety tests to Plaintiff.

18. During the transport to headquarters in the police cruiser, Plaintiff allegedly fell asleep and Officer Hall did not detect any odor of alcohol present during her investigation or the transport to headquarters.

19. Upon arrival at police headquarters, Plaintiff was placed in a holding cell for observation for twenty minutes.

20. Plaintiff was then moved to the Alcotest Room where a Breathalyzer test was attempted, however, due to Plaintiff suffering from COPD, she was unable to register a reading satisfactory to the arresting officer.

21. Defendant, Sgt. Dubbs, conducted an examination while at Defendant headquarters and he/she and/or Defendant, Officer Hall, forced Plaintiff to consume at least 10 cups of water in

an effort to force Plaintiff to urinate for a urine sample, however, Plaintiff was unable to void urine and kept allegedly falling asleep while drinking the water.

22. At the direction of Defendant, Sgt. Dubbs, Plaintiff was transported to Defendant, Shore, with a urine and blood kit for the sole purpose of collecting both fluids for evidence of a DUI.

23. Plaintiff was received at Defendant hospital in the Emergency Room, despite no detection or suspicion of an emergent medical condition.

24. At no time was Plaintiff given, nor did she knowingly sign, a consent to have either blood or urine extracted, nor did she verbally consent to either procedure.

25. No informed consent was given nor risks of any procedures described to Plaintiff nor was she given authorizations nor signed such forms for any procedures to be performed.

26. At no time was any testing or examination performed on Plaintiff in an effort to assess her medical condition or her ability to consent to any procedures nor were any procedures performed for any treatment purposes.

27. A "blood kit" was then used by Defendant, Page RN and/or Defendant, Ruiz APN and/or Defendant, Officer Hall, to obtain a blood sample from Plaintiff.

28. Defendant, Page RN and/or Defendant, Ruiz APN along with Defendant, Officer Hall, then proceeded to catheterize Plaintiff to forcefully extract a urine sample for the sole purpose of testing for substances for a potential DUI conviction, despite that a blood sample was taken which would have sufficed, and, in fact, have been more exacting for such purposes.

29. During the catheterization, Defendant, Officer Hall, while in her police uniform she had been wearing for her shift out on the street, physically assisted with catheterizing of Plaintiff, including holding the tube and collection bag.

30. Defendant, Officer Hall, was not properly trained in catheterization, or assisting in

same, and was not properly cleaned and/or sterilized, was not properly attired and/or gowned and/or aproned, to perform and/or assist in the catheterization of Plaintiff.

31. At no time was Plaintiff advised of any risks of any procedures done, including the risk of infection from the catheterization and/or blood sample.

32. Defendant, Officer Hall, on her own and through the direction of Defendant, Sgt. Dubbs and/or Defendant, Ocean City, was on a mission to collect Plaintiff's urine and blood by any means necessary.

33. All of the Defendants knew or should have known that Plaintiff was not in an emergent medical condition and no emergent circumstances existed by which the Defendants could have acted in concert to perform the highly invasive and humiliating procedures carried out to collect Plaintiff's urine without her consent.

34. Plaintiff contracted a bacterial infection known as Meticillin-Resistant Staphylococcus Aureus (hereinafter referred to as "MRSA"), as a result of the unlawful, unclean and below standard procedures used in catheterizing and collecting Plaintiff's urine and/or blood by Defendants, Page RN, Ruiz APN and Officer Hall.

COUNT I

NEGLIGENCE

PLAINTIFF V. DEFENDANTS, CITY OF OCEAN CITY, OFFICER HALL AND SGT.

DUBBS AND RICHARD ROES (1-20)

35. Plaintiff incorporates by reference the above paragraphs of the Complaint.

36. Defendants herein each owed Plaintiff a duty of care.

37. Defendants, individually and jointly, breached their respective duties.

38. At all times relevant hereto, the negligence of the Defendants, Ocean City, Officer

Hall and/or Sgt. Dubbs, consisted of negligently ordering the catheterization without any reasonable justification and performing and/or assisting in the catheterization of Plaintiff without proper training, skills, cleaning and/or sterilization, attire, gowning and/or aproning.

39. Defendant, Ocean City, negligently hired, selected, trained, supervised and oversaw Defendant officers and failed to establish, enforce and train defendant officers in policies and procedures including, among other things, collecting bodily fluids from individuals in custody for evidence in a lawful and reasonable manner.

40. The negligence of these Defendants proximately caused the physical, emotional, and economic damages incurred by the Plaintiff.

41. The injury or injuries sustained by Plaintiff was or were caused by the negligent acts of the local agency or an employee thereof acting within the scope of his/her office or duties.

42. During the course of the alleged negligence, Plaintiff was not in any medically emergent condition, was not administered any treatment or examination, and did not and/or could not give consent to the invasive catheterization.

43. Defendants were not authorized or required by law to order and/or perform and/or assist in the catheterization of Plaintiff and did not in good faith reasonably believe their conduct was authorized or required by law.

44. Alternatively, Officer Hall and/or Sgt. Dubbs engaged in willful misconduct by intentionally ordering the catheterization of Plaintiff, and Officer Hall engaged in willful misconduct by intentionally holding, ordering and performing and/or assisting in the catheterization of Plaintiff without any reasonable justification to purposely humiliate and expose Plaintiff to injury.

45. The conduct of these Defendants that caused injury to Plaintiff constituted a

crime, or demonstrated actual malice or willful misconduct.

46. The injuries sustained by Plaintiff represent, individually or collectively, a permanent loss of a bodily function or permanent disfigurement and her medical expenses are in excess of \$1,500.

47. As a direct and proximate result of the negligence, intentional and reckless conduct, and other liability-producing conduct of the Defendants, Plaintiff has sustained personal injuries and economic losses, and will continue to be harmed by these losses indefinitely.

WHEREFORE, Plaintiff demands judgment against Ocean City, Officer Hall, Sgt. Dubbs, Shore, Page RN, Ruiz APN, John Does (1-20), ABC Corporations (1-20), Richard Roes (1-20), individually, jointly, severally and, in the alternative, for:

- a. Award of compensatory damages;
- b. Award of reasonable attorney's fees and costs pursuant to 42 U.S.C. 1988;
- c. Award of punitive damages; and
- d. Award of such other relief as this Honorable Court deems just.

COUNT II

42 U.S.C. § 1983: EXCESSIVE FORCE

PLAINTIFF V. DEFENDANTS, OCEAN CITY, OFFICER HALL, SGT. DUBBS AND

RICHARD ROES (1-20)

48. Plaintiff incorporates by reference the above paragraphs of the Complaint.

49. Plaintiff was damaged and injured as set forth above under 42 U.S.C. § 1983 by Defendant Officers in that they, as described in detail above, violated Plaintiff's constitutional rights while acting under color of law.

50. Defendant Officers intentionally acted to cause a harmful and/or offensive contact

with Plaintiff's person and such actions were the actual and proximate cause of Plaintiff's harm.

51. The force used by the police officers was not justified and was not reasonable under the circumstances.

52. Defendants used excessive force and were verbally abusive when they detained and arrested Plaintiff.

53. Defendants used excessive force which was not reasonable under the circumstances.

54. Defendants used excessive force by ordering, physically performing and/or assisting in catheterizing Plaintiff to collect her urine, in an extremely invasive and humiliating procedure, without her consent, without informing her she had a right to refuse such a procedure, and in the absence of exigent circumstances or any reasonable justification.

55. Moreover, Defendant, Officer Hall, was not properly trained to perform or assist in the catheterization of Plaintiff, was not properly cleaned and/or sterilized, was not properly attired, gowned or aproned, to perform or assist in such a procedure.

56. As a direct and proximate result of the excessive force used by the Defendants, Plaintiff has sustained damages, including personal injuries and economic losses, and will continue to be harmed by these losses indefinitely.

WHEREFORE, Plaintiff demands judgment against Ocean City, Officer Hall, Sgt. Dubbs, Shore, Page RN, Ruiz APN, John Does (1-20), ABC Corporations (1-20), Richard Roes (1-20), individually, jointly, severally and, in the alternative, for:

- a. Award of compensatory damages;
- b. Award of reasonable attorney's fees and costs pursuant to 42 U.S.C. 1988;
- c. Award of punitive damages; and

- d. Award of such other relief as this Honorable Court deems just.

COUNT III

BATTERY

PLAINTIFF V. DEFENDANTS, OCEAN CITY, OFFICER HALL, SGT. DUBBS AND

RICHARD ROES (1-20)

57. Plaintiff incorporates by reference the above paragraphs of the Complaint.

58. Plaintiff was damaged and injured as set forth above by Defendant Officers in that they intentionally acted to cause a harmful and/or offensive contact with Plaintiff's person without justification, authority or permission, and such actions were the actual and proximate cause of Plaintiff's harm.

59. As a direct and proximate result of the liability-producing conduct of the Defendants, Plaintiff has sustained damages, including personal injuries and economic losses, and will continue to be harmed by these losses indefinitely.

