

SUMMONS

Attorney(s) W. Barry Rank, Esquire
 Office Address Pellettieri, Rabstein & Altman
100 Nassau Park Blvd., Suite 111
 Town, State, Zip Code Princeton, NJ 08543-5301
 Telephone Number (609) 520-0900
 Attorney(s) for Plaintiff Roberto M. Nini

**Superior Court of
New Jersey**

Essex COUNTY
Law DIVISION

Docket No: L-6542-15

ROBERTO M. NINI

Plaintiff(s)

Vs. CITY OF ORANGE TOWNSHIP, KEVIN
BRINKMANN, DETECTIVE R. SIMMONDS,
DETECTIVE SERGEANT TIMKO

Defendant(s)

**CIVIL ACTION
SUMMONS**

From The State of New Jersey To The Defendant(s) Named Above: DETECTIVE SERGEANT TIMKO

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 available in the Civil Division Management Office in the county listed above and 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 (1-888-576-5529). 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 available in the Civil Division Management Office in the county listed above and online at http://www.judiciary.state.nj.us/prose/10153_deptyclerklawref.pdf.

Michelle M. Smith
 Clerk of the Superior Court
 MICHELLE M. SMITH, ESQUIRE

DATED: September 28, 2015

Name of Defendant to Be Served: Detective Sergeant Timko
Municipal Court Building, Police Department
 Address of Defendant to Be Served: 29 Park Street, Orange, NJ 07050

**Directory of Superior Court Deputy Clerk's Offices
County Lawyer Referral and Legal Services Offices**

ATLANTIC COUNTY:

Deputy Clerk of the Superior Court
Civil Division, Direct Filing
1201 Bacharach Blvd., First Fl.
Atlantic City, NJ 08401

LAWYER REFERRAL

(609) 345-3444

LEGAL SERVICES

(609) 348-4200

BERGEN COUNTY:

Deputy Clerk of the Superior Court
Civil Division, Room 115
Justice Center, 10 Main St.
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 Fl., Courts Facility
49 Rancocas Rd.
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
1st Fl., Suite 150
101 South 5th Street
Camden, NJ 08103

LAWYER REFERRAL

(856) 482-0618

LEGAL SERVICES

(856) 964-2010

CAPE MAY COUNTY:

Deputy Clerk of the Superior Court
9 N. Main Street
Cape May Court House, NJ 08210

LAWYER REFERRAL

(609) 463-0313

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

ESSEX COUNTY - CIVIL DIVISION
SUPERIOR COURT OF NJ
465 MARTIN LUTHER KING JR BLVD
NEWARK NJ 07102

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (973) 693-5539
COURT HOURS 8:30 AM - 4:30 PM

DATE: SEPTEMBER 18, 2015
RE: NIMI VS CITY OF ORANGE TOWNSHIP
DOCKET: EX L -006592 15

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 3.

DISCOVERY IS 450 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON FRANCINE A. SCOTT

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 002
AT: (973) 776-3300.

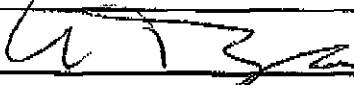
IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:

PELLETTIERI RABSTEIN & ALTMAN
100 MASSAU PARK BLVD
CN 5301
PRINCETON NJ 08543

JUG8113

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY		
	Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed		PAYMENT TYPE: ☐ CK ☐ CG ☐ CA CHG/CK NO.		
			AMOUNT:		
			OVERPAYMENT:		
				BATCH NUMBER:	
ATTORNEY / PRO SE NAME W. Barry Rank, Esquire		TELEPHONE NUMBER (609) 520-0900		COUNTY OF VENUE Essex	
FIRM NAME (if applicable) Pellettieri, Rabatein and Altman		DOCKET NUMBER (when available) L-6592-15			
OFFICE ADDRESS 100 Nassau Park Blvd., Suite 111 Princeton, New Jersey 08543-5301		DOCUMENT TYPE Complaint			
		JURY DEMAND ☒ YES ☐ NO			
NAME OF PARTY (e.g., John Doe, Plaintiff) Roberto M. Nini, Plaintiff		CAPTION Roberto M. Nini v. City of Orange Township, Kevin Brinkmann, Detective R. Simmonds, Detective Sergeant Timko			
CASE TYPE NUMBER (See reverse side for listing) 005	HURRICANE SANDY RELATED? ☐ YES ☒ NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? ☐ YES ☒ NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.			
RELATED CASES PENDING? ☐ YES ☒ NO		IF YES, LIST DOCKET NUMBERS			
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? ☐ YES ☒ NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) ☐ NONE ☒ UNKNOWN			
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.					
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION					
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? ☒ YES ☒ NO		IF YES, IS THAT RELATIONSHIP: ☐ EMPLOYER/EMPLOYEE ☐ FRIEND/NEIGHBOR ☒ OTHER (explain)* ☐ FAMILIAL ☐ BUSINESS			
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? ☐ YES ☐ NO					
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION *Prior relationship between Plaintiff and Defendant Kevin Brinkmann - business *Prior relationship between Plaintiff and all other Defendants - none					
DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? ☐ YES ☒ NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION:			
WILL AN INTERPRETER BE NEEDED? ☐ YES ☒ NO		IF YES, FOR WHAT LANGUAGE?			
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .					
ATTORNEY SIGNATURE: 					

