

Borough of Wallington

Mayor
Mark W. Tomko

Civic Center
24 Union Boulevard
Wallington, New Jersey 07057

Witold T. Baginski
Borough Clerk

Council
Joseph C. Brunacki IV
Eugeniusz Rachelski
Khaldoun Androwis
Melissa Dabal
Bryan Olkowski
Wendy Lu Ivanicki

Dorothy B. Siek
Tax Collector/Treasurer

(973) 777-0318
Fax (973) 779-4879
www.wallingtonnj.org

March 12, 2018

To: Attn.: John Zisa
Regional Risk Managers
777 Terrace Ave.
Hasbrouck Heights, NJ 07604

Richard Cedzidlo
Counselor at Law
177 Paterson Avenue
Wallington, New Jersey 07057

Bergen Risk Managers, Inc.
PO Box 901
Ramsey, New Jersey 07446

Paul S. Barbire, Esq.
9 Lincoln Avenue
Rutherford, New Jersey 07070

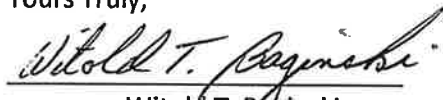
Claim of Joseph Fehl vs. Borough of Wallington, ET AL.,

Enclosed please find the following:

Initial Notice Claim
Official Notice of Tort Claim
Summons and Complaint
Order to Show Cause

Received on
Received on
Received on 03/09/2018
Received on

Yours Truly,


Witold T. Baginski
Borough Clerk

WTB: aw

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JOSEPH FEHL ,
Plaintiff

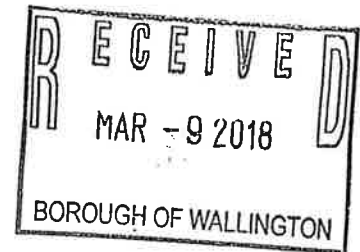
V.

SUMMONS IN A CIVIL CASE

BOROUGH OF WALLINGTON, ET AL.,
Defendant

CASE
NUMBER: 2:17-CV-11462-KSH-CLW

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



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:

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 Reilly

(By) DEPUTY CLERK



ISSUED ON 2017-11-09 10:14:05, Clerk
USDC NJD

RETURN OF SERVICE		
Service of the Summons and complaint was made by mc(l)	DATE	
NAME OF SERVER (<i>PRINT</i>)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
☐ 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 _____ <i>Signature of Server</i> _____ <i>Address of Server</i>		

Jason A. Rindosh, Esq.
Prabhkaran S. Bedi, Esq.

BEDI RINDOSH

1605 John Street, #305

Fort Lee, NJ 07024

Tel: 201.775.4222

Fax: 201.777.3975

jrindosh@berilaw.com

Attorneys for Plaintiff

Joseph Fehl

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JOSEPH FEHL,

Plaintiff,

vs.

BOROUGH OF WALLINGTON, WITOLD
BAGINSKI, in his individual and
official capacity as Business
Administrator of Wallington, SEAN
KUDLACIK, BERGEN COUNTY
PROSECUTOR'S OFFICE, JOHN and JANE
DOE(s) 1-10 (fictitious persons
yet to be identified).

Defendants.

Civ. Action No.:

COMPLAINT WITH JURY DEMAND

The Plaintiff JOSEPH FEHL, by way of this Complaint,
alleges the following upon knowledge, information and belief:

INTRODUCTION

1. This is a civil action brought by Plaintiff Joseph
Fehl for civil rights violations arising under Title 42 U.S.C.
§ 1983 and the New Jersey Civil Rights Statute, N.J.S.A. §

10:6-2, based on retaliation he suffered for exercising his First Amendment Rights. In addition Plaintiff has suffered violations of his Fourth and Fourteenth Amendment rights by an unlawful arrest without probable cause, malicious prosecution, violations of due process, and abuse of process.

PARTIES

2. Plaintiff Joseph Fehl (hereinafter "Plaintiff") is a natural born person who at all relevant times was a resident of the County of Bergen, State of New Jersey.

3. Defendant Borough of Wallington (hereinafter "Defendant Wallington" or "Wallington") is a municipality organized by virtue of New Jersey law and pursuant to that law. Defendant Wallington is sued to effect the full declaratory, injunctive and compensatory damages demanded by the Plaintiff.

4. Defendant Witold Baginski (hereinafter "Defendant Baginski") was the Business Administrator of the Borough of Wallington at times relevant to this Complaint. Defendant Baginski is sued in his official and individual capacity to effect the full declaratory, injunctive and compensatory damages demanded by the Plaintiff.

