

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

THOMAS W. TRAMAGLINI,

Plaintiff,

vs.

PATROLMAN JONATHAN C. MARTIN,
POLICE CHIEF JOHN MIODUSZEWSKI,
HOLMDEL TOWNSHIP, LAW
ENFORCEMENT OFFICER JOHN/ JANE
DOES 1-10, NON-LAW ENFORCEMENT
INDIVIDUAL JOHN/ JANE DOES 1-10,
ABC ENTITIES 1-5, AND BODY POLITICS
1-5,

Defendants.

Civil Action No. _____

COMPLAINT

Plaintiff Thomas W. Tramaglini (“Plaintiff” or “Tramaglini”), by and through his attorneys, Fox Rothschild LLP, by way of his complaint against Patrolman Jonathan C. Martin (“Patrolman Martin”), Police Chief John Mioduszewski (“Chief Mioduszewski”), Holmdel Township (“Holmdel”), Law Enforcement Officer John/Jane Does 1-10 (“L.E.O. John/Jane Does 1-10”), Non-Law Enforcement Individual John/ Jane Does 1-10 (“Non-L.E.O John/Jane Does 1-10”), ABC Entities 1-5 (“ABC Entities 1-5”), and Body Politics 1-5 (“Body Politics 1-5”) (collectively, “Defendants”), hereby alleges as follows:

INTRODUCTION

1. This federal lawsuit arises out of the unlawful taking and subsequent leaking by law enforcement personnel of a photograph that was taken of Plaintiff by one or more officers, agents, and/or employees of the Holmdel Township Police Department during the early morning hours of May 1, 2018 with the intent to harm and damage Plaintiff under circumstances where the referenced officers, agents, and/or employees had no legal right to do so.

2. Plaintiff was unlawfully taken into custody by Patrolman Martin without being issued a *Miranda* warning on May 1, 2018, and issued two separate Summons-Complaints for alleged violations of two non-criminal Holmdel Municipal Ordinances (the “Non-Criminal Ordinance Citations”).

3. So-called booking “mugshots” are expressly prohibited under operative New Jersey law for such low level, non-criminal offenses.

4. Nonetheless, Plaintiff was photographed on May 1, 2018.

5. Plaintiff has sustained significant damages as a proximate result of the unauthorized, intentional, reckless, malicious, and unlawful conduct outlined herein that was orchestrated, facilitated, endorsed, and/or condoned by the Defendants.

6. The prohibition against taking “mugshots” is so widely known in the law enforcement community that it is embodied in the rules and regulations of, among other law enforcement agencies with supervisory authority over the Holmdel Police Department, the Monmouth County Prosecutor’s Office.

7. The damages, along with costs, interest, and reasonable attorneys’ fees incurred by Tramaglino as a direct and proximate consequence of the conduct outlined herein have been, and continue to be, significant.

8. Tramaglino will never achieve the level of compensation, benefits, and retirement pension income that he would have otherwise if the unlawfully taken photographs of him had not been released into the media to satisfy the prurient interests of certain members of the Holmdel Township Police Department and others that they conspired with.

9. The actions and omissions of the Defendants outlined herein represent the height of professional irresponsibility and constitute a violation of the public trust, warranting punitive damages.

JURISDICTION

10. Among other State and Federal claims, this action is brought pursuant to 42 U.S.C. §1983, and the Fourth, Fifth and Sixth Amendments to the United States Constitution.

11. Jurisdiction is appropriate in the United States District Court pursuant to 28 U.S.C. §1331, as, among other claims, this action seeks redress for violations of Federal law.

12. The United States District Court has supplemental jurisdiction over the purely state law issues presented in this action pursuant to 28 U.S.C. §1367 because Plaintiff's New Jersey State law claims arise out of the same set of operative facts as Plaintiff's Federal claims.

13. Venue is appropriate in the United States District Court for the District of New Jersey pursuant to 28 U.S.C. §1391(b) because Defendants are a municipal subdivision and/or residents of the State of New Jersey.

14. Venue is also appropriate in the District of New Jersey pursuant to 28 U.S.C. §1391(b)(2) because the State of New Jersey is where all of the facts giving rise to the causes of action set forth in this Complaint occurred.

