

**MUTCHKO & SHEPPARD**

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Attorney(s) for Plaintiff

2011 APR 18 AM 10:25

SUPERIOR COURT OF NJ

IN THE SUPERIOR COURT OF THE STATE OF NEW JERSEY  
LAW DIVISION  
IN AND FOR THE COUNTY OF ATLANTIC

**RAMON CRESPO-MARTINEZ***Plaintiff(s)*

vs.

**CITY OF PLEASANTVILLE, JOHN  
DOE POLICE OFFICER AND THREE  
(3) JOHN DOES**

*Defendant(s)*DOCKET NO. *L-282-11*

CIVIL ACTION

**COMPLAINT**

Plaintiff Ramon Crespo-Martinez residing at 813 Risley Ave., Pleasantville, NJ by way of complaint against defendant(s) says;

**FIRST COUNT**

1. On or about May 17, 2010 plaintiff was at an area known as Risley Ave. in Pleasantville NJ.
2. At said time and place plaintiff was being arrested by Pleasantville Police Department officers. Said officers were the employees of defendant City of Pleasantville.
3. At said time and place the plaintiff was handcuffed and at the time not resisting the police officers efforts.
4. At said time and place defendants allowed a dangerous and defective condition to occur, that being a dog, trained and supervised by the defendant, to bite the plaintiff several times while the plaintiff was subdued. The dog handler is unknown at this time and is referred as John Doe Police Officer.

5. Plaintiff's injuries were the direct and proximate result of the negligence of the defendants to this action.
6. Defendants owed a duty of reasonable care to the plaintiff including but not limited to warning plaintiff of said dangerous and defective condition and taking reasonable measures prevent said situation.

Wherefore plaintiff Ramon Crespo-Martinez demands judgment against defendant City of Pleasantville for his losses, damages, expenses, economic losses, medical bills, interests, attorney fees, costs of suit and any and all other consequential damages.

#### SECOND COUNT

Plaintiff Ramon Crespo-Martinez repeats each and every allegation of the preceding counts and incorporates same as if set forth herein at length.

Wherefore plaintiff Ramon Crespo-Martinez demands judgment against defendant John Doe Police officer for his losses, damages, expenses, economic losses, medical bills, interests, attorney fees, costs of suit and any and all other consequential damages.

#### THIRD COUNT

Plaintiff Ramon Crespo-Martinez repeats each and every allegation of the preceding counts and incorporates same as if set forth herein at length.

Wherefore plaintiff Ramon Crespo-Martinez demands judgment against defendant 3 John Does for his losses, damages, expenses, economic losses, medical bills, interests, attorney fees, costs of suit and any and all other consequential damages.

#### JURY DEMAND

Plaintiff demands a trial by jury as to all issues.

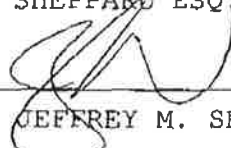
#### DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Jeffrey M. Sheppard, Esquire, is hereby designated as trial counsel for the within cause of action.

CERTIFICATION

Pursuant to the rules Governing the Courts of the State of New Jersey I hereby certify that the matter in controversy in this case is not the subject of any other action pending in any other court or of a pending arbitration proceeding nor is any other action or arbitration proceeding contemplated. There are no other parties who should be joined to this action to the best of my knowledge.

JEFFREY M. SHEPPARD ESQ.

BY: 

JEFFREY M. SHEPPARD

Date: 4-5-11

JOSEPH C. GRASSI, ESQUIRE  
AARON T. PENROD, ESQUIRE  
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Attorneys for the Plaintiff

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

CRAIG ASHLEY,

Plaintiff,

vs.

PLEASANTVILLE POLICE OFFICER  
ANGELO MALDONADO; PLEASANTVILLE  
POLICE DETECTIVE JAMES SEARLE;  
ATLANTIC COUNTY SHERIFF'S  
OFFICER GRANT CUNNINGHAM, JR.;  
PLEASANTVILLE CITY; ATLANTIC  
COUNTY; AND JOHN DOES 1-10.

Defendants.

CASE NUMBER:

CIVIL ACTION

COMPLAINT AND DEMAND  
FOR JURY TRIAL

Plaintiff Craig Ashley, by way of complaint against the  
defendants, hereby avers:

I. PARTIES

1. The plaintiff Mr. Craig Ashley (3/27/60, 51 yoa) permanently resides at 136 Bernard Avenue, Egg Harbor Township, New Jersey.
2. The defendant Pleasantville Police Department is a governmental corporation with offices located at 18 North First Street, Pleasantville, New Jersey 08232.