5. Defendant Lt. Sean Kudlacik (hereinafter "Defendant Kudlacik") is a lieutenant in the Wallington

police department. Defendant Kudlacik is sued in his official and individual capacity to effect the full declaratory, injunctive and compensatory damages demanded by the Plaintiff.

6. Defendant Bergen County Prosecutor's Office (hereinafter "Defendant BCPO") is located in Bergen County, New Jersey. Defendant BCPO is a county entity and the public employer of Defendant Doe(s).

7. Defendant John/Jane Doe(s) 1-10 (hereinafter "Defendant Doe(s)") are unknown assistant prosecutor(s), police officer(s), investigator(s), or other public officials/employees of the Bergen County Prosecutor's Office or Wallington who(m) were involved in the events that gave rise to Plaintiff's claim for relief. Defendant Doe(s) failed to take reasonable steps to end the unlawful conduct alleged in this complaint. Defendant Doe(s) are sued to effect the full declaratory, injunctive relief and damages demanded by the Plaintiff.

JURISDICTION AND VENUE

8. Jurisdiction in this Court is proper pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343 for Plaintiff's claims under 42 U.S.C. § 1983, 42 U.S.C. § 1985, and the Federal Constitution.

9. Jurisdiction is proper over Plaintiffs' pendent state claims, brought under the New Jersey Civil Rights Act, N.J.S.A. § 10:6-2, et seq., the New Jersey State Constitution, the common law, and pursuant to 28 U.S.C. § 1367.

10. The constitutional wrongs alleged in this Complaint occurred in the Borough of Wallington and/or County of Bergen in the State of New Jersey. Since these wrongs occurred in the District of New Jersey, and, upon reasonable belief, all of the parties reside, govern, and/or operate within this district, venue in this Court is proper under 28 U.S.C. § 1391.

11. This Court has the authority to award costs and fees under 42 U.S.C. § 1988, as well as under the New Jersey Civil Rights Act, N.J.S.A. § 10:6-2, et seq.

FACTUAL BACKGROUND

12. Plaintiff joined the Wallington Fire Department as a volunteer firefighter in January of 2009.

13. Plaintiff is also a volunteer first responder for the Borough of Wallington's EMS squad.

14. Plaintiff was both a firefighter and first responder in Wallington during the same timeframe. Plaintiff served as a volunteer in both positions and was unpaid.

15. Prior to joining the Wallington Fire Department, Plaintiff had filed a civil rights lawsuit against another municipality located in Bergen County, viz. Hasbrouck Heights.

16. Plaintiff's right to file that civil rights lawsuit is protected under the 1st Amendment of the Federal Constitution, as well as the 1st Amendment of the New Jersey Constitution.

17. Plaintiff is a vocal person and he would regularly attend the meeting for the Wallington Emergency Squad and Wallington Fire Department.

18. While attending fire department meetings, Plaintiff would frequently participate in discussions and he would raise matters touching on public concern and public interest.

19. In March of 2009, Defendant Baginski made statements after the fire department meetings suggesting that Plaintiff should be removed.

20. In May of 2009, Defendant Baginski made reference to the fact Plaintiff had previously sued Hasbrouck Heights and then suggested that Plaintiff should be removed from the fire department.

21. In March of 2010, Defendant Baginski continued to make comments at the fire department meetings against

Plaintiff as part of his continued effort to coerce other members to get Plaintiff off of the squad.

22. Upon information, knowledge and belief, Defendant Baginski was motivated to get Plaintiff out of the Wallington Fire Department and, in particular, out of the squad meetings where appropriations were discussed to conceal his own improprieties which harmed the public.

23. In May of 2012, Defendant Baginski barred Plaintiff from putting in a bid for hydroseeding of Centennial Field, which was a public bid for work in Wallington.

24. On October 13, 2013, Plaintiff suffered smoke inhalation injuries when responding to a house fire in Hasbrouck Heights. Plaintiff was transport via ambulance to Hackensack University Medical Center for treatment.

25. On October 14, 2013, Plaintiff went to Wallington Borough Hall regarding his injury and to fill out paperwork since he was on active duty for the Wallington Fire Department when he was injured.

26. When Superstorm Sandy hit New Jersey, dive suits used by the Wallington Fire Department were destroyed.

27. Defendant Wallington Made an insurance claim to replace the dive suits.

28. Upon information, knowledge and belief, Defendant Wallington received insurance funds for the dives suits from the insurance claim.