PARTIES

15. Plaintiff is, and was at all times relevant hereto, a resident of the State of New Jersey. Prior to being forced out of public education due to the unlawful actions and omissions of the Defendants outlined herein, Plaintiff had achieved the highest levels of education and training for educators, was employed at all levels of public education for over twenty years, and was most recently employed as the Superintendent of the Kenilworth, New Jersey public schools. In New

Jersey, the Superintendent of a public school district is the chief executive officer of that district, responsible for oversight of all day-to-day operations of the school district, and is the executive responsible for the implementation of educational programs, spending and budgetary matters, and district facilities. The superintendent hires, supervises, and manages the faculty, staff, and principals of the school district.

16. Patrolman Martin is, and was at all times relevant hereto, a resident of the State of New Jersey. Patrolman Martin is, and was at all times relevant hereto, a police officer employed by Holmdel, and assigned as the School Resource Officer (“SRO”) for Holmdel Township High School. In New Jersey, SROs are duly authorized police officers whose primary assignment is to conduct law enforcement activities inside schools. It is typical for an SRO such as Patrolman Martin to be provided an office inside of a school, and for SROs to have access to school systems and resources like internet service, school district email accounts, and other assets belonging to the school district that would not otherwise be readily accessible to law enforcement officers in the ordinary course of their duties. Patrolman Martin is named as a party to this action as a defendant in both his individual and official capacities.

17. Chief Mioduszewski is, and was at all times relevant hereto, a resident of the State of New Jersey. Chief Mioduszewski is, and was at all times relevant hereto, a police officer employed by Holmdel, and serves as the highest executive officer of the Holmdel Police Department with ultimate supervisory responsibility for all training and operations of the Holmdel Police Department and all of its officers, including SROs like Patrolman Martin who are assigned to the Holmdel public schools. Chief Mioduszewski is named as a party to this action as a defendant in both his individual and official capacities.

18. Holmdel is a duly designated municipality organized pursuant to the laws of the State of New Jersey, with its Town Hall located at 4 Crawfords Corner Rd., Holmdel, New Jersey, 07733. Holmdel is authorized by New Jersey law to maintain a police department that acts as its agent and an agent of the State of New Jersey in the area of law enforcement, and for which the municipality is ultimately responsible. Holmdel assumes the risks incidental to the maintenance of a police department and the employment of police officers, including, but not limit to, ensuring that its police officers act in accordance with New Jersey law, that the municipality's police department enacts rules and regulations that conform to New Jersey law, and that its police officers are properly trained. Holmdel was, at all times relevant hereto, the employer of Patrolman Martin, Chief Mioduszewski, L.E.O. John/ Jane Does 1-10, and one or more of Non-L.E.O John/Jane Does 1-10.

19. L.E.O. John/Jane Does 1-10 are individual law enforcement officers employed by Holmdel and/or other neighboring law enforcement agencies within the State of New Jersey, whose identifies and precise roles in connection with the allegations set forth herein shall be revealed through the discovery process that have aided, abetted, assisted, and otherwise cooperated and/or participated with the remaining Defendants in connection with the unlawful actions and omissions set forth herein. At all times relevant herein, L.E.O. John/Jane Does 1-10 were acting under color of New Jersey State law as the agents, servants, and/or employees of Holmdel and/or another municipal subdivision of the State of New Jersey. L.E.O. John/Jane Does 1-10 include, but are not limited to, individuals vested with authority by law for the screening, training, supervision, investigation, discipline and conduct of Patrolman Martin and other of the L.E.O. John/Jane Does 1-10 responsible for the unlawful actions and omissions set forth herein.

20. Non-L.E.O John/Jane Does 1-10 are individuals, whose identities and precise roles in connection with the allegations set forth herein shall be revealed through the discovery process, including, but not limited to members of the media and employees, agents, and/or other representatives of local municipal boards of education in Holmdel and/or other surrounding communities, that have aided, abetted, assisted, conspired with and otherwise cooperated and/or participated with the remaining Defendants in connection with the unlawful actions and omissions set forth herein.

21. ABC Entities 1-5 are entities, whose identities and precise roles in connection with allegations set forth herein shall be revealed through the discovery process, including, but not limited to, media organizations, that have aided, abetted, assisted conspired with, cooperated and/or participated with the remaining Defendants in connection with the unlawful actions and omissions set forth herein.