Side 2



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 605 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 606 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603V AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|--|---|
| <ul style="list-style-type: none"> 271 ACCUTANE/ISOTRETINOIN 274 RISPERDA/SEROQUEL/ZYPREXA 278 ZOMETHA/AREXIA 279 GADOLINIUM 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL 282 FOSAMAX 285 STRYKER TRIDENT HIP IMPLANTS 286 LEVAQUIN 287 YAZ/YASMIN/OCELLA 288 PRUDENTIAL TORT LITIGATION | <ul style="list-style-type: none"> 289 REGLAN 290 POMPTON LAKES ENVIRONMENTAL LITIGATION 291 PELVIC MESH/GYNECARE 292 PELVIC MESH/BARD 293 DEPUY ASR HIP IMPLANT LITIGATION 295 ALLODERM REGENERATIVE TISSUE MATRIX 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS 297 MIRENA CONTRACEPTIVE DEVICE 601 ASBESTOS 623 PROPECIA |
|--|---|

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category

☐ Putative Class Action

☐ Title 59

W.BARRY RANK, Esquire
Attorney ID# 245961968
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Princeton, New Jersey 08543-5301
Attorneys for Plaintiffs

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FINANCIAL DIVISION
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ROBERTO M. NINI,
Plaintiff,

v.

CITY OF ORANGE TOWNSHIP, KEVIN
BRINKMANN, DETECTIVE R. SIMMONDS,
DETECTIVE SERGEANT TIMKO,
Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ESSEX COUNTY

DOCKET NO. **L-6592-15**
Civil Action

**COMPLAINT, JURY DEMAND AND
DESIGNATION OF TRIAL COUNSEL**

The Plaintiff, Roberto M. Nini, who resides at 304 Pennington Harbourton Road, in the Township of Hopewell, County of Mercer and State of New Jersey, for his Complaint says:

INTRODUCTION

1. At all times relevant the Defendant, the City of Orange Township, was a body politic of the State of New Jersey, with its principal office located at 29 North Day Street, Orange, New Jersey.

2. At all times relevant the Defendants, Detective R. Simmonds, and Detective Sgt. Timko, were employed by the City of Orange Township Police Department and were the agents, servants and employees of the Defendant, the City of Orange Township.

3. At all times relevant, the Defendant, Kevin Brinkmann, was the sales engineer and owner of AAA Fire Protection, located at 459 Tompkins Place, Orange, New Jersey.

4. At all times relevant, the Plaintiff, Roberto M. Nini, was engaged in general contracting business doing business as Nini Building Enterprises, Inc. ("NBE"), with offices located at 299 Whitehead Road, Hamilton, New Jersey.

5. During the year 2012, NBE entered into a contract to renovate a facility for Urge Fitness at 968 Parkway Avenue, Ewing Township, New Jersey, and for the First Choice Bank of Kingston, New Jersey.

6. In order to complete said renovating, NBE entered into sub-contracts with AAA Fire Protection.

COUNT I

1. On or about February 7, 2014, the Defendants, City of Orange Township, Kevin Brinkmann, Detective R. Simmonds and Detective Sgt. Timko, maliciously and without probable cause, commenced an action against the Plaintiff in the Orange City Municipal Court, upon a Complaint in which they falsely alleged that on February 15, 2013:

a. at 453 Tompkins Place, Orange, New Jersey, the Plaintiff issued two bad checks to the Defendant, Kevin Brinkmann, knowing there were not sufficient funds to honor said checks; and

b. that at 453 Tompkins Place, Orange, New Jersey, the Plaintiff committed the offense of theft.

2. On said February 7, 2014, the Defendant, Detective R. Simmonds, made an Affidavit, witnessed and attested to by the Defendant, Detective Sgt. Timko, in which he falsely and maliciously averred:

a. that the Plaintiff had on February 15, 2013, at 453 Tompkins Place, Orange, New Jersey, issued two bad checks to the Defendant, Kevin Brinkmann, knowing there were not sufficient funds to honor said checks; and

b. that on the same date and at the same place, the Plaintiff committed the offense of theft.

3. By said Affidavit, it was falsely made to appear that a sufficient cause of action existed for an order for the arrest of the Plaintiff.

4. Prior to the time any Judge found probable cause and issued an arrest warrant for the Plaintiff, the Defendants, Simmonds and Timko, entered into the statewide computer system an order for the arrest of the Plaintiff.

5. On February 8, 2014, the Plaintiff was arrested by the City of Wildwood, New Jersey Police Department and imprisoned for the period of 3 days without bail, until the Wildwood Police received notice that bail was set. At the time of the arrest, the Wildwood Police could not explain the nature of the charges against the Plaintiff.