29. In March of 2014, Plaintiff made numerous statements at the squad meeting about the Wallington Fire Department's insurance claim for dive suits that were destroyed in Superstorm Sandy. Plaintiff's comments questioned whether the appropriations had been received, and when the new dive suits would be obtained.

30. In April of 2014, Plaintiff once again asked about the dive suits at the squad meeting, but was told he should not worry about it.

31. In May of 2014, Plaintiff, yet again, asked about the insurance claim for dive suits because no new suits had been obtained. Defendant Baginski told members of the squad that it was like car proceeds, and they could do whatever they want with the money.

32. Plaintiff publicly complained that Defendant Baginski misappropriated the insurance funds that were allocated for new dive suits.

33. Plaintiff did not agree with Defendant Baginski, as he reasonably believed that the money appropriated for the dive suits could not be used for some other purpose.

34. Upon information, knowledge and belief, the Wallington Fire Department's insurance claim was made under the direction of Defendant Baginski and/or Defendant Doe(s).

35. No dive suits were ever purchased by the Wallington Fire Department to replace the dive suits that were destroyed.

36. Each time Plaintiff complained about the dive suits and possible missing insurance funds, Plaintiff was speaking on a matter of substantial public importance.

37. In May of 2014, Plaintiff went to the Wallington police department but was told to "get out".

38. On July 3, 2014, at around 1 or 2 o'clock in the morning, Plaintiff was with two firefighter friends in the firehouse. Plaintiff received a call on his radio to respond to an emergency services call (as a first responder).

39. Plaintiff ran out of the firehouse towards his vehicle to respond to the emergency call.

40. Plaintiff woke up from a state of unconsciousness outside of the firehouse on the road with injuries.

41. Plaintiff was questioned at the scene about what have happened to him, and he truthfully relayed what he remembered to the best of his ability.

42. Plaintiff remembered seeing headlights and a small, dark compact car as the last thing he could remember before passing out.

43. Plaintiff reasonably believed that he had been struck by a car while rushing across the street from the firehouse to his vehicle to respond to the emergency call.

44. Plaintiff was taken to Hackensack University Medical Center where he was admitted on July 3, 2017 to receive treatment for his injuries. Plaintiff was discharged on July 6, 2017.

45. After being released from the hospital, Plaintiff was told that he was required to fill out paperwork because he was on-duty when he was injured.

46. Plaintiff was provided with a form from Bergen Risk Managers from Defendant Baginski and was told to fill it out.

47. Plaintiff did not intend to file any claim for insurance through an insurance policy covering him as a volunteer as he had his own insurance provided through his self-employment in his then-operational towing business.

48. Plaintiff was nonetheless instructed that he needed to fill out the form because he was on duty when the incident occurred.

49. Plaintiff handwrote most of the information requested in the form, and left certain areas blank.

50. Notably, Plaintiff did not put any information in the form seeking wage benefits.

51. Plaintiff also never signed the Bergen Risk Managers form.

52. Plaintiff never typed a Bergen Risk Managers form.

53. In fact, Plaintiff never submitted a claim to Bergen Risk Managers. Instead, Defendant Doe(s), acting at the instruction of Defendant Wallington and/or Defendant Baginski, transmitted it to Bergen Risk Managers on or about July 11, 2014.

54. The form provided to Bergen Risk Managers contained additional information that Plaintiff never supplied.

55. Most markedly, the insurance form submitted by Defendant Doe(s) sought \$843.00 in workers compensation benefits, which was information that Plaintiff never supplied.

56. Plaintiff was a volunteer firefighter and voluntary first responder, and he never received or sought compensation for his services at any point in time.

57. Upon information, knowledge, and belief, Defendant Baginski and Defendant Doe(s) conspired to frame Plaintiff for insurance fraud because Baginski and/or Defendant Doe(s) had misappropriated the money received for the dive suits in connection with the insurance claim that was submitted.

58. Defendant Wallington notified Bergen Risk Managers that Plaintiff was under investigation prior to his arrest, which occurred on August 5, 2014.

59. Upon information, knowledge and belief, Defendant Baginski and/or Defendant Doe(s) instructed, coerced, conspired with, or directed that a criminal investigation be commenced against Plaintiff without any good faith basis to believe he was guilty of a crime.