22. Body Politics 1-5, are political bodies, municipal organizations, municipal subdivisions, and/or other governmental and quasi-governmental affiliates of the State of New Jersey, whose identities and precise roles in connection with the allegations set forth herein shall be revealed through the discovery process, that have aided, abetted, assisted, conspired with and otherwise cooperated and/or participated with the remaining Defendants in connection with the unlawful actions and omissions set forth herein, including, but not limited to, municipalities surrounding Holmdel and/or elsewhere throughout New Jersey, law enforcement agencies surrounding Holmdel and/or elsewhere throughout New Jersey, and/or boards of education surrounding Holmdel and/or elsewhere throughout New Jersey.

NOTICE OF TORT CLAIM

23. On or about July 24, 2018, Plaintiff timely served a Notice of Claim, as required by the New Jersey Tort Claims Act, N.J.S.A. §59:1-1 *et seq.*, upon Holmdel. A copy of the referenced Notice of Claim, redacted to protect private, personally identifying information, is annexed hereto as **Exhibit A**.

FACTS COMMON TO ALL COUNTS

A. Plaintiff is Issued Two Complaint-Summonses for Non-Criminal Municipal Ordinances

24. On May 1, 2018, Plaintiff was approached by Patrolman Martin, pre-dawn, at the Holmdel High School athletic complex where Plaintiff had been running for exercise.

25. After approaching Plaintiff in the dark, Patrolman Martin commanded Plaintiff to meet him at the Holmdel Township Police Department.

26. Plaintiff complied with Patrolman Martin's directives and otherwise fully cooperated with Patrolman Martin's commands.

27. Plaintiff was allowed to drive his personal vehicle to the Holmdel Police Department headquarters while, at the same time, Patrolman Martin drove himself there separately in a municipal police vehicle.

28. Once Plaintiff arrived at the Holmdel Police Department headquarters during the early morning hours of May 1, 2018, he was issued two summonses for alleged violations of two separate non-criminal Holmdel Municipal Ordinances.

29. At no time during his encounter with Patrolman Martin at the Holmdel High School athletic complex during the early morning hours of May 1, 2018 was Plaintiff free to leave.

B. The Unlawfully Taken Booking Photograph

30. While Plaintiff was at the Holmdel Township Police Department on May 1, 2018, Plaintiff was assigned Holmdel Township Police Department ID booking arrest number 008978, and photographed by Patrolman Martin and others using a Holmdel Township Police Department camera and booking plaque (the “Booking Photograph” or “Mug Shot”).

31. The referenced Booking Photograph was immediately thereafter widely disseminated to the news media and others.

32. Taking the Booking Photograph was prohibited by New Jersey law.

33. The subsequent dissemination of the Booking Photograph was also prohibited by New Jersey law.

C. The Unlawfully Taken Booking Photograph is Immediately Published Around the World to Plaintiff’s Extreme Detriment

34. On or about May 2, 2018 and May 3, 2018, the Booking Photograph that was unlawfully taken at the Holmdel Police Department on May 1, 2018 was first published by media outlets from around the world along with false and misleading stories about the supposed “arrest” of Tramaglino.

35. In New Jersey, Tramaglino’s unlawfully taken and disseminated Mug Shot was the lead story from local media outlets like the Asbury Park Press and NJ.com for days.

36. Multiple whistleblowers from inside NJ.com at the time have revealed that Christopher Kelly, the current Director, News Innovation, Topics and Features for NJ.com, instructed journalists to write multiple, redundant stories lacking any news value whatsoever focusing primarily on what was depicted in the unlawfully taken and disseminated Booking Photograph.

37. Mr. Kelly, according to multiple whistleblowers, remarked, “let’s have some fun with this[.]” at or around the time that he saw the unlawfully taken and disseminated Booking Photograph of Tramaglini and false and misleading stories of the alleged “arrest” of Tramaglini first emerged from the Holmdel Township Police Department in the worldwide media.

38. Despite the resistance of many in the NJ.com newsroom, Mr. Kelly forced journalists to continue publishing Tramaglini’s Mug Shot and related stories of Tramaglini’s supposed “arrest.” These stories ultimately fueled other national and international stories providing false and misleading information.

