

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ROBERT FULLERTON, ET AL.,
Plaintiff

V.

SUMMONS IN A CIVIL CASE

TINTON FALLS, ET AL.,
Defendant

CASE
NUMBER: 3:18-CV-03248-PGS-LHG

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

Borough of Tinton Falls
556 Tinton Avenue
Tinton Falls, NJ 07724

A lawsuit has been filed against you.

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

Thomas J. Mallon, Esq.
Law Offices of Mallon & Tranger
86 Court Street
Freehold, NJ 07728

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

WILLIAM T. WALSH

CLERK

John Moller

(By) DEPUTY CLERK



ISSUED ON 2018-03-08 10:22:34, Clerk
USDC NJD

RETURN OF SERVICE	
Service of the Summons and complaint was made by me(I)	DATE
NAME OF SERVER (PRINT)	TITLE
Check one box below to indicate appropriate method of service	
☐ Served personally upon the defendant. Place where served: _____ _____ ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. ☐ Name of person with whom the summons and complaint were left: _____ ☐ Returned unexecuted: _____ _____ ☐ Other (specify) : _____ _____ _____	
STATEMENT OF SERVICE FEES	
TRAVEL	SERVICES
TOTAL	
DECLARATION OF SERVER	
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct. Executed on _____ Date _____ Signature of Server _____ Address of Server _____	

THOMAS J. MALLON, ESQ.
Attorney-at-Law
86 Court Street
Freehold, NJ, 07728
(732) 780-0230
Attorney for Plaintiffs
Robert Fullerton and
Bobbi Rene Fullerton

ROBERT FULLERTON
and
BOBBI RENE FULLERTON

UNITED STATES DISTRICT COURT
DISTRICT COURT OF NEW JERSEY
TRENTON

Plaintiffs

vs.

Civil Action No.: (-)

TINTON FALLS;
ADRIAN REYES
and **JOHN DOES 1-5** (fictitious individuals),
members of the Tinton Falls Police Department;
JOHN A. SCRIVANIC, Chief of Police;
JOHN DOES 6-10 (fictitious individuals),
Personnel of the City of Tinton Falls
Police Department in supervisory
capacities;

COMPLAINT

Defendants.

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 28 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 1367.

PARTIES

2. Plaintiffs Robert and Bobbi Rene Fullerton, residing at 617 Green Grove Road, Tinton Falls, NJ, 07712, are and were, at all times herein relevant, residents of the State of New Jersey.

3. Defendants Adrian Reyes and/or John Does 1-5 were at all times mentioned herein duly appointed and acting police officers of the Tinton Falls Police Department and at all times herein were acting in such capacities as the agents, servants and/or employees of Tinton Falls and were acting under the color of law.

4. Defendants Chief of Police John A. Scrivnac and/or John Does 6-10 were at all times mentioned herein duly appointed and acting members of the Tinton Falls Police Department and at all times herein were acting in such capacities as the agents, servants and/or employees of Tinton Falls and were acting under the color of law.

5. Defendants Chief of Police John A. Scrivnac and/or John Does 6-10 were acting in supervisory capacities over Defendants Reyes and/or John Does 1-5 and responsible by law for the training, supervision and conduct of Defendants Reyes and/or John Does 1-5.

6. Defendant Tinton Falls is a duly designated municipality of the state of New Jersey, under the laws of the state of New Jersey.

7. At all times relevant hereto, Defendants Tinton Falls employed the aforementioned Defendants. As such, it was responsible for the training, supervision and conduct of Defendants John A. Scrivnac, Adrian Reyes and/or John Does 1-10.

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

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

1. On October 8, 2017, Defendant Tinton Falls police officer Adrian Reyes and/or John Does 1-5 were dispatched to Plaintiffs' residence following a 911 call reporting that Plaintiffs were arguing.
2. Plaintiffs (a father and daughter) had been arguing but the matter had been resolved by the time that Defendants Reyes and/or John Does 1-5 arrived at the residence.
3. There was no physical assault or any type of threat of physical assault by or between between Plaintiffs.
4. Before any officers arrived, Plaintiff Robert Fullerton received a call from his longtime friend, Tinton Falls Police Lieutenant Kyle Pierson.
5. Lieutenant Pierson asked Plaintiff Robert Fullerton if everything was all right and Plaintiff told him that he had been arguing with his daughter.
6. Upon information and belief, Lieutenant Pierson tried to notify the responding officers that he had spoken with Plaintiff Robert Fullerton and had been advised that no assault had occurred at the Fullerton residence.
7. Plaintiff Robert Fullerton heard a knock on the door.
8. Plaintiffs owned two dogs, German Shepherds named Sadie and Hannah.
9. Plaintiff Robert Fullerton opened the door and stepped outside.
10. Sadie brushed past him, walking onto the driveway and was immediately shot three times by Defendants Reyes and/or John Does 1-5.
11. Defendants Reyes and/or John Does 1-5 then ordered Plaintiff Robert Fullerton at gunpoint, with the gun pointed in his face, to get on the ground.