60. Defendant Kudlacik was assigned to investigate Plaintiff. Upon information, knowledge and belief, other Defendant Doe(s) also acted individually or in concert with Defendant Kudlacik to secure Plaintiff's arrest and indictment for malicious purposes.

61. On August 5, 2014, Defendant Kudlacik called Plaintiff down to the police station where his Miranda rights were read.

62. Although Plaintiff received his Miranda rights, Defendant Kudlacik was friendly and assured him that it was merely departmental policy. The interrogation was recorded.

63. Defendant Kudlacik proceeded to question Plaintiff about his recollection of his injuries.

64. Plaintiff truthfully relayed his best recollection and, as he had previously stated, specified that he believed that a car had struck him and caused his injuries.

65. Defendant Kudlacik asked Plaintiff whether it was possible he slipped and fell and struck his head, to which Plaintiff responded that this was possible.

66. Plaintiff nonetheless maintained throughout the interview that he reasonably believed that a car had struck him to his best recollection on July 3, 2014 while responding to the squad call. At no point, however, did Plaintiff specifically stated he knew how he was injured.

67. At the end of Defendant Kudlacik's exchange with Plaintiff, he placed him under custodial arrest.

68. On July 22, 2014, Defendant Kudlacik had taken the statement of Douglas R. Krause.

69. Mr. Krause was a firefighter who spoke with Plaintiff at the scene on July 3, 2014 where Plaintiff was injured.

70. In his statement, Mr. Krause stated "You know like no if you were there you would've seen like it didn't look like he was lying to us."

71. Mr. Krause further stated "[i]t looked like if you know he was genuinely injur[ed] genuinely, hurt genuinely seemed like he didn't know what happened."

72. Mr. Krause elaborated "[h]e didn't know what hit em. He didn't' know what you know."

73. In Plaintiff's own statement to Defendant Kudlacik, he denied having specific knowledge as to what caused his injuries (though he believed it was from a car).

74. Even if Plaintiff had slipped while going to his vehicle to respond to the emergency call on July 3, 2014 instead of being struck by a vehicle, any claim submitted on Plaintiff's behalf would have been covered by Defendant Wallington's insurance policy. In other words, this difference of fact was not material to any insurance coverage decision under the circumstances.

75. On or about August 5, 2015, Defendant Kudlacik drafted an incident report form detailing his investigation that mentions he obtained a statement from Mr. Krause.

76. Defendant Kudlacik's incident report fails to mention that Mr. Krause believed that Plaintiff did not remember how he became injured based on his conversation with him at the scene of the incident.

77. Defendant Kudlacik failed to perform an adequate professional and competent investigation to determine the existence of any reliable or credible evidence that would exculpate Plaintiff.

78. In the alternative, Defendant Kudlacik ignored information exonerating Plaintiff from the crimes he was

ultimately charged with in violation of his constitutional rights.

79. Defendant Kudlacik ignored, disregarded and/or failed to give due and proper weight, evaluation, development, exploration, or consideration to the lack of evidence as against the Plaintiff and the lack of culpability of the Plaintiff for the crimes he was accused, arrested, and imprisoned for.

80. Defendant Kudlacik attempted to fabricate, alter, modify and/or create evidence against Plaintiff through various means including, though not limited to soliciting testimony to build a case against him through questioning that was calculated to accomplishing this end.

81. Plaintiff was charged under N.J.S.A. § 2C:21-4(b)(6)(a) (crime of insurance fraud) and N.J.S.A. § 2C:28-7(a) (tampering with public records or information).

82. Plaintiff was imprisoned for until he was released on bail.

83. On March 10, 2015, Defendant Kudlacik was the only witness presented to the grand jury to support Plaintiff's indictment.

84. Defendant Kudlacik provided false and misleading testimony to the grand jury when he stated "I asked him if it was possible that his injury did not occur from being struck

by a vehicle and his response was not verbatim, but now that he thinks about it I'm probably right, he wasn't" because Plaintiff has always maintained that he does not specifically know what injured him but that he believed it was a vehicle.

85. Defendant Kudlacik further failed to present exculpatory information learned during his investigation, viz. that Mr. Krause corroborated Plaintiff's testimony that he did not know specifically what happened.

86. After Plaintiff was indicted, Plaintiff wrote an online forum post complaining about his circumstances.

87. In his post, Plaintiff stated that he was a public service who was unappreciated, and that he would expose other public official malfeasance.

88. The online forum where Plaintiff posted his thoughts and ideas was a public forum, and his averment to expose public corruption touches on matters of substantial public concern.

