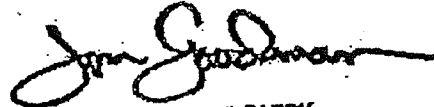


SUPERIOR COURT BERGEN COUNTY
FILED

OCT 19 2012


DEPUTY CLERK

LAW OFFICE OF
MICHAEL S. HARWIN
22-01 Broadway
Fair Lawn, New Jersey 07410
Tel: (201) 791-7575
Fax: (201) 791-7574
Attorney for the Plaintiff

DAWN WILSON,

Plaintiff,

v.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: CIVIL PART
BERGEN COUNTY

DOCKET NUMBER: L 8068-12

Civil Action

105
105
POLICE OFFICER ZIELINSKI,
STATE OF N.J., NEW JERSEY
MOTOR VEHICLE COMMISSION,
BOROUGH OF WALLINGTON,
WALLINGTON POLICE DEPARTMENT,

Defendants.

12-3951
COMPLAINT AND JURY DEMAND

image
Dawn Wilson, residing in the Township of Upper Montclair,
County of Essex, and State of New Jersey, hereby states the
following:

FIRST COUNT

1. On or about August 20, 2011, Plaintiff was waiting to
conduct business at the New Jersey Motor Vehicle Commission
located in the Borough of Wallington, County of Bergen, and
State of New Jersey.

2. Defendant, Police Officer Zelinski, was at all relevant times a police officer employed by the Defendant Borough of Wallington and Defendant Wallington Police Department.

3. Defendant, Police Officer Zelinski, was at all relevant times also employed by the Defendant State of New Jersey and Defendant New Jersey Motor Vehicle Commission to provide enforcement services for those citizens conducting business through at the New Jersey Motor Vehicle Commission.

4. While attempting to verify the status of the line of persons waiting to conduct business at the Defendant, New Jersey Motor Vehicle Commission, Defendant Police Officer Zelinski negligently injured the Plaintiff in the performance of his duties.

5. As a direct and proximate result of the aforesaid negligence of Defendant, Police Officer Zelinski, the Plaintiff sustained serious and painful bodily injuries which injuries necessitated medical treatment. The injuries caused the Plaintiff great pain and suffering and left Plaintiff with permanent disabilities which will in the future incapacitate, cause pain and suffering, and require medical treatment.

6. By reason of said injuries, the Plaintiff, has been, and will be unable to perform her usual work, suffered and will in the future suffer loss of income, has been and will be unable to engage in her usual social and recreational activities and has

been and will be compelled to expend large sums of money for medicines and medical attention.

7. On or about September 30, 2011, in accordance with the provisions of the New Jersey Tort Claims Act, Plaintiff filed Notices of Claims with the Defendants stating the basic facts giving rise to the cause of action herein.

8. It has been more than six months from the date that Plaintiff's administrative tort claims were filed.

Wherefore, Plaintiff demands judgment for compensatory and consequential damages, attorney fees, expert witness and investigation fees, deposition costs, punitive and or exemplary damages and such other relief the court may deem proper.

SECOND COUNT

1. Plaintiff repeats the allegations contained in the prior count as if fully set forth herein.

2 Defendant Police Officer Zelinsky's actions were intentional and done with the purpose to assault and batter the Plaintiff.

Wherefore, Plaintiff demands judgment for compensatory and consequential damages, attorney fees, expert witness and

investigation fees, deposition costs, punitive and or exemplary damages and such other relief the court may deem proper.

THIRD COUNT

1. Plaintiff repeats the allegations of the prior counts as if set forth fully herein.

2. Defendant, Police Officer Zelinski, acting under color of state law, willfully, intentionally, knowingly, and concertedly deprived Plaintiff of her rights, privileges, and immunities secured by the United States Constitution and the laws of the United States of America, by inter alia:

a. Needlessly and unreasonably subjecting the Plaintiff to an unreasonable excessive use of force in the performance of his duties pursuant to Article IV of the United States Constitution and Article IV of the New Jersey Constitution.

b. Needlessly and unreasonably assaulting the Plaintiff in the performance of his duties.