6. Not until the day after the Plaintiff was arrested and jailed without bail did the Honorable H. Fullilove Jr., via telephone, find probable cause, sign an arrest warrant and set bail at \$15,000 at 10%. The bail terms were not conveyed to the Wildwood Police Department.

7. Thereafter and prior to the commencement of the action, on motion of the Plaintiff, through his counsel, the complaint was dismissed on the ground that it was issued improperly and without sufficient cause.

8. As a result of the Defendants' actions, the Plaintiff was injured in his name and credit, was prevented from pursuing his business and pleasure, was improperly incarcerated without bail, was compelled to pay counsel fees in defending himself, was compelled to make bail, was denied his liberty and incurred other damage.

WHEREFORE, the Plaintiff, Roberto M. Nini, demands judgment against the Defendants for damages, punitive damages, counsel fees, interest and costs of suit.

COUNT II

1. Plaintiff repeats and realleges that allegations contained in Count I of the Complaint as if fully set forth herein.

2. The Defendants, Kevin Brinkmann, Detective R. Simmonds, and Detective Sgt. Timko, have engaged in a malicious abuse of process.

3. As a result of the Defendants malicious abuse of process, the Plaintiff has suffered a special grievance and has been otherwise damaged.

WHEREFORE, the Plaintiff, Roberto M. Nini, demands judgment on Count II for damages, punitive damages, costs of suit, attorneys fees and interest.

COUNT III

INTRODUCTION

a. This is a civil litigation seeking damages against the Defendants for committing acts under color of law, and depriving Plaintiff rights secured by the Constitution and laws of the United States. Defendants, Detective R. Simmonds and Detective Sgt. Timko, while acting in their capacity as policemen in the City of Orange, County of Essex and State of New Jersey, deprived Plaintiff of his liberty without due process of law and deprived Plaintiff of his property without due process of law, thereby depriving Plaintiff of his rights, privileges and immunities as guaranteed by the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

b. Plaintiff sues the Defendants, Simmonds and Timko, in their individual capacities.

c. The Defendants, Simmonds and Timko, issued a Complaint Warrant against the Plaintiff, Robert M. Nini, without probable cause, justification or authority.

1. The Plaintiff repeats and realleges the allegations contained in Counts I and II as if fully set forth herein.

2. The Defendants caused a statewide warrant to issue for the arrest of the Plaintiff before the presiding judge of the City of Orange Municipal Court, found probable cause and set bail.

3. In filing the Complaint Warrant and entering the Warrant for the arrest of the Plaintiff prior to a judiciary or probable cause, and prior to the setting of bail, the Defendants knew or should have known they were violating the constitutional rights of the Plaintiff as set forth above.

5. Because of Defendants' malicious actions, Plaintiff was arrested and detained by the Wildwood Police Department for several days without bail or any explanation of the charges against him.

6. As a direct and proximate result of the aforesaid acts of the Defendants and each of them, the Plaintiff, Roberto M. Nini, suffered great mental anguish from then until now, and he will continue to suffer in the future; and he has lost and will in the future lose great sums of money by reason of the incarceration and having been greatly humiliated and held up to public scorn and derision as a result of the foregoing acts of the Defendants.

7. Plaintiff was forced to incur \$3,000.00 to the date of filing this Complaint for attorneys fees, investigation expenses and other expenses in the defense of Plaintiff against the unfounded and unwarranted prosecution by the Defendants, which have been a serious burden to him.

8. Plaintiff will be forced to incur substantial obligations for attorneys fees and other expenses in this civil suit because of the unfounded and unwarranted prosecution by the Defendants against Plaintiff.

WHEREFORE, Plaintiff demands judgment against the Defendants, the City of Orange Township, Detective R. Simmonds, and Detective Sgt. Timko, jointly, individually and in the alternative, for compensatory damages, punitive damages, attorneys fees, and interest and costs of suit.

PELLETTIERI, RABSTEIN AND ALTMAN

By:


W. BARRY RANK

Dated: 9-11-15

JURY DEMAND

Plaintiff demands a trial by jury as to all issues so triable.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, W. Barry Rank, Esquire is designated trial counsel on behalf of the Plaintiff.

CERTIFICATION PURSUANT TO RULES 4:5-1(b)(3) and 1:38-7(b)

I certify that pursuant to Rule 4:5-1(b)(3), confidential personal identifiers have been redacted from documents now submitted to the Court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

CERTIFICATION CONCERNING ENTIRE CONTROVERSY

The Plaintiff hereby certifies pursuant to Rule 4:5-1, that the matter in controversy is not the subject of any other action pending in any court and is likewise not the subject of any pending arbitration proceeding.

The Plaintiff further certifies that he has no knowledge of any action or arbitration proceeding which is contemplated regarding the subject matter of this action and that he is not aware of any other parties who should be joined in this action.

PELLETTIERI, RABSTEIN AND ALTMAN

By:


W. BARRY RANK, ESQUIRE

Dated:

9/11/15