89. Plaintiff complained to the New Jersey Department of Environmental Protection that Defendant Baginski was permitting the dumping of contaminated soil in the Borough of Wallington.

90. An investigation by the State of New Jersey discovered excessive amounts of gas that far exceeded consumption had been ordered in the Borough of Wallington.

91. Defendant Baginski was put on RICE notice, stripped of his duties as Borough Administrator, and reduced to a clerk role as a result of the gas misfeasance after someone looked into the gas numbers realized the numbers did not make sense.

92. Plaintiff has repeatedly spoken in the public interest about suspected misappropriation of public funds both when he was a fireman in Wallington, and also when he complained about Defendant Baginski and the gas orders in Wallington.

93. Defendants have retaliated and destroyed Plaintiff's towing business through the indictment as he lost all contracts with insurance companies a direct and proximate result of Defendants' unconstitutional conduct.

94. Defendants have abused the criminal complaint process to intimidate and retaliated against Plaintiff for his lawful exercise of free speech rights. These acts of retaliation and intimidation would deter a person of ordinary firmness from exercising these protected rights.

COUNT I

FALSE ARREST

N.J.S.A. § 10:6-2, et seq.

95. Any and all allegations contained in any other paragraph of this Complaint are incorporated by reference as if fully set forth herein.

96. Defendant Kudlacik, while acting under color of state law, maliciously accused Plaintiff with an indictable offense despite not having any probable cause to believe Plaintiff was guilty of insurance fraud or knowingly providing a false report.

97. Defendant Kudlacik arrested Plaintiff at the police station after an interview that did not establish that there was sufficient probable cause to arrest Plaintiff.

98. Defendant Kudlacik, without cause or acting with the specific intent to harm Plaintiff, gave a sworn oath in support of arresting and charging Plaintiff.

99. Upon information, knowledge and belief, Defendant Kudlacik acted in conspiracy with, at the direction of, or ratification by Defendant Baginski and/or Defendant Doe(s).

100. As a result of the foregoing false arrest, Plaintiff's constitutional rights secured by the New Jersey Constitution were violated which proximately caused Plaintiff to suffer great anxiety, humiliation, embarrassment, economic damages, and other related injuries in an amount of \$1,000,000.

WHEREFORE, Plaintiff prays that this Court enter an order finding as follows:

a. That a declaratory judgment be issued that the Plaintiff's rights have been violated as alleged above;

b. that Plaintiff recover from Defendants compensatory damages, exemplary damages, punitive damages, attorney's fees in the amount of \$1,000,000;

c. that Plaintiff recover from Defendants prejudgment interest and post-judgment interest to the maximum extent permitted by law; and

d. any other further relief as this Court deems just and proper.

COUNT II

FALSE ARREST 42 U.S.C. § 1983

101. Any and all allegations contained in any other paragraph of this Complaint are incorporated by reference as if fully set forth herein.

102. Defendant Kudlacik, while acting under color of state law, maliciously accused Plaintiff with an indictable offense despite not having any probable cause to believe Plaintiff was guilty of insurance fraud or knowingly providing a false report.

103. Defendant Kudlacik arrested Plaintiff at the police station after an interview that did not establish that there was sufficient probable cause to arrest Plaintiff.

104. Upon information, knowledge and belief, Defendant

Kudlacik acted in conspiracy with, at the direction of, or ratification by Defendant Baginski and/or Defendant Doe(s).

105. Defendant Kudlacik, without cause or acting with the specific intent to harm Plaintiff, gave a sworn oath in support of arresting and charging Plaintiff.

106. As a result of the foregoing false arrest, Plaintiff's constitutional rights secured by the United States Constitution were violated which proximately caused Plaintiff to suffer great anxiety, humiliation, embarrassment, economic damages, and other related injuries in an amount of \$1,000,000.

WHEREFORE, Plaintiff prays that this Court enter an order finding as follows:

a. That a declaratory judgment be issued that the Plaintiff's rights have been violated as alleged above;

b. that Plaintiff recover from Defendants compensatory damages, exemplary damages, punitive damages, attorney's fees in the amount of \$1,000,000;

c. that Plaintiff recover from Defendants prejudgment interest and post-judgment interest to the maximum extent permitted by law; and

d. any other further relief as this Court deems just and proper.

COUNT III

MALICIOUS PROSECUTION
N.J.S.A. § 10:6-2, et seq.

107. Any and all allegations contained in any other paragraph of this Complaint are incorporated by reference as if fully set forth herein.