WHEREFORE, Plaintiff demands judgment against Ocean City, Officer Hall, Sgt. Dubbs, Shore, Page RN, Ruiz APN, John Does (1-20), ABC Corporations (1-20), Richard Roes (1-20), individually, jointly, severally and, in the alternative, for:

- a. Award of compensatory damages;
- b. Award of reasonable attorney's fees and costs pursuant to 42 U.S.C. 1988;
- c. Award of punitive damages; and
- d. Award of such other relief as this Honorable Court deems just.

COUNT IV

42 U.S.C. § 1983: ASSAULT

PLAINTIFF V. DEFENDANTS, OCEAN CITY, OFFICER HALL, SGT. DUBBS AND

RICHARD ROES (1-20)

60. Plaintiff incorporates by reference the above paragraphs of the Complaint.

61. Plaintiff was damaged and injured as set forth above under 42 U.S.C. § 1983 by Defendant Officers in that they, as described in detail in preceding paragraphs, violated Plaintiff's constitutional rights while acting under color of law. More specifically, Defendant Officers intentionally placed Plaintiff in reasonable apprehension of imminent harmful and/or offensive bodily contact, and Defendants' actions were the actual and proximate cause of Plaintiff's harm.

62. As a direct and proximate result of the liability-producing conduct of the Defendants, Plaintiff has sustained damages, including personal injuries and economic losses, and will continue to be harmed by these losses indefinitely.

WHEREFORE, Plaintiff demands judgment against Ocean City, Officer Hall, Sgt. Dubbs, Shore, Page RN, Ruiz APN, John Does (1-20), ABC Corporations (1-20), Richard Roes (1-20), individually, jointly, severally and, in the alternative, for:

- a. Award of compensatory damages;
- b. Award of reasonable attorney's fees and costs pursuant to 42 U.S.C. 1988;
- c. Award of punitive damages; and
- d. Award of such other relief as this Honorable Court deems just.

COUNT V

ASSAULT

PLAINTIFF V. DEFENDANTS, OCEAN CITY, OFFICER HALL, SGT. DUBBS AND

RICHARD ROES (1-20)

63. Plaintiff incorporates by reference the above paragraphs of the Complaint.

64. Plaintiff was damaged and injured as set forth above by Defendant Officers in that they intentionally placed Plaintiff in reasonable apprehension of imminent harmful and/or offensive bodily contact, without justification or authority, and Defendants' actions were the actual and proximate cause of Plaintiff's harm.

65. As a direct and proximate result of the liability-producing conduct of the Defendants, Plaintiff has sustained damages, including personal injuries and economic losses, and will continue to be harmed by these losses indefinitely.

WHEREFORE, Plaintiff demands judgment against Ocean City, Officer Hall, Sgt. Dubbs, Shore, Page RN, Ruiz APN, John Does (1-20), ABC Corporations (1-20), Richard Roes (1-20), individually, jointly, severally and, in the alternative, for:

- a. Award of compensatory damages;
- b. Award of reasonable attorney's fees and costs pursuant to 42 U.S.C. 1988;
- c. Award of punitive damages; and
- d. Award of such other relief as this Honorable Court deems just.

COUNT VI

42 U.S.C. § 1983: UNJUSTIFIED SEARCH & SEIZURE

PLAINTIFF V. DEFENDANTS, OCEAN CITY, OFFICER HALL, SGT. DUBBS AND

RICHARD ROES (1-20)

66. Plaintiff incorporates by reference the above paragraphs of the Complaint.

67. Plaintiff was damaged and injured as set forth above under 42 U.S.C. § 1983 by Defendant Officers in that they, as described above, violated Plaintiffs' constitutional rights while acting under color of law. More specifically, Defendant Officers forcefully took measures to physically violate Plaintiff by ordering, performing and/or assisting seizure of Plaintiff's bodily

fluids by physically violating, invasive and humiliating procedures without lawful justification, and such action was the direct and proximate cause of Plaintiffs' harm.

68. As a direct and proximate result of the liability-producing conduct of the Defendants, Plaintiff has sustained damages, including personal injuries and economic losses, and will continue to be harmed by these losses indefinitely.

WHEREFORE, Plaintiff demands judgment against Ocean City, Officer Hall, Sgt. Dubbs, Shore, Page RN, Ruiz APN, John Does (1-20), ABC Corporations (1-20), Richard Roes (1-20), individually, jointly, severally and, in the alternative, for:

- a. Award of compensatory damages;
- b. Award of reasonable attorney's fees and costs pursuant to 42 U.S.C. 1988;
- c. Award of punitive damages; and
- d. Award of such other relief as this Honorable Court deems just.

COUNT VII

42 U.S.C. § 1983: MALICIOUS PROSECUTION & 5th AMENDMENT DUE PROCESS VIOLATIONS

PLAINTIFF V. DEFENDANTS, OCEAN CITY, OFFICER HALL, SGT. DUBBS, AND

RICHARD ROES (1-20)

69. Plaintiff incorporates by reference the above paragraphs of the Complaint.

70. Plaintiff was damaged and injured as set forth above under 42 U.S.C. § 1983 by Defendant Officers in that they, as described above, violated Plaintiff's constitutional rights while acting under color of law.

71. Defendants acted maliciously or for a purpose other than bringing the Plaintiff to justice.

72. Plaintiff suffered a deprivation of liberty consistent with the concept of seizure as a consequence of the criminal legal proceeding.

73. Defendants violated Plaintiff's substantive due process rights by engaging in conduct that shocks the conscience in an intentional, malicious, reckless or grossly negligent manner.

74. Defendants interfered with Plaintiff's rights implicit in the concept of ordered liberty.

75. Defendants violated Plaintiff's procedural due process rights by unfairly depriving Plaintiff of her liberty or property.

76. Defendants, as police officers, acted under the color of law, abused their power and exercised their authority in an oppressive manner.

77. Defendants' conduct was the direct and proximate cause of Plaintiff's harm.

78. As a direct and proximate result of the liability-producing conduct of the Defendants, Plaintiff has sustained damages, including personal injuries and economic losses, and will continue to be harmed by these losses indefinitely.

WHEREFORE, Plaintiff demands judgment against Ocean City, Officer Hall, Sgt. Dubbs, Shore, Page RN, Ruiz APN, John Does (1-20), ABC Corporations (1-20), Richard Roes (1-20), individually, jointly, severally and, in the alternative, for:

- a. Award of compensatory damages;
- b. Award of reasonable attorney's fees and costs pursuant to 42 U.S.C. 1988;
- c. Award of punitive damages; and
- d. Award of such other relief as this Honorable Court deems just.

COUNT VIII

42 U.S.C. § 1983 and § 1985 and 1986: CONSPIRACY

PLAINTIFF V. DEFENDANTS, OCEAN CITY, OFFICER HALL, SGT. DUBBS AND

RICHARD ROES (1-20)

79. Plaintiff incorporates by reference the above paragraphs of the Complaint.

80. Plaintiff was damaged and injured as set forth above under 42 U.S.C. §§ 1983, 1985 and 1986 by Defendant Officers in that they, as described in detail above, violated Plaintiff's constitutional rights while acting under color of law. More specifically, Defendant Officers, acting in concert and conspiracy, committed acts in violation of the Plaintiff's constitutional rights. The Defendant Officers acted in conspiracy to violate the Plaintiff's constitutional rights as stated in the above paragraphs, and such actions were the direct and proximate cause of Plaintiff's harm.

81. In violation of § 1986, for neglecting to prevent conspiracy, the Defendant Officers had knowledge of some or all of the wrongs conspired to be done or about to be committed.

82. The Defendant Officers having power to prevent or aid in preventing the commission of the same, neglected or refused to prevent the conspiracy to assault Plaintiff, use excessive force, and such other actions as described above.

83. An officer exercising reasonable diligence could have prevented some or all of these events, constitutional violations, and losses from occurring.

84. As a direct and proximate result of the liability-producing conduct of the Defendants, Plaintiff has sustained damages, including personal injuries and economic losses, and will continue to be harmed by these losses indefinitely.

WHEREFORE, Plaintiff demands judgment against Ocean City, Officer Hall, Sgt. Dubbs, Shore, Page RN, Ruiz APN, John Does (1-20), ABC Corporations (1-20), Richard Roes (1-20), individually, jointly, severally and, in the alternative, for:

- a. Award of compensatory damages;
- b. Award of reasonable attorney's fees and costs pursuant to 42 U.S.C. 1988;
- c. Award of punitive damages; and
- d. Award of such other relief as this Honorable Court deems just.