3. These aforesaid violations are in violation of 42 U.S.C. 1983 and the Constitution and Laws of the United States of America and of the State of New Jersey.

Wherefore, Plaintiff demands judgment for compensatory and consequential damages, attorney fees, expert witness and

investigation fees, deposition costs, punitive and or exemplary damages and such other relief the court may deem proper.

FOURTH COUNT

1. Plaintiff repeats the allegations contained in the prior courts as if fully set forth herein.

2. Defendant, Police Officer Zelinski acting under color of state law, willfully, intentionally, knowingly, and connectedly deprived Plaintiff of her rights, privileges, and immunities secured by the State of New Jersey Constitution and the New Jersey Civil Rights Act, and by inter alia:

a. Needlessly and unreasonably subjecting the Plaintiff to an unreasonable excessive use of force in the performance of his duties.

b. Needlessly and unreasonably assaulting the Plaintiff in the performance of his duties.

3. These aforesaid violations are in violation of the New Jersey Civil Rights Act and the Constitution and the State of New Jersey.

Wherefore, Plaintiff demands judgment for compensatory and consequential damages, attorney fees, expert witness and

investigation fee, deposition costs, punitive and or exemplary damages and such other relief the court may deem proper.

FIFTH COUNT

1. Plaintiff repeats allegations of the prior count as if fully set forth herein.

2. Defendant Borough of Wallington and Defendant Wallington Police Department, have grossly negligently failed to train its police officers in the fundamental law of police procedures and protocol and thereby failed to safeguard the Plaintiff's right to be free from unreasonable excessive use of force from Police Officer Zelinski in the performance of his duties.

3. Defendants, Borough of Wallington and the Defendant Wallington Police Department, permitted a practice of unreasonable and illegal behavior by its police officers, including Police Officer Zelinski to use unreasonable excessive use of force in the performance of his duties.

5. Defendants Borough of Wallington and the Defendant Wallington Police Department, failed to discipline or prosecute or in any manner deal with known incidents of wrongful behavior by Police Officer Zelinski and failed to investigate the claim made against Police Officer Zelinski.

6. By means of both action, inaction, and or cover-up of such wrongful actions by its police officers, the Defendants,

Borough of Wallington and the Defendant Wallington Police Department, cultivated an environment that the police officers and Police Officer Zelinski believed that the unreasonable excessive use of force was acceptable behavior in the performance of their duties.

7. The foregoing acts, omissions, and systematic failures are customs and policies of Defendants Borough of Wallington and the Wallington Police Department and caused police officers, including Police Office Zelinski, to believe that the use of unreasonable excessive use of force was within their discretion and that it would not be honestly or properly investigated.

8. As a direct and proximate cause of the aforesaid acts, omissions, policies, and customs, the Defendants Borough of Wallington and the Wallington Police Department, caused the Plaintiff to suffer severe injuries and emotional harm, which necessitated medical attention and treatment.

9. As a direct and proximate cause of the aforesaid negligent acts, omissions, policies, and customs, the Defendants, Borough of Wallington and the Wallington Police Department, caused the Plaintiff to suffer severe injuries and emotional distress, which necessitated medical attention and treatment.

Wherefore, Plaintiff demands judgment for compensatory and consequential damages, attorney fees, expert witness and investigation fees, deposition costs, punitive and or exemplary damages and such other relief the court may deem proper.

SIXTH COUNT

1. Plaintiff repeats the allegations of the prior counts as if set forth fully herein.

2. The actions of the Defendants were in violation of the Constitution and laws of the United States and redress may be had there under. However, should such laws or Constitution be inadequate or deficient to compensate Plaintiff for wrongful acts of the Defendants, Plaintiff is hereby, pursuant to 42 U.S.C. 1988, pursuing such additional relief as applicable under the Constitution and pursuing additional relief under the laws of the State of New Jersey.