108. As a direct consequence of the false accusations made by Defendant Kudlacik against Plaintiff, Plaintiff was charged with an indictable offense.

109. Defendant Kudlacik had no cause or good faith basis to charge Plaintiff with any crime, and knew or should have known that his allegations were utterly baseless.

110. Upon information, knowledge and belief, Defendant Kudlacik's motivation to charge and prosecute Plaintiff was malicious.

111. Defendant Kudlacik's actions were taken under color of state law, and constitute a malicious prosecution of Plaintiff's person in gross violation of his rights secured under the New Jersey Constitution.

112. Upon information, knowledge or belief, Defendant Baginski and/or Defendant Doe(s) orchestrated, directed, conspired with, or worked in concert with Defendant Kudlacik to maliciously arrest and prosecute Plaintiff.

113. All charges are still pending, but must be dismissed in Plaintiff's favor.

114. As a result of the foregoing malicious prosecution, Plaintiff's constitutional rights were violated and proximately caused him to suffer great anxiety, humiliation, embarrassment, economic damages, and other related injuries in an amount of \$1,000,000.

WHEREFORE, Plaintiff prays that this Court enter an order finding as follows:

a. That a declaratory judgment be issued that the Plaintiff's rights have been violated as alleged above;

b. that Plaintiff recover from Defendants compensatory damages, exemplary damages, punitive damages, attorney's fees in the amount of \$1,000,000;

c. that Plaintiff recover from Defendants prejudgment interest and post-judgment interest to the maximum extent permitted by law; and

d. any other further relief as this Court deems just and proper.

COUNT IV

**MALICIOUS PROSECUTION
42 U.S.C. § 1983**

115. Any and all allegations contained in any other

paragraph of this Complaint are incorporated by reference as if fully set forth herein.

116. As a direct consequence of the false accusations made by Defendant Kudlacik against Plaintiff, Plaintiff was charged with an indictable offense.

117. Defendant Kudlacik had no cause or good faith basis to charge Plaintiff with any crime, and knew or should have known that his allegations were utterly baseless.

118. Upon information, knowledge and belief, Defendant Kudlacik's motivation to charge and prosecute Plaintiff was malicious.

119. Defendant Kudlacik's actions were taken under color of state law, and constitute a malicious prosecution of Plaintiff's person in gross violation of his rights secured under the New Jersey Constitution.

120. Upon information, knowledge or belief, Defendant Baginski and/or Defendant Doe(s) orchestrated, directed, conspired with, or worked in concert with Defendant Kudlacik to maliciously arrest and prosecute Plaintiff.

121. All charges are still pending, but must be dismissed in Plaintiff's favor.

122. As a result of the foregoing malicious prosecution, Plaintiff's constitutional rights secured under the United

States Constitution were violated and proximately caused him to suffer great anxiety, humiliation, embarrassment, economic damages, and other related injuries in an amount of \$1,000,000.

WHEREFORE, Plaintiff prays that this Court enter an order finding as follows:

a. That a declaratory judgment be issued that the Plaintiff's rights have been violated as alleged above;

b. that Plaintiff recover from Defendants compensatory damages, exemplary damages, punitive damages, attorney's fees in the amount of \$1,000,000;

c. that Plaintiff recover from Defendant prejudgment interest and post-judgment interest to the maximum extent permitted by law; and

d. any other further relief as this Court deems just and proper.

COUNT V

**POLICY OF INADEQUATE TRAINING OR SUPERVISION
42 U.S.C. § 1983**

123. Any and all allegations contained in any other paragraph of this Complaint are incorporated by reference as if fully set forth herein.

124. Defendant BCPO knew or should have known that

Defendant Kudlacik's decision to arrest Plaintiff was baseless.

125. Defendant BCPO was deliberately indifferent to Plaintiff's constitutional rights and failed to implement a procedure to review investigations to determine whether a case should be dismissed instead of being presented to a grand jury.

126. Defendant BCPO knew or should have known that the charges against Plaintiff were based upon an improper investigation made without probable cause and that the prosecution was maliciously instigated because there was no evidence whatsoever that Plaintiff knowingly made any misstatements.

127. Defendant BCPO has a policy, or should have a policy, of requiring prosecutors to review investigations prior to presenting matters to a grand jury.

128. As a result of Defendants' wrongful conduct, Plaintiff's constitutional rights secured under the United States Constitution were violated and proximately caused him to suffer great anxiety, humiliation, embarrassment, economic damages, and other related injuries in an amount of \$1,000,000.

