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Attorney(s) for Plaintiff(s): **Kenneth H. Kirchner**

Kenneth H. Kirchner

Plaintiff(s)

vs.

Lance Maloney

Defendant(s)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
MERCER COUNTY

DOCKET NO.: **MER-L-1554-17**

CIVIL ACTION

Summons

FROM THE STATE OF NEW JERSEY

To the Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is provided and available in the Civil Division Management Office in the county listed above or online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$ **175.00** and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services Office in the county where you live or the Legal Services of New Jersey statewide hotline at 1-888-LSNJ-LAW (576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is provided and available online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.

Dated: **July 18, 2017**


/s/ Michelle M. Smith*Clerk of the Superior Court*

Name of Defendant to be Served: **Lance Maloney**

Address of Defendant to be Served: **Hopewell Police Department**

201 Washington Crossing Pennington Road, Titusville, NJ 08560

County Lawyer Referral and Legal Services Offices

ATLANTIC COUNTY

Deputy Clerk of the Superior Court
Civil Division, Direct Filing
1201 Bacharach Blvd., First Floor
Atlantic City, NJ 08401
LAWYER REFERRAL
(609) 345-3444
LEGAL SERVICES
(609) 343-4200

BERGEN COUNTY

Deputy Clerk of the Superior Court
Civil Division, Room 115
Justice Center, 10 Main Street
Hackensack, NJ 07601
LAWYER REFERRAL
(201) 488-0044
LEGAL SERVICES
(201) 487-2166

BURLINGTON COUNTY

Deputy Clerk of the Superior Court
Central Processing Office
Attn: Judicial Intake
First Floor, Courts Facility
49 Rancocas Road
Mt. Holly, NJ 08060
LAWYER REFERRAL
(609) 261-4862
LEGAL SERVICES
(609) 261-1088

CAMDEN COUNTY

Deputy Clerk of the Superior Court
Civil Processing Office
Hall of Justice, First Floor
101 South Fifth Street, Suite 150
Camden, NJ 08103
LAWYER REFERRAL
(856) 482-0618
LEGAL SERVICES
(856) 964-2010

CAPE MAY COUNTY

Deputy Clerk of the Superior Court
9 North Main Street
Cape May Court House, NJ 08210
LAWYER REFERRAL
(609) 468-0313
LEGAL SERVICES
(609) 465-3001

CUMBERLAND COUNTY

Deputy Clerk of the Superior Court
Civil Case Management Office
60 West Broad Street, P.O. Box 10
Bridgeton, NJ 08302
LAWYER REFERRAL
(856) 696-5550
LEGAL SERVICES
(856) 691-0494

ESSEX COUNTY

Deputy Clerk of the Superior Court
Civil Customer Service
Hall of Records, Room 201
465 Dr. Martin Luther King Jr. Blvd.
Newark, NJ 07102
LAWYER REFERRAL
(973) 622-6204
LEGAL SERVICES
(973) 624-4500

GLOUCESTER COUNTY

Deputy Clerk of the Superior Court
Civil Case Management Office
Attn: Intake, First Floor, Court House
1 North Broad Street
Woodbury, NJ 08096
LAWYER REFERRAL
(856) 848-4539
LEGAL SERVICES
(856) 848-5860

HUDSON COUNTY

Deputy Clerk of the Superior Court
Superior Court, Civil Records Department
Brennan Court House, First Floor
583 Newark Avenue
Jersey City, NJ 07306
LAWYER REFERRAL
(201) 798-2727
LEGAL SERVICES
(201) 792-6363

HUNTERDON COUNTY

Deputy Clerk of the Superior Court
Civil Division
65 Park Avenue
Flemington, NJ 08822
LAWYER REFERRAL
(908) 286-6109
LEGAL SERVICES
(908) 782-7979

MERCER COUNTY

Deputy Clerk of the Superior Court
Local Filing Office, Courthouse
175 South Broad Street, P.O. Box 8068
Trenton, NJ 08650
LAWYER REFERRAL
(609) 685-6200
LEGAL SERVICES
(609) 695-6249