3. Pursuant to the New Jersey Tort Claims Act, N.J.S.A. 59:2-2, to the extent the person resources of the individual defendants herein are deficient in the amounts necessary to furnish a suitable remedy to the Plaintiff, Defendants, Borough of Wallington and Wallington Police Department, are liable for such deficiency.

Wherefore, Plaintiff demands judgment for compensatory and consequential damages, attorney fees, expert witness and investigation fees, deposition costs, punitive and or exemplary damages and such other relief the court may deem proper.

SEVENTH COUNT

1. Plaintiff repeats allegations of the prior counts as if set forth fully herein.

2. The aforesaid actions of the Defendant Police Officer Zelinski were willful, wanton, and reckless so as to permit a jury to consider the awarding of punitive damages and/or exemplary damages to the Plaintiff.

EIGHT COUNT

1. Plaintiff repeats allegations of the prior counts as if set forth fully herein.

2. To the extent Police Officer Zelinski was not acting under color of state law, Defendant State of New Jersey and Defendant New Jersey Motor Vehicle Commission are responsible for the acts of Police Officer Zelinski, who they hired to perform security services, as their employee and or agent.

3. As a result of Police Officer Zelinski's negligent actions the Plaintiff was injured thereby imposing liability on

the Defendant State of New Jersey and Defendant New Jersey Motor Vehicle Commission.

Wherefore, Plaintiff demands judgment for compensatory and consequential damages, attorney fees, expert witness and investigation fees, deposition costs, punitive and or exemplary damages and such other relief the court may deem proper.

Dated:

10/18/12



Michael S. Harwin, Esq.
Attorney for the Plaintiff

Appendix XII-B1

CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY	
 Use for Initial Law Division. Civil Part pleadings (not motions) under <i>Rule 4:5-1</i>. Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or if attorney's signature is not affixed.		PAYMENT TYPE: ☐ CK ☐ CG ☐ CA	
		CHG/CK NO.:	
		AMOUNT:	
		OVERPAYMENT:	
		BATCH NUMBER:	
ATTORNEY/PRO SE NAME Michael S. Harwin, Esq.	TELEPHONE NUMBER (201) 791-7575	COUNTY OF VENUE Bergen County	
FIRM NAME (if applicable) Law Office of Michael S. Harwin		DOCKET NUMBER (when available)	
OFFICE ADDRESS 22-01 Broadway Fair Lawn, New Jersey 07410		DOCUMENT TYPE Complaint	
		JURY DEMAND ☒ YES ☐ NO	
NAME OF PARTY (e.g., John Doe, Plaintiff) Dawn Wilson	CAPTION Dawn Wilson v. Police Officer Ziellnski, State of N.J., New Jersey Motor Vehicle Commission, Borough of Wallington, Wallington Police Department.		
CASE TYPE NUMBER (See reverse side for listing) 005	IS THIS A PROFESSIONAL MALPRACTICE CASE? ☐ YES ☒ NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.		
RELATED CASES PENDING? ☐ YES ☒ NO	IF YES, LIST DOCKET NUMBERS		
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? ☐ YES ☒ NO	NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) ☐ NONE ☒ UNKNOWN		
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? ☐ YES ☒ NO	IF YES, IS THAT RELATIONSHIP ☐ EMPLOYER-EMPLOYEE ☐ FRIEND/NEIGHBOR ☐ OTHER (explain) _____ ☐ FAMILIAL ☐ BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? ☒ YES ☐ NO			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION:			
☒	DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS ☐ YES ☒ NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION:
WILL AN INTERPRETER BE NEEDED? ☐ YES ☒ NO		IF YES, FOR WHAT LANGUAGE:	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .			
ATTORNEY SIGNATURE  MICHAEL S. HARWIN ATTORNEY AT LAW STATE OF NEW JERSEY			