WHEREFORE, Plaintiff prays that this Court enter an order finding as follows:

a. That a declaratory judgment be issued that the Plaintiff's rights have been violated as alleged above;

b. that Plaintiff recover from Defendants compensatory damages, exemplary damages, punitive damages, attorney's fees in the amount of \$1,000,000;

c. that Plaintiff recover from Defendant prejudgment interest and post-judgment interest to the maximum extent permitted by law; and

d. any other further relief as this Court deems just and proper.

COUNT VI

**ABUSE OF PROCESS
42 U.S.C. § 1983**

129. Any and all allegations contained in any other paragraph of this Complaint are incorporated by reference as if fully set forth herein.

130. The criminal complaint process was used against Plaintiff not for its primary purpose of deterring crime and punishing criminals but, instead, to cause economic ruin, intimidate, and retaliate against Plaintiff for his lawful exercise of constitutional rights.

131. The investigation and information uncovered during the investigation and in the possession of the prosecutor's

office contains clearly exculpatory evidence exonerating Plaintiff from any crime.

132. The continued prosecution and investigation of Plaintiff constitutes an abuse of process.

133. As a direct and proximate result of Defendants' aforementioned conduct, Plaintiff has suffered, and will continue to suffer economic, emotional and psychological damages in an amount to be determined by a jury.

WHEREFORE, Plaintiff prays that this Court enter an order finding as follows:

a. That a declaratory judgment be issued that the Plaintiff's rights have been violated as alleged above;

b. that Plaintiff recover from Defendants compensatory damages, exemplary damages, punitive damages, attorney's fees in the amount of \$1,000,000;

c. that Plaintiff recover from Defendant prejudgment interest and post-judgment interest to the maximum extent permitted by law; and

d. any other further relief as this Court deems just and proper.

COUNT VII

**42 U.S.C. § 1983
(Free Speech Retaliation)**

134. Any and all allegations contained in any other paragraph of this Complaint are incorporated by reference as if fully set forth herein.

135. The First Amendment of the United States Federal Constitution provides for protection of free speech, which includes the right to freely petition the government for redress without suffering intimidation or retaliation.

136. In addition, the First Amendment protects the right to speak freely with the media, other members of the community, or directly with member of government about the actions of public officials and/or governmental entities without suffering retaliation or intimidation.

137. Defendants, acting under color of law or at the direction and control of state actors, retaliated against Plaintiff for making known his opinions known on issues of public concern, and for petitioning the government for redress.

138. When Plaintiffs complained to municipal entities, Wallington firefighters, the State of New Jersey, governmental officials, media sources, and/or other citizens in the Borough of Wallington about the allocation and potential misappropriation of public resources, Plaintiff was engaged in a protected constitutional activity.

139. Defendants intentionally, willfully, maliciously,

and/or in reckless disregard of the Plaintiffs' constitutional right to make known their opinions to their representatives and petition the government for redress retaliated against Plaintiffs for engaging in this protected conduct.

140. Defendants knowing, willful, malicious, and deliberate indifference to the retaliation suffered by Plaintiffs is part of a policy, practice, and custom of Defendant Wallington under the administration of Defendant Baginski.

141. This policy, practice, and custom of retaliation against persons exercising their free speech rights was a substantial and motivating force behind Defendants' retaliation against Plaintiffs as alleged herein.

142. As a direct and proximate cause of the aforementioned, Plaintiff has been deprived of constitutional rights secured under the First Amendment of the Federal Constitution.

143. As a result of the foregoing, Plaintiff has suffered and will continue to suffer economic, emotional and psychological damages in an amount of \$1,000,000.

WHEREFORE, Plaintiffs pray that this Court enter an order finding as follows:

a. That a declaratory judgment be issued that the Plaintiff's rights have been violated as alleged above;

b. that Plaintiff recover from Defendants compensatory damages, exemplary damages, punitive damages, attorney's fees, and such other monetary relief as may be deemed appropriate;

c. that Plaintiff recover from Defendants prejudgment interest and post-judgment interest to the maximum extent permitted by law; and

d. any other further relief as this Court deems just and proper.

COUNT VIII

**NEW JERSEY CIVIL RIGHTS ACT
N.J.S.A. 10:6-2, et seq.
Article 1, Section 18
(Free Speech Retaliation)**

144. Any and all allegations contained in any other paragraph of this Complaint are incorporated by reference as if fully set forth herein.