COUNT IX

CONSPIRACY

**PLAINTIFF V. DEFENDANTS, OCEAN CITY, OFFICER HALL, SGT. DUBBS,
SHORE, PAGE RN, RUIZ APN, JOHN DOES (1-20), ABC CORPORATIONS (1-20) AND
RICHARD ROES (1-20)**

85. Plaintiff incorporates by reference the above paragraphs of the Complaint.
86. Defendants acting in concert and conspiracy, committed acts in violation of the Plaintiff's constitutional rights as stated in the above paragraphs, and against the laws of New Jersey.
87. Defendants and/or with the cooperation of another officer or officers, acted with a common purpose to do an unlawful act or to do a lawful act by unlawful means or for an unlawful purpose, which in this case involved the conduct set forth above and herein. In summary, these Defendants agreed that the object or course of action was to justify their arrest and their use of force, to detain, arrest, and confine Plaintiff illegally or without probable cause, and maliciously charge and prosecute him with crimes.
88. Defendants and/or with the cooperation of another officer or officers, performed

an overt act and acts in pursuance of their common purpose. In summary, these Defendants ordered a catheterization of Plaintiff without reasonable justification, purposely did not inform Plaintiff she could refuse the catheterization or extraction of blood, did not attempt to get nor actually received Plaintiff's consent for the extraction of blood or the catheterization and conspired to extract Plaintiff's blood and urine by any means necessary.

89. This conduct, and Defendants conspiracy, has caused Plaintiff to sustain actual legal damage.

90. As a direct and proximate result of the liability-producing conduct of the Defendants, Plaintiff has sustained damages, including personal injuries and economic losses, and will continue to be harmed by these losses indefinitely.

WHEREFORE, Plaintiff demands judgment against Ocean City, Officer Hall, Sgt. Dubbs, Shore, Page RN, Ruiz APN, John Does (1-20), ABC Corporations (1-20), Richard Roes (1-20), individually, jointly, severally and, in the alternative, for:

- a. Award of compensatory damages;
- b. Award of reasonable attorney's fees and costs pursuant to 42 U.S.C. 1988;
- c. Award of punitive damages; and
- d. Award of such other relief as this Honorable Court deems just.

COUNT X

42 U.S.C. § 1983: MONELL

PLAINTIFF V. DEFENDANT, OCEAN CITY

91. Plaintiff incorporates by reference the above paragraphs of the Complaint.

92. Plaintiff was damaged and injured as set forth above under 42 U.S.C. § 1983 by Defendant, Ocean City's, actions and omissions.

93. In summary, Defendant, Ocean City, had a policy or custom that deprived Plaintiff of his constitutional rights, Defendant, Ocean City, failed to train and supervise its officers, Defendant, Ocean City, acted deliberately and was the moving force behind the deprivation, and the injuries or losses sustained by Plaintiff was caused by the deficient policies or customs of Defendant, Ocean City.

94. Prior to and including July 11, 2012, Defendant, Ocean City, developed and maintained policies or customs exhibiting deliberate indifference to the constitutional rights of persons in Defendant, Ocean City, which caused the violation of Plaintiff's rights.

95. It was a policy and/or custom of Defendant, Ocean City, to use excessive force and to attempt to obtain evidence, including bodily fluids by any means necessary, without legal justification, to under-report, cover-up and avoid detection of improper and illegal police activity, including excessive force, assault and battery, the failure to intervene against other Officers' illegal conduct, and other constitutional violations set forth herein.

96. It was the policy and/or custom of Defendant, Ocean City, to fail to sufficiently supervise against, train and/or re-train against, and discipline against illegal police activity described above and herein.

97. It was the policy and/or custom of Defendant, Ocean City, to inadequately supervise and train its Police Officers, including the Defendant Officers, against a code of silence of Officers refusing to intervene against or provide truthful information against constitutional violations and other unlawful misconduct committed by their fellow Officers. Similarly, it was the policy and/or custom of Defendant, Ocean City, to insufficiently supervise and train its Police Officers, including the Defendant Officers, against a code of acting in concert and conspiracy to accomplish their goals of engaging in constitutional violations.

98. As a result of the above-described policies and customs and/or the lack thereof, Police Officers of the Defendant, Ocean City, including the Defendant Officers, believed that their actions would not be properly monitored by supervisory Officers and that misconduct would not be investigated or properly sanctioned, but would be tolerated.

99. As a direct and proximate result of the liability-producing conduct of the Defendants, Plaintiff has sustained damages, including personal injuries and economic losses, and will continue to be harmed by these losses indefinitely.

WHEREFORE, Plaintiff demands judgment against Ocean City, Officer Hall, Sgt. Dubbs, Shore, Page RN, Ruiz APN, John Does (1-20), ABC Corporations (1-20), Richard Roes (1-20), individually, jointly, severally and, in the alternative, for:

- a. Award of compensatory damages;
- b. Award of reasonable attorney's fees and costs pursuant to 42 U.S.C. 1988;
- c. Award of punitive damages; and
- d. Award of such other relief as this Honorable Court deems just.

COUNT XI

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

**PLAINTIFF VS. DEFENDANTS, OCEAN CITY, OFFICER HALL, SGT. DUBBS,
SHORE, PAGE RN, RUIZ APN, JOHN DOES (1-20), ABC CORPORATIONS (1-20) AND
RICHARD ROES (1-20)**

100. Plaintiff incorporates by reference the above paragraphs of the Complaint.

101. Defendants, through their actions and omissions, inflicted severe emotional distress upon the Plaintiff and in a negligent manner, and/or in an intentional and willful manner.

102. Defendants should have realized that their conduct involved an unreasonable risk

of causing distress, and from facts known to them, individually or together, they should have realized that the distress, if it were caused, might result in bodily harm.

103. The negligent acts and omissions of the Defendants caused and continue to cause the Plaintiff's severe emotional distress arising from his injuries. These injuries have led to anxiety, depression, humiliation, anger, sleeplessness, and distress. She is reminded of her injuries on a regular basis, causing these and other symptoms of distress to continue.

104. As a direct and proximate result of the aforesaid acts of the Defendants, the Plaintiff has suffered mental anguish, emotional distress, physical disfigurement, and has sustained additional losses as set forth above, and in all likelihood, will continue to do so.

WHEREFORE, Plaintiff demands judgment against Ocean City, Officer Hall, Sgt. Dubbs, Shore, Page RN, Ruiz APN, John Does (1-20), ABC Corporations (1-20), Richard Roes (1-20), individually, jointly, severally and, in the alternative, for:

- a. Award of compensatory damages;
- b. Award of reasonable attorney's fees and costs pursuant to 42 U.S.C. 1988;
- c. Award of punitive damages; and
- d. Award of such other relief as this Honorable Court deems just.

COUNT XII

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

**PLAINTIFF VS. OCEAN CITY, OFFICER HALL, SGT. DUBBS, SHORE, PAGE RN,
RUIZ APN, JOHN DOES (1-20), ABC CORPORATIONS (1-20), RICHARD ROES (1-20)**

105. Plaintiff incorporates by reference the above paragraphs of the Complaint.

106. Defendants, through their actions and omissions, inflicted severe emotional distress upon the Plaintiff.

107. Defendant Officers intentionally, willfully, and/or recklessly caused Plaintiff severe emotional distress by their extreme and outrageous conduct.

108. Defendants should have realized that their conduct involved an unreasonable risk of causing distress, and from facts known to them, individually or together, they should have realized that the distress, if it were caused, might result in bodily harm.

109. The negligent acts and omissions of the Defendants caused and continue to cause the Plaintiff's severe emotional distress arising from his injuries. These injuries have led to anxiety, depression, humiliation, anger, sleeplessness, and distress. She is reminded of her injuries on a regular basis, causing these and other symptoms of distress to continue.

110. As a direct and proximate result of the aforesaid acts of the Defendants, the Plaintiff has suffered mental anguish, emotional distress, physical disfigurement, and has sustained additional losses as set forth above, and in all likelihood, will continue to do so.

WHEREFORE, Plaintiff demands judgment against Ocean City, Officer Hall, Sgt. Dubbs, Shore, Page RN, Ruiz APN, John Does (1-20), ABC Corporations (1-20), Richard Roes (1-20), individually, jointly, severally and, in the alternative, for:

- a. Award of compensatory damages;
- b. Award of reasonable attorney's fees and costs pursuant to 42 U.S.C. 1988;
- c. Award of punitive damages; and
- d. Award of such other relief as this Honorable Court deems just.

COUNT XIII

NEGLIGENCE

PLAINTIFF V. DEFENDANTS, SHORE, PAGE RN AND RUIZ APN, JOHN DOES

(1-20), AND ABC CORPORATIONS (1-20)

111. Plaintiff incorporates by reference the above paragraphs of the Complaint.

112. Defendant, Shore, is liable for the negligent conduct of its employees, agents, ostensible agents, contractors, and staff members.

113. The Defendant Hospital is liable for the conduct of Nurse Page and Nurse Ruiz, and any other employees or staff members.