MIDDLESEX COUNTY

Deputy Clerk of the Superior Court
Middlesex Vicinage
Second Floor - Tower
56 Paterson Street, P.O. Box 2633
New Brunswick, NJ 08903-2633
LAWYER REFERRAL
(732) 828-0053
LEGAL SERVICES
(732) 249-7600

MONMOUTH COUNTY

Deputy Clerk of the Superior Court
Court House
P.O. Box 1269
Freehold, NJ 07728-1269
LAWYER REFERRAL
(732) 481-5544
LEGAL SERVICES
(732) 866-0020

MORRIS COUNTY

Morris County Courthouse
Civil Division
Washington and Court Streets
P.O. Box 910
Morristown, NJ 07963-0910
LAWYER REFERRAL
(973) 267-5582
LEGAL SERVICES
(973) 285-6911

OCEAN COUNTY

Deputy Clerk of the Superior Court
118 Washington Street, Room 121
P.O. Box 2191
Toms River, NJ 08754-2191
LAWYER REFERRAL
(732) 240-3666
LEGAL SERVICES
(732) 841-2727

PASSAIC COUNTY

Deputy Clerk of the Superior Court
Civil Division
Court House
77 Hamilton Street
Paterson, NJ 07505
LAWYER REFERRAL
(973) 278-9223
LEGAL SERVICES
(973) 523-2900

SALEM COUNTY

Deputy Clerk of the Superior Court
Attn: Civil Case Management Office
92 Market Street
Salem, NJ 08079
LAWYER REFERRAL
(856) 935-5629
LEGAL SERVICES
(856) 691-0494

SOMERSET COUNTY

Deputy Clerk of the Superior Court
Civil Division
P.O. Box 3000
40 North Bridge Street
Somerville, NJ 08876
LAWYER REFERRAL
(908) 685-2323
LEGAL SERVICES
(908) 281-0840

SUSSEX COUNTY

Deputy Clerk of the Superior Court
Sussex County Judicial Center
43-47 High Street
Newton, NJ 07860
LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 383-7400

UNION COUNTY

Deputy Clerk of the Superior Court
First Floor, Court House
2 Broad Street
Elizabeth, NJ 07207-6078
LAWYER REFERRAL
(908) 353-4715
LEGAL SERVICES
(908) 354-4340

WARREN COUNTY

Deputy Clerk of the Superior Court
Civil Division Office
Court House
413 Second Street
Belvidere, NJ 07823-1500
LAWYER REFERRAL
(908) 859-4800
LEGAL SERVICES
(908) 475-2010

Updated: 8/21/13

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(973) 729-5040
Attorneys for Plaintiff

KENNETH H. KIRCHNER,
Plaintiff,

v.

GEORGE M. PETERSON, JOSEPH
MACCAQUANO, JOSEPH GIORDANO,
KEVIN ZORN, LANCE MALONEY,
John Doe 1-10, (fictitious names
representing a series of individuals having
actual identities unknown to Plaintiff
at this time, John Roe 1-10, (fictitious
names representing a series of individuals
having actual identities unknown to
Plaintiff at this time, HOPEWELL
TOWNSHIP,

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MERCER COUNTY

DOCKET NO.: MER-L-

Civil Action

COMPLAINT AND JURY DEMAND

Plaintiff Kenneth H. Kirchner, residing at 175 Hillcrest Rd., Flemington Township,
County of Hunterdon, State of New Jersey, by way of Complaint against the Defendants herein
says:

PLEADINGS COMMON TO ALL COUNTS

1. At all times relevant herein, Plaintiff Kenneth H. Kirchner (hereinafter
"Kirchner") was a resident of the State of New Jersey residing at the above location.
2. At all times relevant herein, upon information and belief, the individual
Defendants were residents of the State of New Jersey.

3. At all times relevant herein, the public entity Defendants were duly organized under the laws of the State of New Jersey.