145. Article 1, Section 18 of the New Jersey Constitution provides:

The people have the right freely to assemble together, to consult for the common good, to make known their opinions to their representatives, and to petition for redress of grievances.

146. Defendants, acting under color of law or at the direction and control of state actors, retaliated against Plaintiff for making known his opinions known on issues of public concern, and for petitioning the government for redress.

147. When Plaintiffs complained to municipal entities, Wallington firefighters, the State of New Jersey, governmental officials, media sources, and/or other citizens in the Borough of Wallington about the allocation and potential misappropriation of public resources, Plaintiff was engaged in a protected constitutional activity.

148. Defendants intentionally, willfully, maliciously, and/or in reckless disregard of the Plaintiffs' constitutional right to make known their opinions to their representatives and petition the government for redress retaliated against Plaintiffs for engaging in this protected conduct.

149. Defendants knowing, willful, malicious, and deliberate indifference to the retaliation suffered by Plaintiffs is part of a policy, practice, and custom of Defendant Wallington under the administration of Defendant Baginski.

150. This policy, practice, and custom of retaliation against persons exercising their free speech rights was a

substantial and motivating force behind Defendants' retaliation against Plaintiffs as alleged herein.

151. As a direct and proximate cause of the aforementioned, Plaintiffs have been deprived of their constitutional rights secured under Article 1, Section 18 of the New Jersey Constitution.

152. As a result of the foregoing, Plaintiff has suffered and will continue to suffer economic, emotional and psychological damages in an amount of \$1,000,000.

WHEREFORE, Plaintiff prays that this Court enter an order finding as follows:

a. That a declaratory judgment be issued that the Plaintiff's rights have been violated as alleged above;

b. that Plaintiff recover from Defendants compensatory damages, exemplary damages, punitive damages, attorney's fees, and such other monetary relief as may be deemed appropriate;

c. that Plaintiff recover from Defendants prejudgment interest and post-judgment interest to the maximum extent permitted by law; and

d. any other further relief as this Court deems just and proper.

COUNT VIII

**42 U.S.C. § 1983
(Municipal Liability)**

153. Any and all allegations contained in any other paragraph of this Complaint are incorporated by reference as if fully set forth herein.

154. At all times relevant to this Complaint, the individually named Defendant public employees and/or officials were acting under the direction and control of Defendant Wallington and/or Defendant BCPO.

155. Defendant Wallington, under the administration of Defendant Baginski, has a policy, custom, and practice of retaliating against property owners that take legal action or exercise their free speech rights.

156. This policy, custom, and practice is carried out, in part, by police through the filing of false reports and frivolous complaints against citizens to intimidate them for exercising their constitutional rights.

157. Defendants were acting under Color of Law pursuant to official policy, practice, and/or custom when Plaintiff's constitutional rights were violated.

158. As a result of the foregoing, the Plaintiff's constitutional rights have been violated thereby causing Plaintiffs to suffer great anxiety, humiliation, embarrassment, economic damages, and other related injuries,

in an amount of at least \$1,000,000.

WHEREFORE, Plaintiffs pray that this Court enter an order finding as follows:

a. That a declaratory judgment be issued that the Plaintiff's rights have been violated as alleged above;

b. that Plaintiff recover from Defendants compensatory damages, exemplary damages, punitive damages, attorney's fees, and such other monetary relief as may be deemed appropriate;

c. that Plaintiff recover from Defendants prejudgment interest and post-judgment interest to the maximum extent permitted by law; and

d. any other further relief as this Court deems just and proper.

DATED: November 6, 2017

s/ Jason A. Rindosh
Jason A. Rindosh, Esq.
Prabhkaran S. Bedi, Esq.
BEDI RINDOSH
1605 John Street, #305
Fort Lee, NJ 07024
Tel: 201.775.4222
Fax: 201.777.3975
jrindosh@berilaw.com

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby requests a trial by jury on all issues so triable.

DATED: November 6, 2017

s/ Jason A. Rindosh
Jason A. Rindosh, Esq.

CERTIFICATION PURSUANT TO LOCAL RULE 11.2

I, Jason A. Rindosh, Esq. the undersigned attorney of record for PLAINTIFF do hereby certify to my own knowledge and based upon information available to me at my office, that the matter in controversy is not the subject of any other action now pending in any court or in any other jurisdiction or administrative proceeding aside from the pending criminal matter in Bergen County Superior Court.

DATED: November 6, 2017

s/ Jason A. Rindosh
Jason A. Rindosh, Esq.