12. Plaintiff Robert Fullerton was unarmed and complied with Defendant's orders by getting onto the ground.

13. Plaintiff Bobbi Rene Fullerton then followed Hannah outside, at which time Hannah was immediately shot twice by Defendants Reyes and/or John Does 1-5, as Plaintiff Bobbi Rene Fullerton stood next to the dog.

14. Defendants Reyes and/or John Does 1-5 then ordered Plaintiff Bobbi Rene Fullerton at gunpoint to get on the ground, pointing his weapon in her face.

15. Sadie died as a result of the gunshot wounds and Hannah was taken to a veterinary hospital.

16. Plaintiffs have incurred over \$7,000 in veterinary expenses.

COUNT ONE
SECTION 1983 USE OF EXCESSIVE FORCE

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.

2. Defendants Reyes and/or John Does 1-5 acting under color of state law used excessive and unreasonable force on Plaintiffs' persons by pointing a weapon at them and shooting their dogs, depriving Plaintiffs of their right to be secure in their persons and effects against unreasonable seizure, in violation of the Fourth and Fourteenth Amendments of the Constitution of the United States and U.S.C. Section 1983.

3. As a direct and proximate cause of the Defendants' excessive and unreasonable use of force set forth above, Plaintiffs sustained emotional injuries, veterinary expenses and will incur additional special damages in the future in an amount which cannot yet be determined.

4. By reason of the above, Plaintiffs were injured and were deprived of their constitutional

rights as described above.

WHEREFORE, Plaintiffs Robert and Bobbi Rene Fullerton demand judgment against Defendants Adrian Reyes and/or John Does 1-5 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

COUNT TWO
SECTION 1983 ILLEGAL SEARCH / SEIZURE

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. The aforementioned acts of Defendants Reyes and/or John Does 1-5 committed under color of state law in pointing a weapon at Plaintiffs and shooting their dogs were unjustified, without probable cause, reasonable suspicion or any other exception to the warrant requirements under the Fourth and Fourteenth Amendments of the Constitution of the United States.
3. The aforementioned acts of Defendants in pointing a weapon at Plaintiffs and shooting their dogs were in violation of Plaintiffs' right to be free from unreasonable search and seizure of their persons and effects under the Fourth Amendment of the Constitution of the United States, and the right to be free of the deprivation of liberty under the Fourteenth Amendment of the Constitution of the United States, made actionable through 42 U.S.C. Section 1983.
4. By reason of the above Plaintiffs were deprived of their constitutional rights, sustained emotional injuries, veterinary expenses and will incur additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiffs Robert and Bobbi Rene Fullerton demand judgment against Defendants Adrian Reyes and/or John Does 1-5 on this Count together with compensatory and

punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

COUNT THREE
SECTION 1983 FAILURE TO INTERVENE

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. Defendants Reyes and/or John Does 1-5 were Tinton Falls Police Officers and at all times mentioned herein were acting under color of state law.
3. Defendants Reyes and/or John Does 1-5 had a duty to intervene in the unjustified use of force on Plaintiffs and unreasonable seizure by Defendants Reyes and/or John Does 1-5.
4. The unjustified use of force on Plaintiffs and unreasonable seizure by Defendants Reyes and/or John Does 1-5 deprived Plaintiffs of their right to be secure in their persons and effects 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.
5. Defendants Reyes and/or John Does 1-5 had a reasonable opportunity to intervene in the unjustified seizure and use of force on Plaintiffs by Defendants Reyes and/or John Does 1-10 and failed to intervene.
6. As a direct and proximate cause of the malicious and outrageous conduct of Defendants as set forth above, Plaintiffs sustained emotional injuries, veterinary expenses and will incur additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiffs Robert and Bobbi Rene Fullerton demand judgment against Defendants Adrian Reyes and/or John Does 1-5 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

COUNT FOUR
SECTION 1983 SUPERVISORY LIABILITY

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. Defendants Scrivinac and/or John Does 6-10 were supervisory officials and/or officers in charge at the time Defendants Reyes and/or John Does 1-5 used excessive and unreasonable force on Plaintiffs and deprived them of their right to be secure in their persons and effects against unreasonable seizure.
3. Defendants Scrivinac and/or John Does 6-10 had a duty to prevent subordinate officers Defendants Reyes and/or John Does 1-5 from violating the constitutional rights of citizens and/or detainees.
4. Defendants Scrivinac and/or John Does 6-10 either directed Defendants Reyes and/or John Does 1-5 to violate Plaintiffs' constitutional rights or had knowledge of and acquiesced in his/their subordinate's violations.
5. As a direct and proximate result of the acts of Defendants Scrivinac and/or John Does 6-10 as set forth herein, Plaintiffs sustained emotional injuries, veterinary expenses and will incur additional special damages in the future in an amount which cannot yet be determined in connection with the deprivation of their constitutional rights guaranteed by the Fourth and Fourteenth Amendments to the Constitution of the United States and protected by 42 U.S.C. Section 1983.

WHEREFORE, Plaintiffs Robert and Bobbi Rene Fullerton demand judgment against Defendants Scrivinac and/or John Does 6-10 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

COUNT FIVE
SECTION 1983 UNLAWFUL POLICY, CUSTOM, PRACTICE
INADEQUATE TRAINING

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.