39. Despite reports, Tramaglini was not arrested, but he was instead issued two Summons-Complaints for alleged violations of non-criminal municipal ordinances.

40. This pattern of embellished, sensationalized reporting based upon the impressions first created by the Defendants and those acting in concert with them repeated as the story of Tramaglini’s supposed “arrest” and resulting court appearances were reported throughout the State of New Jersey, the nation, and the world during the summer and fall of 2018.

41. The Booking Photograph should have never been taken, to say nothing of the fact that it was immediately thereafter unlawfully released into the public domain, fueling sophomoric, inaccurate, and damaging “new stories” about Plaintiff.

42. Media outlets and others purporting to operate as media outlets falsely reported that Plaintiff had been “arrested” for criminal offenses, not merely that he had been cited for two alleged violations of non-criminal municipal ordinances.

43. These false narratives emerged entirely due to, and were otherwise fueled by, the unlawful conduct of Defendants, as set forth herein.

D. A Third Complaint-Summons Is Subsequently Mailed to Plaintiff

44. Plaintiff received a third complaint-summons in the ordinary U.S. mail at his home on or about May 4, 2018 from the Holmdel Police Department, alleging that he also violated a Disorderly Persons Offense in addition to the two non-criminal municipal ordinance summonses issued to Plaintiff on May 1, 2018.

45. The referenced third complaint-summons was sent to Plaintiff in a Holmdel Police Department envelope that was postmarked May 2, 2018.

E. The Non-Criminal Disposition of Plaintiff's Municipal Matter

46. On October 24, 2018, Plaintiff pled guilty to a single non-criminal Municipal Ordinance, and all remaining allegations against him were dismissed.

47. Plaintiff was ordered to pay a \$500 fine for his acknowledged violations of a single non-criminal municipal ordinance on May 1, 2018 in the midst of a substantiated medical emergency.

F. The Injuries Sustained By Plaintiff

48. As a direct and proximate result of the unlawful taking and subsequent unlawful dissemination of the subject Booking Photograph, Plaintiff has been the subject of reckless, inaccurate, and sophomoric news stories, each containing the Mug Shot.

49. The Mug Shot gave traction to inaccurate media accounts.

50. Plaintiff was forced to step down from his position as the Superintendent of the Kenilworth Public Schools, ending his twenty-year career in public education, even before a disposition of the charges he faced, due to the negative media attention his case received as a direct consequence of the unlawful conduct outlined herein.

51. The Mug Shot, in particular, was cited by Kenilworth Board of Education officials as a basis for parting ways with Plaintiff.

52. The loss of income and other personal and professional harm that has befallen Plaintiff has been enormous and irrecoverable.

53. The actions of Defendants, in direct violation and in total disregard for applicable New Jersey law, directly and proximately caused Plaintiff's harm.

COUNT ONE

(Violation 42 U.S.C. §1983 Against Defendants Patrolman Martin, Chief Mioduszewski, L.E.O. John/ Jane Does 1-10, Non-L.E.O. John/ Jane Does 1-10)

54. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs of the Complaint as though set forth at length herein.

55. 42 U.S.C. §1983 provides, in relevant part, that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress [...]

56. Plaintiff is a citizen of the United States.

57. Defendants Patrolman Martin, Chief Mioduszewski, L.E.O. John/Jane Does 1-10, Non-L.E.O. John/ Jane Does 1-10 are persons, as that term is used in 42 U.S.C. §1983.

58. Defendants Patrolman Martin, Chief Mioduszewski, L.E.O. John/Jane Does 1-10, Non-L.E.O. John/ Jane Does 1-10 at all times relevant thereto, were acting under the color of New Jersey State law in their capacity as employees, agents, officers, or representatives of Holmdel, and their acts or omissions were conducted within the scope of their official duties or employment.

59. At the time of the events described herein, Plaintiff had a clearly established Constitutional right under the Fourth Amendment of the United States Constitution to be secure in his person from unreasonable seizure.

60. At the time of the events described herein, Plaintiff had a clearly established Constitutional right under the Fifth Amendment to the United States Constitution not to be deprived of life, liberty, or property, without due process of law.

61. At the time of the events described herein, Plaintiff also had a clearly established Constitutional right under the Sixth Amendment to the United States Constitution to enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed.