114. These Defendants are directly liable for their own independent acts of negligence and misconduct.

115. Defendants each owed a duty of care to Plaintiff which was breached to her great detriment by numerous acts or omissions, including but not limited to:

- a. by failing to perform any physical examination or assessment of Plaintiff prior to catheterizing her;
- b. by failing to provide and/or issue a clean, sterile setting with clean, sterile equipment and clean, sterilized and properly attired, gowned and/or aproned personnel for the catheterization of Plaintiff;
- c. by failing to provide information to the Plaintiff to allow her to properly consent to the catheterization and/or blood extraction;
- d. by allowing an untrained, non-medical individual to assist and/or perform a catheterization on Plaintiff;
- e. by omitting, suppressing, or concealing information from the Plaintiff that would have caused the Plaintiff to realize that she could refuse the catheterization and/or blood extraction;
- f. by failing to elicit an appropriate history from the Plaintiff;
- g. by failing to properly train and supervise Hospital staff and employees to

- comply with Hospital's policies and procedures;
- h. by performing a catheterization and/or blood extraction on Plaintiff at the insistence of Defendant Ocean City and/or Defendants Officer Hall and/or Officer Dubbs without reasonable justification and without consent of Plaintiff;
- i. by failing to have policies or procedures regarding catheterizing and collecting blood from individuals, including those brought to the hospital by law enforcement officers and failing to properly train and supervise hospital staff and employees to comply with same;
- j. by failing to properly select, hire, train and supervise competent individuals to carry out the business of healthcare and specifically to act reasonably and lawfully in the treatment of plaintiff under the facts herein.

116. As a direct and proximate result of the negligence of the Defendants, Plaintiff, has sustained the losses set forth above, and she may continue to sustain such losses over time indefinitely.

WHEREFORE, Plaintiff demands judgment against Ocean City, Officer Hall, Sgt. Dubbs, Shore, Page RN, Ruiz APN, John Does (1-20), ABC Corporations (1-20), Richard Roes (1-20), individually, jointly, severally and, in the alternative, for:

- a. Award of compensatory damages;
- b. Award of reasonable attorney's fees and costs pursuant to 42 U.S.C. 1988;
- c. Award of punitive damages; and
- d. Award of such other relief as this Honorable Court deems just.

COUNT XIV

INFORMED CONSENT

PLAINTIFF V. DEFENDANTS, PAGE RN AND RUIZ APN, JOHN DOES

(1-20) AND ABC CORPORATIONS (1-20)

117. Plaintiff incorporates by reference the above paragraphs of the Complaint.
118. Defendant, Page RN, failed to obtain the Plaintiff's consent.
119. Defendant, Ruiz APN, failed to obtain the Plaintiff's consent.
120. Defendants failed to comply with the reasonably-prudent-patient standard for disclosure.
121. Defendants withheld pertinent medical information concerning the risks and alternatives of the catheterization and/or blood extraction, including risk of infection.
122. A reasonably prudent person in Plaintiff's position would have declined to undergo the procedures if informed of the risks and limitations that would develop as a result under the circumstances.
123. The catheterization and/or blood extraction was the proximate cause of Plaintiff's injuries.
124. The known risks of infection was the cause of Plaintiff's limitations, pain, suffering and economic losses.
125. The Defendants are jointly liable for failing to obtain the consent of the Plaintiff.
126. The Defendants each contributed to the harm by their actions and inactions, and are thereby liable for the failure to obtain the valid consent of the Plaintiff.
127. As a direct and proximate result of the conduct of the Defendants, Plaintiff sustained the injuries set forth above.

WHEREFORE, Plaintiff demands judgment against Ocean City, Officer Hall, Sgt.

Dubbs, Shore, Page RN, Ruiz APN, John Does (1-20), ABC Corporations (1-20), Richard Rocs (1-20), individually, jointly, severally and, in the alternative, for:

- a. Award of compensatory damages;
- b. Award of reasonable attorney's fees and costs pursuant to 42 U.S.C. 1988;
- c. Award of punitive damages; and
- d. Award of such other relief as this Honorable Court deems just.

COUNT XV

BATTERY

PLAINTIFF V. DEFENDANTS, PAGE RN AND RUIZ APN, JOHN DOES

(1-20) AND ABC CORPORATIONS (1-20)

128. Plaintiff incorporates by reference the above paragraphs of the Complaint.
129. Defendants, Page RN and/or Ruiz APN, are liable under the theory of battery.
130. Defendants, Page RN and/or Ruiz APN, did not obtain Plaintiff's permission to catheterize her or extract her blood.
131. The catheterization and/or blood extraction was not authorized.
132. The catheterization and/or blood extraction was the proximate cause of Plaintiff's injuries.
133. The Defendants, Page RN and Ruiz APN, each contributed to the harm by their actions and inactions, and are thereby jointly liable for the battery.
134. As a direct and proximate result of the conduct of the Defendants, Plaintiff sustained the injuries set forth above.

WHEREFORE, Plaintiff demands judgment against Ocean City, Officer Hall, Sgt.

Dubbs, Shore, Page RN, Ruiz APN, John Does (1-20), ABC Corporations (1-20), Richard Roes (1-20), individually, jointly, severally and, in the alternative, for:

- a. Award of compensatory damages;
- b. Award of reasonable attorney's fees and costs pursuant to 42 U.S.C. 1988;
- c. Award of punitive damages; and
- d. Award of such other relief as this Honorable Court deems just.

COUNT XVI

PUNITIVE DAMAGES

**PLAINTIFF V. DEFENDANTS, OCEAN CITY, OFFICER HALL, SGT. DUBBS,
SHORE, PAGE RN, RUIZ APN, JOHN DOES (1-20), ABC CORPORATIONS (1-20) AND**

RICHARD ROES (1-20)

135. Plaintiff incorporates by reference the above paragraphs of the Complaint.

136. The above allegations demonstrate by clear and convincing evidence that Plaintiff has been harmed as a result of Defendants' actions.

137. Defendants acted in wanton and willful disregard of the rights of the Plaintiff by forcefully catheterizing Plaintiff against her will, consent, without informing her of her right to refuse the procedure, without assessing her mental or physical condition, in an unsafe, unclean, unreasonable manner, by unskilled individuals without justification. They acted deliberately, and with knowledge of a high degree of probability of harm to another, and in reckless indifference to the consequences of such acts.

138. The Hospital failed to implement or enforce a policy to have Hospital consent forms explained to and signed by individuals explaining the risks of same, or by failing to train Hospital employees and staff to use such forms.

139. The failure to comply with this law demonstrates a wanton and willful disregard for the rights of Plaintiff, and other individuals brought to Defendant Hospital in police custody.

140. As a direct and proximate result of their individual and joint misconduct, Plaintiff has been harmed.

141. Pursuant to the Punitive Damages Act, N.J.S.A. 2A:15-5.12, Plaintiff is entitled to punitive damages.

WHEREFORE, Plaintiff demands punitive damages against all Defendants in accordance with the laws of New Jersey.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the undersigned is designated as trial counsel.

JURY TRIAL DEMAND

Plaintiff demand a trial by jury on all issues of law and fact.

NOTICE PURSUANT TO RULE 1:5-1(a)

TAKE NOTICE that the undersigned attorney, counsel for plaintiff, Norma Powell, hereby demands, pursuant to R. 1:5-1(a) and R. 4:17(c), that each party herein serving pleadings and interrogatories and receiving answers thereto, serve copies of all such pleadings and answered interrogatories received from any party, including any documents, papers and other material referred to therein, upon the undersigned attorney, and TAKE NOTICE that this is a continuing demand.

CERTIFICATION

Pursuant to R. 4:5-1, the undersigned hereby certifies that, to his knowledge, this matter is not the subject of any other lawsuit filed or contemplated and is unaware of any other actions or parties which should be included in this pleading.

LAW OFFICES OF RICHARD A. STOLOFF

Dated: July 11, 2014

By: /s/ Richard A. Stoloff
Richard A. Stoloff, Esq., Attorney for Plaintiff
Law Offices of Richard A. Stoloff
605 New Road
Linwood, NJ 08221
(609) 601-2233 phone
(609) 601-2238 fax

Primary email: rastoloff@stolofflaw.net
Secondary email: mhdanteli@stolofflaw.net

*DiFrancesco, Bateman, Coley,
Yospin, Kunzman, Davis & Lehrer*
Attorneys-at-Law
15 Mountain Boulevard
Warren, NJ 07059
(908) 757-7800
Attorneys for Plaintiff

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WILLIAM T. WALSH - M
CLERK

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

MONICA RAAB

Plaintiff,

CIVIL ACTION NO.:

vs.

COMPLAINT AND
JURY TRIAL DEMAND

CITY OF OCEAN CITY, NEW JERSEY
a municipal corporation of the State of
New Jersey; CITY OF OCEAN CITY
POLICE DEPARTMENT, OFFICER
JESSIE SCOTT RUCH in his official and
individual capacity, Fictitious
Designation, John Does (#1-25);
Fictitious Designation, ABC Corps. (#1-
25).

Defendants.