4. Defendant George Peterson was at all times relevant herein a police officer in Hopewell Township, Mercer County, Police Department and was responsible for upholding and enforcing the law and maintaining the peace in Hopewell Township, and was at all times relevant herein an investigating and/or arresting officer.

5. Defendant Joseph Maccaquano was at all times relevant herein a police officer in Hopewell Township, Mercer County, Police Department and was responsible for upholding and enforcing the law and maintaining the peace in Hopewell Township, and was at all times relevant herein an investigating and/or arresting officer.

6. Defendant Joseph Giordano was at all times relevant herein a police officer in Hopewell Township holding the rank of Sergeant and was responsible for upholding and enforcing the law and maintaining the peace in Hopewell Township and was also responsible for supervising and training subordinate officers and was also responsible for creating and implementing policy statements, ordinances, regulations, official decisions and well settled customs and practices.

7. Defendant Kevin Zorn was at all times relevant herein a police officer in Hopewell Township holding the rank of Sergeant and was responsible for upholding and enforcing the law and maintaining the peace in Hopewell Township and was also responsible for supervising and training subordinate officers and was also responsible for creating and implementing policy statements, ordinances, regulations, official decisions and well settled customs and practices.

8. Defendant Lance Maloney was at all times relevant herein the police chief for Hopewell Township Police Department and was responsible for upholding and enforcing the law and maintaining the peace in Hopewell Township and was also responsible for creating and implementing policy statements, ordinances, regulations, official decisions and well settled customs and practices.

9. Defendant John Doe 1-10 are fictitious persons/law enforcement officers whose identities are unknown at this time, and at all times relevant hereto were responsible for the investigation and/or enforcement of the laws within Hopewell Township and/or may have been responsible, directly and/or indirectly, for the injuries sustained by Plaintiff Kirchner. At such time as their identities become known, this Complaint will be amended to name the known persons.

10. Defendant John Roe 1-10 are fictitious Supervising Officers and were at all times relevant hereto police officers in Hopewell Township Police Department responsible for upholding and enforcing the law and maintaining the peace in Hopewell Township and were also responsible for supervising and training subordinate officers and were also responsible for creating and implementing policy statements, ordinances, regulations, official decisions and well settled customs and practices.

11. Defendant Hopewell Township is a Municipal entity incorporated pursuant to the Municipal Laws of the State of New Jersey and at all times relevant hereto maintained a police department and furthermore, at all times relevant hereto had the duty to exercise its powers and authority over the police department pursuant to N.J.S.A. 40A:14-118, et. seq. and to provide training, supervision and/or overall management of the Hopewell Township Police Department.

SUBSTANTIVE ALLEGATIONS RELAVANT TO ALL
COUNTS TO THIS COMPLAINT

12. The individual Defendants named herein, and John Doe 1-10, John Roe 1-10 were at all times acting under the color of the law, statutes, ordinances and policies of the State of New Jersey and Hopewell Township.

13. On April 4, 2015 at approximately 3:00 p.m. Plaintiff was lawfully operating his motorcycle northbound on River Road nearing the intersection of Washington Crossing Pennington Road in the jurisdiction of Hopewell Township, when the operator of a motor vehicle carelessly and negligently entered the roadway from a parking lot on the right attempting to make a left turn onto River Road southbound causing a collision with Plaintiff Kirchner.

14. Plaintiff was thrown from his motorcycle and was severely injured.

15. Plaintiff was loaded into the ambulance and taken to the hospital.

16. Defendant Peterson Defendant Maccaquano arrived at the scene after Plaintiff was taken to the hospital.

17. At Capital Health Medical Center, Defendant Peterson, and subsequently Defendant Maccaquano, falsely accused Plaintiff of being under the influence of alcohol.

18. Plaintiff denied having had anything to drink that would impair his ability to operate a motor vehicle. As such, at the hospital Plaintiff volunteered to provide a blood sample to prove his innocence.

19. Thereafter, Plaintiff was told that if the blood results returned positive for blood alcohol he would be written up for DUI.

20. Lab results were certified negative by the State Police Office of Forensic Sciences on April 29, 2015 but allegedly not received by Defendant Maccaquano until June 11, 2015.