2. Defendants Tinton Falls, Tinton Falls Chief of Police John A. Scrivnac and/or John Does 6-10, are vested by state law with the authority to make policy on : (1) the use of force; internal affairs investigations and/or administrative reviews pursuant to the Tinton Falls 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. Defendants Scrivnac and/or John Does 6- 10 are responsible for training Defendant Tinton Falls's police officers in the use of force and/or were officers in charge when Defendants Reyes and/or John Does 1-5 pointed a weapon at Plaintiffs and shot their dogs.

3. At all times mentioned herein, Defendants Reyes and/or John Does 1- 5, as police officers, agents, servants and/or employees of Defendant Tinton Falls, were acting under the direction and control of Defendants Tinton Falls Police Department, Scrivnac and/or John Does 6-10 and were acting pursuant to the official policy, practice or custom of the Tinton Falls Police Department.

4. Acting under color of law pursuant to official policy, practice, or custom, Defendants Tinton Falls, Scrivnac and/or John Does 6-10 intentionally, knowingly, recklessly and/or with deliberate indifference failed to train, instruct, supervise, control, and discipline on a continuing basis, Defendants Scrivnac, Reyes and/or John Does 1-5 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.

5. Acting under color of law pursuant to official policy, practice, or custom, Defendants Tinton Falls, Scrivnac and/or John Does 6-10 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 Tinton Falls, Scrivnac and/or John Does 6-10 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.

6. Defendants Tinton Falls, Scrivnac and/or John Does 6-10 failed to adequately track departmental excessive force complaints, administrative complaints and/or use of force incidents in violation of Tinton Falls 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.

7. Defendants Tinton Falls, Scrivnac and/or John Does 6-10 were aware of numerous similar police citizen encounters involving, and/or Internal Affairs complaints and/or civil lawsuits filed against, Defendants Scrivnac; Reyes; John Does 1-10, and/or other Tinton Falls 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. Defendant Tinton Falls' police officers

have been named in at least one other lawsuit alleging excessive force and/or violations of citizens' civil rights, Turpin v. Tinton Falls, et als. Civil Action#: 15-06613 (BRM-TJB).

8. Despite their awareness, Defendants Tinton Falls, Scrivinac and/or John Does 6-10 failed to employ any type of corrective or disciplinary measures against Defendants Reyes, John Does 1-10 and/or other Tinton Falls Police Officers.

9. Defendants Tinton Falls, Scrivinac and/or John Does 6-10 had knowledge of, or, had they diligently exercised their duties to instruct, train, supervise, control, and discipline Defendants Scrivinac, Reyes and/or John Does 1-10 on a continuing basis, should have had knowledge that the wrongs which were done, as heretofore alleged, were about to be committed.

10. Defendants Tinton Falls, Scrivinac and/or John Does 6-10 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.

11. Defendants Tinton Falls, Scrivinac and/or John Does 6-10, directly or indirectly, under color of state law, approved and/or ratified the unlawful, deliberate, malicious, reckless, and wanton conduct of Defendants Scrivinac, Reyes and/or John Does 1-10 heretofore described.

12. As a direct and proximate result of the acts of Defendants Tinton Falls, Scrivinac and/or John Does 6-10 as set forth herein, Plaintiffs sustained emotional injuries, veterinary expenses and will incur additional special damages in the future in an amount which cannot yet be determined in connection with the deprivation of their constitutional rights guaranteed by the Fourth and Fourteenth Amendments to the Constitution of the United States and protected by 42 U.S.C. Section 1983.

WHEREFORE, Plaintiffs Robert and Bobbi Rene Fullerton demand judgment against Defendants Tinton Falls, John A. Scrivinac and/or John Does 6-10 on this Count together with

compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

SUPPLEMENTAL STATE LAW CLAIM

COUNT SIX

VIOLATION OF NEW JERSEY CIVIL RIGHTS ACT (NJCR)

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.

2. The actions of Defendants Reyes and/or John Does 1-10, set forth at length above, deprived Plaintiffs of their substantive due process right to be free from unlawful seizure of their person and their fundamental right to liberty secured by the Constitution of the United States and the Constitution of the State of New Jersey, in violation of N.J.S.A. 10:6-1, et seq. ("The New Jersey Civil Rights Act").

3. As a direct and proximate result of the aforesaid acts of Defendants Reyes and/or John Does 1-10, Plaintiffs sustained emotional injuries, veterinary expenses and were deprived of their constitutional rights as described above, and will incur additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiffs Robert and Bobbi Rene Fullerton demand judgment against Defendants Adrian Reyes and/or John Does 1-10 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

DEMAND FOR TRIAL BY JURY

Plaintiffs hereby demand a trial by jury as to all issues.

DESIGNATION OF TRIAL COUNSEL

Please be advised that Thomas J. Mallon, Esquire is hereby designated trial counsel in the above captioned matter.

Dated: March 7, 2018

/s/ Thomas J. Mallon, Esquire
THOMAS J. MALLON, ESQUIRE