Plaintiff, Monica Raab, residing at 233 West Atlantic Boulevard, in the City of Ocean
City, County of Cape May, State of New Jersey, by way of Complaint against all
defendants, states as follows:

PRELIMINARY STATEMENT

This suit is filed in order to vindicate the rights of Plaintiff to engage in activity
protected by the Fourth and Fourteenth Amendments to the Constitution of the United
States of America without fear of reprisal and to seek economic redress for losses suffered
by the Plaintiff at the hands of defendants.

JURISDICTION

1. This Court has jurisdiction over the dispute between the parties pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1343(a) (3) and (4) because Plaintiff's civil causes of action arise under the Constitution and laws of the United States, specifically 42 U.S.C. §1983 and the Fourth and Fourteenth Amendment to the Constitution of the United States of America.

2. Plaintiff hereby invokes the supplemental jurisdiction of this Court pursuant to 28 U.S.C. §1367 to hear related state causes of action.

3. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b) because this Court sits in the district where all of defendants reside and is also the district where the substantial part of the events or omissions in connection with Plaintiff's claims arose.

PARTIES

4. Plaintiff, Monica Raab, is an individual and resides at 233 West Atlantic Boulevard, in the City of Ocean City, County of Cape May, State of New Jersey.

5. Defendant, the City of Ocean City, New Jersey (hereinafter "City of Ocean City") is, upon information and belief, a duly designated municipality of the State of New Jersey and organized under the laws of the State of New Jersey, located in the County of Cape May.

6. Defendant, the Ocean City Police Department is, upon information and belief, a municipal department and/or agency of the government of Defendant, City of Ocean City.

7. Defendant, Officer Jessie Scott Ruch #246, (hereinafter "Officer Ruch") was at all relevant times a duly appointed and active police officer of the Defendant, Ocean City Police Department and was acting in such capacities as the agent, servant, and/or employee of Defendant, City of Ocean City and was acting under color of law.

8. At all relevant times, John Does 1-25, names of said individuals presently unknown and fictitious, were supervisors, agents, employees, servants or otherwise acting on behalf of and within the scope of their employment with the City of Ocean City and/or the Ocean City Police Department, acting under color of law.

9. ABC Corps. 1-25 are fictitious designations for one or more private or public entities and organizations whose identities are currently unknown.

10. At times stated herein, Defendant, City of Ocean City, Defendant, Ocean City Police Department, Defendants, John Does 1-25 and Defendants, ABC Corps. 1-25 are collectively referred to as "these defendants" and/or "the defendants."

FACTS COMMON TO ALL COUNTS

11. On or about May 11, 2010, Plaintiff was inside her home located 233 West Atlantic Boulevard, in the City of Ocean City, County of Cape May, State of New Jersey.

12. Plaintiff was awakened at approximately 9:30 a.m. and noticed the presence of an Ocean City police officer at the roadside curb in front of her residence. The officer was concentrating his attention on a small garden trailer that was parked in the public road in front of Plaintiff's residence.

13. The small garden trailer belonged to Plaintiff's brother-in-law. The trailer had been parked in the roadside curb in front of Plaintiff's residence for approximately one (1) month prior to this incident.

14. Plaintiff left the inside of her residence and approached the police officer, later identified as Defendant, Officer Ruch, to inquire as to the reason for his presence. Plaintiff inquired of the officer if she could help him with anything and he responded that he was "getting rid of the trash on the street", referring to the small garden trailer.

15. Plaintiff explained to Officer Ruch that the small garden trailer belonged to

her brother-in-law who lived approximately two (2) blocks away from Plaintiff's residence.

16. At this time, without provocation or instigation from Plaintiff, Officer Ruch became irritated with Plaintiff and stated "I don't care who the trailer belongs to – it is going to be towed."

17. Plaintiff asked Officer Ruch several times to not tow the trailer and she offered to move it from the street to her driveway.

18. A citizen, Michael Hinchman, stopped at the scene offered to help Plaintiff and her daughter move the trailer. They proceeded to pull the trailer up over the curb and onto Plaintiff's driveway. They were able to get the trailer up over the curbside and onto Plaintiff's driveway.

19. While in Plaintiff's driveway, Officer Ruch approached Plaintiff and although he was familiar with her, he repeatedly asked her name. Plaintiff responded by stating "we are the Raabs."

20. At all relevant times, Plaintiff was clearly unarmed and unequal to Officer Ruch's physical presence.

21. At that point, without providing any warning or explanation for his actions, Officer Ruch violently grabbed Plaintiff's right arm from behind and forcibly pushed Plaintiff to the ground while handcuffing her, which caused her to immediately suffer great pain in her arm and shoulder.

22. Officer Ruch forcibly restrained Plaintiff. He also pushed Plaintiff's daughter to the ground, causing her to fall into the bushes adjacent to the neighbor's property.

23. While Plaintiff was lying face up on the pavement, Officer Ruch continued to pull and twist Plaintiff's right arm over and over again causing her to repeatedly hit her head on the pavement. Plaintiff repeatedly stated out loud that she was in severe pain and was clearly in distress. Plaintiff called out for help and requested an ambulance.

24. Officer Ruch ignored Plaintiff's pleas to stop the assault.

25. Shortly thereafter a second police officer from the Ocean City Police Department, later identified as Officer Campbell, arrived on the scene and walked up Plaintiff's driveway to where Plaintiff, her daughters and Officer Ruch were located.

26. At that point, Officer Campbell commanded Officer Ruch to take the handcuff off of Plaintiff and Officer Ruch complied.

27. Plaintiff was never charged with any violation of criminal statutes stemming from the incident.

FIRST COUNT

Claim For Violation Of Rights Against Being Subjected to Unreasonable Seizures As Protected By The Fourth and Fourteenth Amendment Of The U.S. Constitution Brought Pursuant to 42 U.S.C. §1983

28. Plaintiff, Monica Raab, repeats and realleges the allegations contained in Paragraphs 1 through 27 as if set forth at length herein.

29. At all relevant times, Officer Ruch was acting under color of law, as an agent, servant, and employee of Defendants, City of Ocean City and the Ocean City Police Department, in connection with the incident described herein involving Plaintiff.

30. The Fourth Amendment to the United States Constitution protects persons from being subjected to unreasonable seizures by the police.

31. On or about May 11, 2010, Officer Ruch intentionally restrained Plaintiff against her will when he forcibly threw her to the ground, purposefully placed his handcuff upon her right arm and continued to stand over her in a deliberate and conscious decision to restrain and confine her movement.

32. As a result of Officer Ruch's aforementioned intentional acts, Plaintiff was subjected to a seizure as she was unable to leave and terminate the encounter between

her and Officer Ruch. The intentional conduct of Officer Ruch constituted a stop and/or arrest of Plaintiff amounting to an unlawful "seizure" within the meaning of the law.

33. All of the aforementioned acts or omissions of Officer Ruch were unnecessary and completely unreasonable under the circumstances, not justified according to law and deprived Plaintiff of her federally protected constitutional right to be free from unlawful seizures, false arrest, and false imprisonment.

34. As a direct and proximate result of the aforementioned violations of Plaintiff's civil and constitutional rights actionable under 42 U.S.C. § 1983, Plaintiff was caused to suffer serious and permanent injuries, and has sustained other losses and damages.

WHEREFORE, Plaintiff, Monica Raab, demands judgment against Defendants, City of Ocean City, the Ocean City Police Department, Officer Ruch, John Does 1-25 and ABC Corps. 1-25 jointly and severally for compensatory damages, punitive damages, attorney's fees, interest, cost of suit, and such other and further relief as the Court deems equitable and just.

SECOND COUNT

**Claim For Violation Of Rights Against Being Subjected to Excessive Force
As Protected By The Fourth and Fourteenth Amendment Of The U.S. Constitution
Brought Pursuant to 42 U.S.C. §1983**

35. Plaintiff, Monica Raab, repeats and realleges the allegations contained in Paragraphs 1 through 34 as if set forth at length herein.

36. At all relevant times, Officer Ruch was acting under color of law, as an agent, servant, and employee of Defendants, City of Ocean City and the Ocean City Police Department, in connection with the incident described herein involving Plaintiff.

37. The Fourth Amendment to the United States Constitution protects persons from being subjected to excessive force while being arrested and/or stopped by the police.

38. On or about May 11, 2010, without provocation and while located on Plaintiff's private property, Officer Ruch intentionally threw Plaintiff to the ground, purposefully placed his handcuff upon her right arm, repeatedly pulled, pushed and violently twisted Plaintiff's arm behind her back while she laid face up on the pavement, continued to stand over her while consciously ignoring Plaintiff's repeated requests for him to cease in such conduct.

39. Officer Ruch's conduct was unnecessary, unjustified and completely unreasonable under the circumstances. At all relevant times, Plaintiff was unarmed, not the physical equal of Officer Ruch, and posed absolutely no danger to the safety and welfare of Officer Ruch and all those around her.

40. All of the aforementioned acts or omissions of Officer Ruch constitute excessive force within the meaning of the law.