21. In the interim Plaintiff was advised that he was written up for DUI and Reckless Driving though he had not been, and never was, served with any summonses.

22. Plaintiff was not formally charged with DUI and Reckless Driving until his first appearance in Hopewell Municipal Court on July 21, 2015.

23. Although the lab report was certified negative for alcohol on April 29, 2015, the charges were not formally dismissed until October 13, 2015.

24. In multiple places throughout Defendants' police investigation reports, they falsely and maliciously report that they smelled alcohol throughout Plaintiff's hospital room and emanating from his breath.

25. Without any probable cause of a crime being committed or the traffic laws of the State of New Jersey having been violated, Defendant Maccaquano issued DUI and Reckless driving traffic summonses against Plaintiff.

COUNT ONE

(New Jersey State Constitution Claims)

26. Plaintiff hereby repeats and re-alleges all of the allegations set forth above as if set forth at length herein.

27. At all times relevant herein, Defendants, under color of law, subjected Plaintiff and/or caused Plaintiff to be subjected to a deprivation of his rights, privileges, and/or immunities secured to him by the Constitution of the State of New Jersey and the New Jersey Civil Rights Act, N.J.S.A. 10:6-2.

28. At all times relevant herein, Defendants violated Plaintiff's civil rights by falsely arresting him, maliciously prosecuting Plaintiff, and conspiring to commit the acts aforesaid.

29. The acts aforesaid were committed pursuant to a policy statement, ordinance, regulation, and/or decision officially adopted and promulgated by Defendants and/or a well settled custom or practice by Defendant Hopewell Township Police Department.

30. The acts aforesaid were committed as a result of inadequate training and/or supervision by Defendants.

31. As a direct and proximate result of Defendants violations of Plaintiff's civil rights guaranteed to him by the New Jersey Constitution and N.J.S.A. 10:6-2, Plaintiff suffered damages.

32. The civil rights violations aforesaid were committed by Defendants with actual malice and/or a wanton and willful disregard of persons who foreseeably might be harmed by Defendants actions.

33. Plaintiff seeks punitive damages pursuant to N.J.S.A. 2A:15-5.10, et. seq.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory damage, statutory damages, punitive damages, interest, costs and reasonable attorney's fees, and such other relief as this court deems just and proper.

COUNT TWO
(New Jersey Tort Claims Act)

34. Plaintiff hereby repeats and re-alleges all of the allegations set forth above as if set forth at length herein.

35. At all times relevant herein, Defendants were acting as Police Officers of Hopewell Township.

36. Defendants were acting within the scope of their employment and their acts were done in furtherance of Defendant Hopewell Township's interest.

37. Plaintiff was arrested and charged without probable cause and the prosecution and continued prosecution of Plaintiff was malicious.

38. Defendants' actions were carried out in bad faith and Defendants are therefore liable for damages to Plaintiff pursuant to N.J.S.A. 59:3-3 and N.J.S.A. 59:3-8.

39. As a result of the injuries inflicted upon Plaintiff, he has suffered damages.

40. Plaintiff has complied with all notice provisions of the New Jersey Tort Claims Act N.J.S.A. 59:1-1, et. seq

WHEREFORE, Plaintiffs request judgment against the Defendants for damages, together with attorney's fees and costs of suit and such other and further relief as the Court may deem proper.

JURY DEMAND

Plaintiff demands trial by jury as to all issues.

TRIAL ATTORNEY DESIGNATION

Jeffrey M. Patti, Esq. is hereby designated as trial counsel for the plaintiffs.

CERTIFICATION PURSUANT TO RULE 4:5-1

Pursuant to Rule 4:5-1, the undersigned certifies that to the best of his knowledge, the within matters in controversy are not the subject of any other action pending in any other Court or of a pending arbitration proceeding nor is any action or arbitration proceeding contemplated nor are other parties required to be joined in this action.

PATTI & PATTI, LLC
Attorneys for Plaintiff

By: /s/ Jeffrey M. Patti

Dated: July 18, 2017