62. At the time of the events described herein, Plaintiff had a clearly established right pursuant to N.J.S.A. 53:1-15 and New Jersey case law not to have his Booking Photograph taken for alleged violations of non-criminal Holmdel Municipal Ordinances.

63. At the time of the events described herein, Plaintiff had a clearly established right pursuant to New Jersey Executive Order No. 69 (May 15, 1997) not to have his unlawfully taken Booking Photograph disseminated and distributed into the public domain.

64. Any reasonable police officer knew or should have known of these rights at the time of the complained conduct, as they were clearly established at that time and have been established law for many years.

65. Defendants Patrolman Martin, Chief Mioduszewski, Non-L.E.O. John/ Jane Does 1-10, L.E.O. John/ Jane Does 1-10's actions, described herein, were objectively unreasonable and palpably unlawful in light of the facts and circumstances confronting them and, in so doing, violated Plaintiff's rights.

66. Defendants Patrolman Martin, Chief Mioduszewski, Non-L.E.O. John/Jane Does 1-10, L.E.O. John/ Jane Does 1-10's actions, as described herein, were also malicious and/or involved reckless, callous, and deliberate indifference to Plaintiff's federally protected rights.

67. The extreme indifference to Plaintiff by Defendants Patrolman Martin, Chief Mioduszewski, Non-L.E.O. John/Jane Does 1-10, L.E.O. John/ Jane Does 1-10 shocked the conscience and violated Plaintiff's rights.

68. Defendants Patrolman Martin, Chief Mioduszewski, Non-L.E.O. John/Jane Does 1-10, L.E.O. John/ Jane Does 1-10 unlawfully, unreasonably, and shockingly took and disseminated Plaintiff's Mug Shot, thereby depriving Plaintiff of his freedom, liberty, property, and impartial process.

69. Defendants Patrolman Martin, Chief Mioduszewski, Non-L.E.O. John/Jane Does 1-10, L.E.O. John/ Jane Does 1-10 engaged in the conduct described herein willfully, maliciously, in bad faith, and in reckless disregard of Plaintiff's federally protected Constitutional rights.

70. Defendants Patrolman Martin, Chief Mioduszewski, Non-L.E.O. John/Jane Does 1-10, L.E.O. John/Jane Does 1-10 engaged in the conduct described herein with shocking and willful indifference to Plaintiff's rights and their conscious awareness that they would cause Plaintiff severe injuries.

71. The acts or omissions of Defendants Patrolman Martin, Chief Mioduszewski, Non-L.E.O. John/Jane Does 1-10, and L.E.O. John/Jane Does 1-10 were the central moving forces behind Plaintiff's injuries.

72. Defendants Patrolman Martin, Chief Mioduszewski, Non-L.E.O. John/Jane Does 1-10, and L.E.O. John/Jane Does 1-10 acted in concert and joint action with each other.

73. Defendants Patrolman Martin, Chief Mioduszewski, Non-L.E.O. John/Jane Does 1-10, and L.E.O. John/Jane Does 1-10 are not entitled to absolute immunity for the complained of conduct.

74. Defendants Patrolman Martin, Chief Mioduszewski, Non-L.E.O. John/Jane Does 1-10, and L.E.O. John/Jane Does 1-10 are not entitled to qualified immunity for the complained of conduct.

75. As a direct and proximate result of the Defendants Patrolman Martin, Chief Mioduszewski, Non-L.E.O. John/Jane Does 1-10, and L.E.O. John/Jane Does 1-10's unlawful conduct, Plaintiff has suffered physical and emotional injuries, and other significant pecuniary damages and losses, entitling him to compensatory and special damages, in amounts to be determined at trial.

76. As a further result of the Defendants Patrolman Martin, Chief Mioduszewski, Non-L.E.O. John/ Jane Does 1-10, and L.E.O. John/Jane Does 1-10's unlawful conduct, Plaintiff has incurred special damages, including medically related expenses and may continue to incur further medical and other special damages related expenses, in amounts to be determined at trial.

77. Plaintiff has suffered and will suffer lost future earnings, lost compensation benefits, a lost retirement pension and income from the injuries suffered.