41. All of the aforementioned acts or omissions of Officer Ruch were unreasonable under the circumstances, not justified according to law and deprived Plaintiff of her federally protected constitutional right to be free from excessive force at the hands of the police.

42. As a direct and proximate result of the aforementioned violations of Plaintiff's civil and constitutional rights actionable under 42 U.S.C. § 1983, Plaintiff was caused to suffer serious and permanent injuries, and has sustained other losses and damages.

WHEREFORE, Plaintiff, Monica Raab, demands judgment against Defendants, City of Ocean City, the Ocean City Police Department, Officer Ruch, John Does 1-25 and ABC Corps. 1- 25 jointly and severally for compensatory damages, punitive damages, attorney's fees, interest, cost of suit, and such other and further relief as the Court deems equitable and just.

THIRD COUNT

**Claim For Violation Of Rights Against Being Subjected to Unlawful Search
As Protected By The Fourth and Fourteenth Amendment Of The U.S. Constitution
Brought Pursuant to 42 U.S.C. §1983**

43. Plaintiff, Monica Raab, repeats and realleges the allegations contained in Paragraphs 1 through 42 as if set forth at length herein.

44. At all relevant times, Officer Ruch was acting under color of law, as an agent, servant, and employee of Defendants, City of Ocean City and the Ocean City Police Department, in connection with the incident described herein involving Plaintiff.

45. The Fourth Amendment to the United States Constitution protects persons from unreasonable searches of their "persons, houses, papers and effects"

46. On or about May 11, 2010, Plaintiff was lawfully on her private, residential property located at 233 West Atlantic Boulevard, in the City of Ocean City, County of Cape May, State of New Jersey.

47. At all relevant times, Plaintiff enjoyed a reasonable expectation of privacy in her persons and also with her property.

48. At all relevant times, Officer Ruch intentionally approached and entered upon Plaintiff's driveway and her private residential property.

49. Officer Ruch did not attempt to or ever obtain a duly issued warrant justifying his intrusion and entry onto Plaintiff's private property nor did he possess any reasonable or lawful justification that would obviate his need to obtain such a warrant.

50. The aforementioned conduct of Officer Ruch constituted an unlawful and illegal search upon Plaintiff's person and property in contravention to her rights protected by the Fourth Amendment to the U.S. Constitution.

51. As a direct and proximate result of the aforementioned violations of Plaintiff's

civil and constitutional rights actionable under 42 U.S.C. § 1983, Plaintiff was caused to suffer serious and permanent injuries, and has sustained other losses and damages.

WHEREFORE, Plaintiff, Monica Raab, demands judgment against Defendants, City of Ocean City, the Ocean City Police Department, Officer Ruch, John Does 1-25 and ABC Corps. 1-25 jointly and severally for compensatory damages, punitive damages, attorney's fees, interest, cost of suit, and such other and further relief as the Court deems equitable and just.

FORTH COUNT

Supervisor Liability For Violations of Civil Rights Pursuant to 42 U.S.C. §1983

52. Plaintiff, Monica Raab, repeats and realleges the allegations contained in Paragraphs 1 through 51 as if set forth at length herein.

53. At all relevant times, John Does 1-25 were acting under color of law, as supervisors, agents, servants, employees or otherwise acting on behalf of and within the scope of their employment with Defendants, City of Ocean City and the Ocean City Police Department.

54. Furthermore, these John Does 1-25 were the superiors and/or supervisors of Officer Ruch. Additionally, these John Does 1-25 were responsible for making government policy and for oversight of the functions and duties of their respective departments, divisions, bureaus and agencies engaged in providing general welfare services, including police protection.

55. John Does 1-25 directed Officer Ruch to undertake the actions in question, and/or had knowledge of Officer Ruch's violations of Plaintiff's constitutional rights and acquiesced in that violation, and/or with deliberate indifference to the consequences,

established and maintained a policy, practice or custom which directly caused the aforementioned violations of Plaintiff's constitutional rights.

56. As a direct and proximate result of the aforementioned violations of Plaintiff's civil and constitutional rights actionable under 42 U.S.C. § 1983, Plaintiff was caused to suffer serious and permanent injuries, and has sustained other losses and damages.

WHEREFORE, Plaintiff, Monica Raab, demands judgment against Defendants, City of Ocean City, the Ocean City Police Department, Officer Ruch, John Does 1-25 and ABC Corps. 1-25 jointly and severally for compensatory damages, punitive damages, attorney's fees, interest, cost of suit, and such other and further relief as the Court deems equitable and just.

FIFTH COUNT

Liability For Inadequate Training Causing Violations of Civil Rights Pursuant to 42 U.S.C. §1983

57. Plaintiff, Monica Raab, repeats and realleges the allegations contained in Paragraphs 1 through 56 as if set forth at length herein.

58. Defendants, City of Ocean City, the Ocean City Police Department, John Does 1-25 and ABC Corps. 1-25 were responsible for making government policy and for oversight of the functions and duties of their respite departments, divisions, bureaus and agencies engaged in providing general welfare services, including police protection.

59. These defendants failed to establish adequate training programs in order to properly train its police employees to carry out their official duties in effectuating lawful seizures of its citizens and applying reasonable degrees of force in connection with same.

60. The failure on behalf of these defendants to adequately train its police employees amounted to deliberate indifference to the fact that inaction would obviously

result in the violation of its citizens' Fourth Amendment Rights to be free from unlawful seizures and excessive force at the hands of the police.

61. The failure on behalf of these defendants to adequately train its police employees including Officer Ruch proximately caused the violation of Plaintiff's Fourth Amendment Rights to be free from unlawful seizures and excessive force at the hands of the police.

62. As a direct and proximate result of the aforementioned violations of Plaintiff's civil and constitutional rights actionable under 42 U.S.C. § 1983, Plaintiff was caused to suffer serious and permanent injuries, and has sustained other losses and damages.

WHEREFORE, Plaintiff, Monica Raab, demands judgment against Defendants, City of Ocean City, the Ocean City Police Department, Officer Ruch, John Does 1-25 and ABC Corps. 1-25 jointly and severally for compensatory damages, punitive damages, attorney's fees, interest, cost of suit, and such other and further relief as the Court deems equitable and just.

SIXTH COUNT

Liability For Inadequate Supervision Causing Violations of Civil Rights Pursuant to 42 U.S.C. §1983

63. Plaintiff, Monica Raab, repeats and realleges the allegations contained in Paragraphs 1 through 62 as if set forth at length herein.

64. Defendants, City of Ocean City, the Ocean City Police Department, John Does 1-25 and ABC Corps. 1-25 were responsible for making government policy and for oversight of the functions and duties of their respite departments, divisions, bureaus and agencies engaged in providing general welfare services, including police protection.

65. These defendants failed to adequately supervise its police employees in carry

out their official duties when effectuating lawful seizures of its citizens and applying reasonable degrees of force in connection with same.

66. These defendants knew or should have known that certain police employees held vindictive personal animus against Plaintiff and other citizens which would require some amount of reasonable supervision over said employees.

67. The failure on behalf of these defendants to adequately supervise its police employees amounted to deliberate indifference to the fact that inaction would obviously result in the violation of Plaintiff's and other citizens' Fourth Amendment Rights to be free from unlawful seizures and excessive force at the hands of the police.

68. The failure on behalf of these defendants to adequately supervise its police employees, including Officer Ruch, proximately caused the violation of Plaintiff's Fourth Amendment Rights to be free from unlawful seizures and excessive force at the hands of the police.

69. As a direct and proximate result of the aforementioned violations of Plaintiff's civil and constitutional rights actionable under 42 U.S.C. § 1983, Plaintiff was caused to suffer serious and permanent injuries, and has sustained other losses and damages.

WHEREFORE, Plaintiff, Monica Raab, demands judgment against Defendants, City of Ocean City, the Ocean City Police Department, Officer Ruch, John Does 1-25 and ABC Corps. 1-25 jointly and severally for compensatory damages, punitive damages, attorney's fees, interest, cost of suit, and such other and further relief as the Court deems equitable and just.

PENDENT STATE LAW CLAIMS

SEVENTH COUNT

False Arrest/Imprisonment
In Violation Of New Jersey State Law

70. Plaintiff, Monica Raab, repeats and realleges the allegations contained in Paragraphs 1 through 69 as if set forth at length herein.

71. At all relevant times, Officer Ruch was acting as an agent, servant, and employee of Defendants, City of Ocean City and the Ocean City Police Department, in connection with the incident described herein involving Plaintiff.

72. On or about May 11, 2010, Officer Ruch intentionally restrained Plaintiff against her will when he forcibly threw her to the ground, purposefully placed his handcuff upon her right arm and continued to stand over her in a deliberate and conscious decision to restrain and confine her movement.

73. As a result of Officer Ruch's aforementioned intentional acts, Plaintiff was subjected to a seizure as she was unable to leave and terminate the encounter between her and Officer Ruch. The intentional conduct of Officer Ruch constituted a stop and/or arrest of Plaintiff within the meaning of the law.