WHEREFORE, Plaintiff demands judgment in his favor and against Defendants Patrolman Martin, Chief Mioduszewski, Non-L.E.O. John/Jane Does 1-10, and L.E.O. John/Jane Does 1-10 , and that the Court provide the following relief:

- a) Compensatory damages, incidental damages and consequential damages;
- b) Punitive damages;
- c) Costs, interest and attorneys' fees;

- d) Pre and post judgment interest; and
- e) Such other relief as the Court deems just and equitable.

COUNT TWO

(Violation of 42 U.S.C. §1983 – Deliberately Indifferent Policies, Practices, Customs, Training, and Supervision in Violation of the Fourth, Fifth and Sixth Amendments Against Defendants Holmdel, ABC Entities 1-5, and Body Politics 1-5, (*Monell* Liability))

78. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs of the Complaint as though set forth at length herein.

79. 42 U.S.C. §1983 provides, in relevant part, that:

Every person, who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the District of Columbia subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the constitution and law shall be liable to the party injured in an action at law, suit in equity, or other appropriate proceeding for redress [...]

80. Plaintiff is a citizen of the United States.

81. Defendants Holmdel, ABC Entities 1-5, and Body Politics 1-5 (collectively, the “Municipal Defendants”) are liable under 42 U.S.C. §1983 pursuant to *Monell v. Department of Social Serv.*, as a municipal government.

82. A deprivation of a federal right occurred as a result of a policy of the local government's legislative body and/or of local officials whose acts may fairly be said to be those of the municipality.

83. Municipal employees were acting pursuant to a municipal “policy.”

84. The Municipal Defendants were, at all time relevant hereto, acting under the color of New Jersey State law.

85. Plaintiff had clearly established rights at the time of the conduct pursuant to the Fourth, Fifth and Sixth Amendments, as well as New Jersey statutory law, case law, and a New Jersey Executive Order, as set forth above.

86. The Municipal Defendants knew or should have known of these rights at the time of the conduct set forth herein, as those rights were clearly established at that time.

87. The acts or omissions of the Municipal Defendants, as described herein, intentionally deprived Plaintiff of his Constitutional and statutory rights, and caused him other damages.

88. The Municipal Defendants are not entitled to absolute immunity for the complained of conduct.

89. The Municipal Defendants are not entitled to qualified immunity for the complained of conduct.

90. The Municipal Defendants were, at all times relevant to this complaint, policymakers for the Holmdel Township and, in that capacity, established policies, procedures, customs, and/or practices for same.

91. The Municipal Defendants developed and maintained policies, procedures, customs, and/or practices exhibiting deliberate indifference to the Constitutional rights of citizens, which were moving forces behind and proximately caused the violations of Plaintiff's Constitutional and federal rights, as set forth herein.

92. The Municipal Defendants created and tolerated an atmosphere of lawlessness and have developed and maintained long-standing, department-wide customs, law enforcement related policies, procedures, customs, practices, and/or failed to properly train and/or supervise its officers

in a manner amounting to deliberate indifference to the Constitutional rights of Plaintiff and of the public.

93. In light of the duties and responsibilities of those police officers that participate in arrests and public safety monitoring, the need for specialized training and supervision is so obvious, and the inadequacy of training and/or supervision is so likely to result in the violation of Constitutional and federal rights, such as those described herein, that the failure to provide such specialized training and supervision is deliberately indifferent to those rights.

94. The deliberately indifferent training and supervision provided by the Municipal Defendants resulted from a conscious or deliberate choice to follow a course of action from various alternatives available to the Municipal Defendants, and were significant moving forces in the injuries complained of by Plaintiff.

95. As a direct and proximate result of the Municipal Defendants' unlawful conduct, Plaintiff has suffered actual physical and emotional injuries, and other damages and losses, entitling him to compensatory and special damages, in amounts to be determined at trial.

96. As a further result of the Municipal Defendants' unlawful conduct, Plaintiff has incurred special damages, including medically related expenses and may continue to incur further medical and other special damages related expenses, in amounts to be determined at trial.

97. Plaintiff has and will suffer lost future earnings, lost compensation benefits, a lost retirement pension and income from the injuries suffered.

98. Additionally, Plaintiff seeks appropriate declaratory and injunctive relief pursuant to 42 U.S.C. §1983 to redress the Defendants' above-described, ongoing and deliberate indifference in policies, practices, habits, customs, usages, training and supervision with respect to the rights described herein.

WHEREFORE, Plaintiff demands judgment in his favor and against the Defendants, and that the Court provide the following relief:

- a) Compensatory damages, incidental damages and consequential damages
- b) Punitive damages;
- c) Costs, interest and attorneys' fees
- d) Pre and post judgment interest; and
- e) Such other relief as the Court deems just and equitable.

COUNT THREE
(Negligent Infliction of Emotional Distress Against All Defendants)

99. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs of the Complaint as though set forth at length herein.

100. Each of the Defendants' conduct in connection with the events on or about May 1, 2018, and the infliction of Plaintiff's injuries, as set forth herein, was recklessly or negligently inflicted.

101. Each Defendant's conduct was so outrageous in character, and so extreme in degree, that it goes beyond all possible bounds of decency, should be regarded as atrocious, and is utterly intolerable in a civilized community.

102. Each of the Defendants acted so recklessly, in deliberate disregard of the high degree of probability that their actions would cause Plaintiff emotional distress.

103. Each Defendant acted recklessly in clear violation of New Jersey law, including but not limited to, violating New Jersey Executive Order No. 69 (May 15, 1997), N.J.S.A. § 53:1-15, New Jersey Court Rule 3:4-1, and New Jersey case law.

104. Each Defendant's actions proximately caused Plaintiff's emotional distress.

105. The emotional distress suffered by Plaintiff was so severe that no reasonable person could be expected to endure it.

106. Plaintiff has incurred medically related expenses and may continue to incur further medical expenses related to his injuries.

107. Plaintiff has and will suffer lost future earnings, lost compensation benefits, a lost retirement pension, and income from the injuries suffered.

WHEREFORE, Plaintiff demands judgment in his favor and against all Defendants, and that the Court provide the following relief:

- a) Compensatory damages, incidental damages and consequential damages
- b) Punitive damages;
- c) Costs, interest and attorneys' fees
- d) Pre and post judgment interest; and
- e) Such other relief as the Court deems just and equitable.

COUNT FOUR
(Intentional Infliction of Emotional Distress Against All Defendants)

108. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs of the Complaint as though set forth at length herein.

109. Each Defendant's conduct in connection with the events on or about May 1, 2018, and the imposition of Plaintiff's injuries, as set forth herein, was intentional and outrageous.

110. Each Defendant intended to perform the acts set forth in this Complaint and specifically intended to cause Plaintiff harm.

111. Additionally, each Defendant acted so recklessly, in deliberate disregard of the high degree of probability that their actions would cause Plaintiff emotional distress.

112. Each Defendant intentionally acted in clear violation of New Jersey law, including but not limited to, violating New Jersey Executive Order No. 69 (May 15, 1997), N.J.S.A. § 53:1-15, New Jersey Court Rule 3:4-1, and New Jersey case law holding that Booking Photographs should not be taken for the types of non-criminal municipal ordinances that Plaintiff was issued summonses on May 1, 2018.

113. As a direct and proximate cause of each Defendant's intentional act, Plaintiff suffered damages.

114. The damages suffered by Plaintiff as a result of the Defendants' intentional acts are so outrageous in character, and so extreme in degree, that they go beyond all possible bounds of decency, and are regarded as atrocious, and utterly intolerable in a civilized community.

115. The emotional distress suffered by Plaintiff was so severe that no reasonable person could be expected to endure it.

116. Plaintiff has and will suffer lost future earnings, lost compensation benefits, a lost retirement pension and income from the injuries suffered.

WHEREFORE, Plaintiff demands judgment in his favor and against all Defendants, and that the Court provide the following relief:

- a) Compensatory damages, incidental damages and consequential damages
- b) Punitive damages;
- c) Costs, interest and attorneys' fees
- d) Pre and post judgment interest; and
- e) Such other relief as the Court deems just and equitable.

COUNT FIVE

(Negligent Hiring, Retention, Training and Supervision Against Defendants Chief Mioduszewski, Holmdel Township, L.E.O. John/Jane Does 1-10, Non-L.E.O. individual John/Jane Does 1-10, ABC Entities 1-5 and Body Politics 1-5)

117. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs of the Complaint as though set forth at length herein.