74. All of the aforementioned acts or omissions of Officer Ruch were unreasonable under the circumstances, not justified according to law and deprived Plaintiff of her constitutional rights under the laws of the State of New Jersey to be free from unlawful seizures, false arrest, and false imprisonment.

75. As a direct and proximate result of the aforementioned violations of Plaintiff's civil rights actionable under both Federal and State Constitutions, Plaintiff was caused to suffer serious and permanent injuries, including permanent loss of ability to function and

permanent disfigurement for which medical treatment and expenses are in excess of \$3,600 and has sustained other losses and damages.

WHEREFORE, Plaintiff, Monica Raab, demands judgment against Defendants, City of Ocean City, the Ocean City Police Department, Officer Ruch, John Does 1-25 and ABC Corps. 1- 25 jointly and severally for compensatory damages, punitive damages, attorney's fees, interest, cost of suit, and such other and further relief as the Court deems equitable and just.

EIGHT COUNT

Excessive Force In Violation Of New Jersey State Law

76. Plaintiff, Monica Raab, repeats and realleges the allegations contained in Paragraphs 1 through 75 as if set forth at length herein.

77. At all relevant times, Officer Ruch was acting as an agent, servant, and employee of Defendants, City of Ocean City and the Ocean City Police Department, in connection with the incident described herein involving Plaintiff.

78. On or about May 11, 2010, Officer Ruch intentionally threw Plaintiff to the ground, purposefully placed his handcuff upon her right arm, repeatedly pulled, pushed and violently twisted Plaintiff's arm behind her back while she laid face up on the pavement, and continued to stand over her while consciously ignoring Plaintiff's repeated requests for him to cease in such conduct.

79. All of the aforementioned acts or omissions of Officer Ruch constitute excessive force within the meaning of the law. At all relevant times, Plaintiff was unarmed, not the physical equal of Officer Ruch, and posed absolutely no danger to the safety and welfare of Officer Ruch and all those around her.

80. All of the aforementioned acts or omissions of Officer Ruch were unreasonable under the circumstances, not justified according to law and deprived Plaintiff of her federally and state protected constitutional right to be free from excessive force at the hands of the police.

81. As a direct and proximate result of the aforementioned violations of Plaintiff's civil rights actionable under both Federal and State Constitutions, Plaintiff was caused to suffer serious and permanent injuries, including permanent loss of ability to function and permanent disfigurement for which medical treatment and expenses are in excess of \$3,600 and has sustained other losses and damages.

WHEREFORE, Plaintiff, Monica Raab, demands judgment against Defendants, City of Ocean City, the Ocean City Police Department, Officer Ruch, John Does 1-25 and ABC Corps. 1-25 jointly and severally for compensatory damages, punitive damages, attorney's fees, interest, cost of suit, and such other and further relief as the Court deems equitable and just.

NINTH COUNT

Assault and Battery In Violation Of New Jersey State Law

82. Plaintiff, Monica Raab, repeats and realleges the allegations contained in Paragraphs 1 through 81 as if set forth at length herein.

83. At all relevant times, Officer Ruch was acting as an agent, servant, and employee of Defendants, City of Ocean City and the Ocean City Police Department, in connection with the incident described herein involving Plaintiff.

84. On or about May 11, 2010, without provocation Officer Ruch approached Plaintiff from the rear and intentionally attempted to and did grab Plaintiff by her right arm

and purposefully threw her to the ground, placed his handcuff upon her right arm, repeatedly pulled, pushed and violently twisted Plaintiff's arm behind her back while she laid face up on the pavement, and continued to stand over her. At the time of the beating, Plaintiff was unarmed and not the physical equal of Officer Ruch.

85. All of the aforementioned forcible contact by Officer Ruch with his attempts to touch and his actual touching of Plaintiff were without Plaintiff's consent.

86. All of the aforementioned acts or omissions of Officer Ruch were made with an unlawful amount force and violence and constitute negligent or intentional assault.

87. As a direct and proximate result of the aforementioned conduct of Officer Ruch, Plaintiff was caused to suffer serious and permanent injuries, including permanent loss of ability to function and permanent disfigurement for which medical treatment and expenses are in excess of \$3,600 and has sustained other losses and damages.

WHEREFORE, Plaintiff, Monica Raab, demands judgment against Defendants, City of Ocean City, the Ocean City Police Department, Officer Ruch, John Does 1-25 and ABC Corps. 1- 25 jointly and severally for compensatory damages, punitive damages, attorney's fees, interest, cost of suit, and such other and further relief as the Court deems equitable and just.

TENTH COUNT

Negligent Infliction Of Emotional Distress In Violation Of New Jersey State Law

88. Plaintiff, Monica Raab, repeats and realleges the allegations contained in Paragraphs 1 through 87 as if set forth at length herein.

89. At all relevant times, Officer Ruch was acting as an agent, servant, and employee of Defendants, City of Ocean City and the Ocean City Police Department, in connection with the incident described herein involving Plaintiff.

90. The aforementioned acts of Officer Ruch were made with an unlawful amount of force and violence and in a careless, reckless, and negligent manner completely unreasonable under the circumstances.

91. Officer Ruch knew or should have known that his actions would inflict emotional distress on Plaintiff.

92. As a direct and proximate result of the aforementioned conduct of Officer Ruch, Plaintiff was caused to suffer severe, serious and permanent injuries, including permanent loss of ability to function and permanent disfigurement for which medical treatment and expenses are in excess of \$3,600 and has sustained other losses and damages.

WHEREFORE, Plaintiff, Monica Raab, demands judgment against Defendants, City of Ocean City, the Ocean City Police Department, Officer Ruch, John Does 1-25 and ABC Corps. 1- 25 jointly and severally for compensatory damages, punitive damages, attorney's fees, interest, cost of suit, and such other and further relief as the Court deems equitable and just.

ELEVENTH COUNT

Negligent Retention and Supervision In Violation Of New Jersey State Law

93. Plaintiff, Monica Raab, repeats and realleges the allegations contained in Paragraphs 1 through 92 as if set forth at length herein.

94. At all relevant times, John Does 1-25 while acting as the agents, servants, employees or otherwise on behalf of Defendants, City of Ocean City and the Ocean City Police Department were charged by statutes, law, code, regulation, policy, procedure, or other authority to perform their functions and duties in a safe and reasonable manner and

to act properly in furtherance of protecting and safeguarding its citizens, including Plaintiff.

95. Defendants, John Does 1-25 owed a duty to exercise due and reasonable care in carrying out their functions and duties as assumed towards its citizens, including Plaintiff.

96. At all relevant times, Officer Ruch possessed dangerous propensities to commit unlawful, violent acts of physical abuse while performing his duties as a law enforcement officer thereby creating an unreasonable risk of injury to the citizens he was sworn to protect.

97. Defendants, John Does 1-25 knew or should have known of Officer Ruch's dangerous propensities and the risk of injury that he presented to Plaintiff as well as other citizens.

98. Defendants, John Does 1-25 acted in a negligent, careless, reckless, or otherwise palpably unreasonable manner, breaching their duty of care owed to Plaintiff, by retaining Officer Ruch in his employment position despite such knowledge of his dangerous propensities and failed to adequately supervise him.

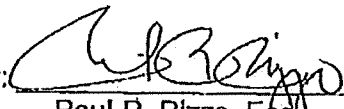
99. As a direct and proximate result of the aforementioned conduct of Officer Ruch, Plaintiff was caused to suffer severe, serious and permanent injuries, including permanent loss of ability to function and permanent disfigurement for which medical treatment and expenses are in excess of \$3,600 and has sustained other losses and damages.

WHEREFORE, Plaintiff, Monica Raab, demands judgment against Defendants, City of Ocean City, the Ocean City Police Department, Officer Ruch, John Does 1-25 and ABC Corps. 1- 25 jointly and severally for compensatory damages, punitive damages, attorney's fees, interest, cost of suit, and such other and further relief as the Court deems equitable and just.

JURY DEMAND

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

DiFrancesco, Bateman, Coley, Yospin
Kunzman, Davis & Lehrer, P.C.

By: 
Paul R. Rizzo, Esq.
Attorneys for Plaintiff

Dated: Nov. 18, 2011

NOTICE OF DESIGNATION OF TRIAL COUNSEL

Plaintiff hereby designates Paul R. Rizzo, Esq. as trial counsel in connection with
the above-captioned matter.

DiFrancesco, Bateman, Coley, Yospin
Kunzman, Davis & Lehrer, P.C.

By: 
Paul R. Rizzo, Esq.
Attorneys for Plaintiff

Dated: Nov. 18, 2011

CERTIFICATION OF COUNSEL

The undersigned hereby certifies that at the time of filing this Complaint, the matter in controversy is not the subject of any other action pending in any court and/or arbitration proceeding. The undersigned is unaware of any non-party who should be joined in this action at this time

I hereby 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.