118. The Defendants Chief Mioduszewski, Holmdel Township, L.E.O. John/Jane Does 1-10, Non-L.E.O. Individual John/Jane Does 1-10, ABC Entities 1-5, and Body Politics 1-5 (collectively, the “Supervisor Defendants”), had at all times relevant hereto, a duty to oversee the hiring, retention, training, and supervision of their employees.

119. For the reasons set forth above, the Supervisor Defendants knew or had reason to know of the particular unfitness, incompetence, lack of training, and dangerous attitude of Patrolman Martin and L.E.O. John/Jane Does 1-10.

120. For the reasons set forth above, the Supervisor Defendants could reasonably have foreseen that the aforementioned negative qualities, of Patrolman Martin and L.E.O. John/Jane Does 1-10 created a risk of harm to the public, including Plaintiff.

121. Despite this knowledge, the Supervisor Defendants continued to employ Patrolman Martin and Defendants L.E.O. John/Jane Does 1-10 and cloak them with authority under color of law.

122. The Supervisor Defendants’ negligence in hiring and supervising Patrolman Martin and Defendants L.E.O. John/Jane Does 1-10 resulted in Plaintiff’s injuries.

WHEREFORE, Plaintiff demands judgment in his favor and against the Defendants, and that the Court provide the following relief:

- a) Compensatory damages, incidental damages and consequential damages
- b) Punitive damages;

- c) Costs, interest and attorneys' fees
- d) Pre and post judgment interest; and
- e) Such other relief as the Court deems just and equitable.

COUNT SIX
(Defamation against all Defendants)

123. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs of the Complaint as though set forth at length herein.

124. Defendants made a false statement regarding Plaintiff that was injurious to his reputation.

125. Defendants made a false statement that subjected Plaintiff to a loss of good will and confidence in which he was held by others.

126. Defendants falsely attributed criminality to Plaintiff, by unlawfully taking and releasing Mug Shots, under circumstances in which Plaintiff was only charged with the alleged violation of non-criminal Holmdel Municipal Ordinances.

127. As a direct and proximate result of the Defendants' actions, Plaintiff suffered, and continues to suffer injuries.

WHEREFORE, Plaintiff demands judgment in his favor and against the Defendants, and that the Court provide the following relief:

- a) Compensatory damages, incidental damages and consequential damages
- b) Punitive damages;
- c) Costs, interest and attorneys' fees
- d) Pre and post judgment interest; and
- e) Such other relief as the Court deems just and equitable.

COUNT SEVEN
(False Light/Invasion of Privacy against all Defendants)

128. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs of the Complaint as though set forth at length herein.

129. The false light in which Plaintiff was placed by Defendants through the unlawful taking and subsequent dissemination of his Booking Photograph would be highly offensive to a reasonable person.

130. Defendants had knowledge of or acted in reckless disregard as to the falsity of the publicized matter and the false light in which Plaintiff would be placed.

131. As a direct and proximate result of Defendants' actions, Plaintiff suffered, and continues to suffer injuries.

WHEREFORE, Plaintiff demands judgment in his favor and against the Defendants, and that the Court provide the following relief:

- a) Compensatory damages, incidental damages and consequential damages
- b) Punitive damages;
- c) Costs, interest and attorneys' fees
- d) Pre and post judgment interest; and
- e) Such other relief as the Court deems just and equitable.

COUNT EIGHT
(Intrusion of Seclusion against all Defendants)

132. Plaintiff incorporates by reference the allegations set forth in the preceding paragraphs of the Complaint as though set forth at length herein.

133. Defendants intentionally intruded upon the solitude or seclusion of Plaintiff by unlawfully taking and disseminating the Booking Photograph.

134. Defendants' intrusion would be highly offensive to a reasonable person.

135. As a direct and proximate result of Defendants' actions, Plaintiff suffered, and continues to suffer injuries.

WHEREFORE, Plaintiff demands judgment in his favor and against the Defendants, and that the Court provide the following relief:

- a) Compensatory damages, incidental damages and consequential damages
- b) Punitive damages;
- c) Costs, interest and attorneys' fees
- d) Pre and post judgment interest; and
- e) Such other relief as the Court deems just and equitable.

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Dated: April 30, 2019

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EXHIBIT A