PAUL R. RIZZO

Dated: Nov. 18, 2011

Mark El, d/b/a/ MARK SMITH
40 Chapman Blvd
Somers Point, NJ [08244]

RECEIVED and
FILED
DEC 23 2019
ATLANTIC COUNTY
LAW DIVISION

RECEIVED / FILED
2019 NOV 12 A 9 40
SUPERIOR COURT OF NJ

**SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – CIVIL PART
ATLANTIC/CAPE VICINAGE**

Mark El, d/b/a MARK SMITH

Plaintiff

**Civil Complaint for
Violation of Civil Rights**

Docket No. ATL-L-3143-19

Jury Trial: ☒ Yes ☐ No

-against-

**SGT. ROBERT KOOB, OCEAN CITY
POLICE DEPARTMENT, MARYLOU
MCADAMS CORSON, ASST. PROSECUTOR,
CAPE MAY COUNTY PROSECUTOR'S
OFFICE, PATROLMAN SEAN DONOHUE,
OCEAN CITY POLICE DEPARTMENT,
DONALD J. LOMBARDO, WARDEN CAPE
MAY COUNTY JAIL,
(In Their Official and Individual Capacities),
Defendant's.**

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Mark El

Street Address 40 Chapman Blvd.
City and County Somers Point (Atlantic County)
State and Zip Code New Jersey 08224
Telephone Number (609) 782-2141

B. The Defendant(s)

Defendant No. 1

Name Sgt. Robert Koob
Job or Title Ocean City Police Officer

(if known)
Street Address 821 Central Ave
City and County Ocean City (Cape May)
State and Zip Code New Jersey, 08226
Telephone Number (609) 525-9386
E-mail Address _____
(if known)
☐ Individual capacity ☐ Official capacity

Defendant No. 2

Name Sean Donohue
Job or Title Ocean City Police Officer

(if known)
Street Address 821 Central Ave
City and County Ocean City (Cape May)
State and Zip Code New Jersey, 08226
Telephone Number (609) 525-9386
E-mail Address _____
(if known)
☐ Individual capacity ☐ Official capacity

Defendant No. 3

Name Marylou McAdams Corson

Job or Title Assistant Prosecutor (if known)
Street Address 4 Moore Road
City and County Cape May Courthouse (Cape May)
State and Zip Code New Jersey, 08210
Telephone Number (609) 465-1135
E-mail Address _____
(if known)
☐ Individual capacity ☐ Official capacity

Defendant No. 4

Name Donald J. Lombardo
Job or Title Warden Cape May County
Jail (if known)
Street Address 4 Moore Road
City and County Cape May Courthouse (Cape May)
State and Zip Code New Jersey, 08210
Telephone Number (609) 465-1135
E-mail Address _____
(if known)
☐ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

- B. The parties to this action are residents of the State of New Jersey. The complained of violations occurred in the State of New Jersey within the Atlantic/Cape jurisdiction.

III. Statement of Claim

1. The wrongful actions of all named defendant's violated plaintiff's constitutional right under the First Amendment of the United States Constitution.
 2. The wrongful actions of all named defendant's violated plaintiff's constitutional right under the Fourteenth Amendment to Due Process of Law.
 3. The wrongful actions of all named defendant's denied plaintiff's his constitutional right to substantive due process of law by his wrongful imprisonment. The wrongful actions of all named defendant's violated plaintiff's constitutional right to remain free absent due process of law.
 4. The wrongful actions of all named defendant's violated plaintiff's due process rights in accordance with State Law and Statute .
 5. The wrongful actions of defendant Donald J. Lombardo denied plaintiff his constitutional right to be free from cruel and unusual punishment.
- A. Where did the events giving rise to your claim(s) occur?
- Ocean City, State of New Jersey.
- B. What date and approximate time did the events giving rise to your claim(s) occur?
- For plaintiff Mark El defendants violated his constitutional rights commencing on May 09, 2018 through the present time.
- C. What are the facts underlying your claim(s)?
- On or about May 09, 2018, plaintiff Mark El was stopped by defendant's Donohue and Koop. The vehicle stop by these named defendant's was based on racial animus, as plaintiff was racially profiled by these defendants.
- Plaintiff was falsely charged with a criminal offense absent probable cause and where defendant's Koop and Donohue were aware that plaintiff had not violated any laws. These defendants conspired to illegally arrest and confine plaintiff

knowing that he had not violated any laws of the State of New Jersey. Both defendant Koop and Donohue maliciously deprived plaintiff of his freedom without probable cause. These defendants knowingly filed false police reports and complaints against plaintiff when they knew that he had not violated any laws that they were sworn to uphold.

First, defendant Donohue illegally stopped a vehicle that plaintiff was a passenger in without probable cause. The sole basis for the motor vehicle stop was based on racial profiling by defendant Donohue. Plaintiff, who is Black was traveling with a White passenger and White driver. Based solely on the different races of the occupant's defendant Donohue illegally stopped the vehicle. Once defendant Donohue stopped the vehicle, he asked all occupants for identification. Plaintiff provided defendant Donohue with his National identification card, which identified him by his chosen name of Mark El. The National identification card contained plaintiff's name, address, photograph and other identifying information. Defendant Donohue became hostile and stated that he would not accept the identification provided and asked plaintiff was he "some type of anti-government radical". Plaintiff responded by telling defendant Donohue that the identification provided was authentic and reflected his name and identifiers. Defendant Donohue then stated "I am familiar with you Sovereigns and we don't recognize you around here". Plaintiff responded that his choice of name was an exercise of his religious rights. Defendant Donohue then stated that plaintiff did not have any rights.

Sgt. Koop, who was present very shortly after the initial stop recorded the vents via his department body-camera. Defendant Koop could clearly observe that plaintiff was not in possession of any contraband, as all contraband removed from the vehicle was located with the owner/driver of the vehicle. Sgt. Koop stated that plaintiff would be charged as well solely because he and defendant Donohue were adverse to plaintiff's chosen name and assumed religion. Both defendants Koop and Donohue engaged in a series of sarcastic comments regarding plaintiff being of Moorish belief and supposed representation of a Sovereign. Plaintiff briefly explained that he was simply a free man exercising his constitutional rights to travel freely without government interference or oppression.

Defendant's Koop and Donohue then conspired to falsely charge plaintiff with possession of contraband that was removed from the driver of the vehicle, and hindering apprehension for providing them with his National identification credentials.

After being arrested on false and unsubstantiated charges plaintiff was transported to the Ocean City Police Department. Plaintiff was subsequently remanded to the Cape May County Jail while the other occupants of the vehicle were released on Summons. Plaintiff was detained at the Cape May County Jail without the benefit of bail¹. Once placed at the Cape May County Jail plaintiff was subjected to cruel and unusual punishment. Plaintiff was made to sleep on a concrete floor with only a thin mat for a period of 21 days. Plaintiff remained in this holding cell for three (3) weeks without running water, shower or outside communication. A complaint

¹ New Jersey Bail Reform Act

was lodged with defendant Donald J. Lombardo, Warden of the Cape May County Jail. Defendant Lombardo visited the holding cell where plaintiff was forced to sleep on a floor and told plaintiff he would not be moved because of his religious beliefs. Plaintiff was denied access to a telephone to call his family, Plaintiff was denied visits and his mail was intercepted by defendant Lombardo. Plaintiff was held incommunicado for an extended period of time at the direction of defendant Lombardo.

Plaintiff requested from defendant Marylou McAdams Corson (Assistant Prosecutor) to appear before the grand jury hearing evidence against plaintiff for allegedly possessing a controlled dangerous substance. Plaintiff was denied the right to appear before the grand jury to provide truthful testimony. Plaintiff communicated to defendant McAdams Corson that he was not in possession of drugs as alleged in the complaint by Ocean City Police Officer Donohue. I advised assistant prosecutor Corson that the entire events were recorded on Sgt. Koops body-camera and that I was being wrongfully imprisoned.

IV. Injuries

Plaintiff Mark El suffered the loss of his freedom without due process of law.

Plaintiff Mark El suffered emotional distress as a result of his wrongful imprisonment.

Plaintiff Mark El suffered economic loss as the result of defendant's unconstitutional conduct.

Plaintiff Mark El suffered long-term financial calamity as a result of defendant's wrongful conduct.

Plaintiff Mark El suffered personal embarrassment and loss of good reputation as a result

of defendant's wrongful actions.

V. Relief

Plaintiff's seeks a monetary award in the amount of \$7,000,000.00 from defendant Robert Koop ;

Plaintiff seeks a monetary award in the amount of \$1,000,000.00 from defendant Marylou McAdams Corson;

Plaintiff's seeks a monetary award in the amount of \$750,000.000 from defendant Sean Donohue ;

Plaintiff's seeks a monetary award in the amount of \$750,000.000 from defendant Donald J. Lombardo

Plaintiff Mark El seeks a compensatory award of \$250,000.00 for the loss of income resulting from his wrongful imprisonment.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the

complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: July 12, 2019.

Signature of Plaintiff: Mark Smith

Printed Name of Plaintiff MARK Smith