3. The defendant Pleasantville Police Officer Angelo Maldonado permanently resides at 4972 Flintshire Court, Mays Landing, New Jersey 08330.
4. The defendant Pleasantville Police Detective James Searle permanently resides at 503 West Connecticut Avenue, Somers Point, New Jersey 08244.
5. The defendant Atlantic County Sheriff's Office is a governmental corporation with offices located at 4997 Unami Boulevard, Mays Landing New Jersey 08330.
6. The defendant Atlantic County Sheriff's Officer Grant Cunningham, Jr. permanently resides at 3 Maple Drive, Sicklerville, New Jersey 08081.
7. John Does 1-10 are fictitious individuals, corporations, joint ventures, or governmental entities, identities not yet known despite the due diligence of plaintiff to identify these persons who caused injury to plaintiff, who participated in, took reprisals against, aided and abetted and/or conspired to violate the civil rights of Mr. Craig Ashley.

## **II. JURISDICTION**

8. This is a claim for federal civil rights violations brought pursuant to 42 U.S.C. Sec. 1983, together with pendent state law claims.

9. Jurisdiction in this court is proper as to plaintiff's federal claims under 28 U.S.C. §1331, as an action arising under the Constitution or laws of the United States, as well as under 28 U.S.C. §1343(a) (3), as an action to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. Jurisdiction over plaintiff's pendent state law claims is proper under 28 U.S.C. §1367.
10. Venue is properly laid in this district under 28 U.S.C. §1391(b) in the District of New Jersey, because all parties reside in this district and the events giving rise to plaintiff's claims occurred in this district.
11. In addition, plaintiff seeks attorney's fees and costs pursuant to 42 U.S.C. §1988 for his federal claims and N.J.S.A. 10:5-27.1, N.J.S.A. 10:6-2(e), and N.J.S.A. 34:19-5(e) for his state law claims.

### III. FACTUAL ALLEGATIONS

12. On July 12, 2010 at 9:45 pm, the defendant Pleasantville Police Department sent defendant Pleasantville Police Officer Angelo Maldonado to the intersection of Doughty Road and New Road of Pleasantville, New Jersey to investigate a vehicle that had stopped at the intersection.
13. Upon arrival, the defendant Maldonado found the plaintiff Mr. Craig Ashley inside the driver's seat of the vehicle.

14. Officer Maldonado exited his vehicle and commanded the plaintiff to park his vehicle on the side of the road and exit.
15. The plaintiff protested the command, drove forward and then stopped because of further commands by Officer Maldonado.
16. Co-defendants Atlantic County Sheriff's Officer Grant Cunningham, Jr. and Pleasantville Police Detective James Searle arrived at the location of the intersection of Doughty Road and New Road.
17. After the plaintiff parked his vehicle, Officer Maldonado reached inside it and grabbed the plaintiff's left arm, thereby pulling the plaintiff out of his vehicle.
18. Officer Cunningham grabbed the plaintiff's right arm.
19. Both Officer Maldonado and Officer Cunningham forced the plaintiff's arms behind his back, but, in the process, the bones in the plaintiff's right arm were fractured in multiple locations.
20. Both handcuffing officers heard a loud noise emanating from the plaintiff's arm.
21. Meanwhile, Officer Searle was present and able to intervene in the unlawful arrest, but failed to intervene.
22. The officers then handcuffed the plaintiff's arms behind his back and put him in the rear of Officer Maldonado's vehicle.

23. The plaintiff was charged with driving while intoxicated, N.J.S.A. 39:4-50, Resisting Arrest, 2C:29-1A(1), and Reckless Driving, 39:4-96.
24. Officer Maldonado transported the plaintiff to the Pleasantville Police Department and then called the ambulance, which transported the plaintiff to AtlantiCare Hospital in Atlantic City.
25. The plaintiff's right arm was secured by a medical cast.
26. Two weeks later, the plaintiff attended Shore Memorial Hospital for reports of excruciating pain in his recently casted right arm. He underwent an emergency surgery, which required surgeons to remove the cast, re-break the arm, and install skeletal support hardware.
27. Subsequently, the plaintiff endured multiple sessions of physical therapy to address the severe range of motion limitations which inhibited him from performing basic daily tasks.
28. The plaintiff later pled guilty to driving while intoxicated, N.J.S.A. 39:4-50, but the court dismissed the companion charges of Resisting Arrest, 2C:29-1A(1), and Reckless Driving, 39:4-96.
29. The conduct of Officers Maldonado and Detective Searle reflected the training and supervision they received from the Pleasantville Police Department.

30. The conduct of Sheriff's Officer Cunningham, Jr. reflected the training and supervision he received from the Atlantic County Sheriff's Department.
31. As a result of the unlawful conduct by the defendants, the plaintiff has sustained physical damage, pain and suffering, emotional damage, and economic damages.

IV. CAUSES OF ACTION

COUNT I:

**ACTION UNDER 42 U.S.C. § 1983 FOR VIOLATIONS OF  
PLAINTIFF'S FOURTH AMENDMENT RIGHTS**

(Against Defendants Pleasantville Police Officer Angelo Maldonado, Pleasantville Police Detective James Searle and Atlantic County Sheriff's Officer Grant Cunningham, Jr.)

32. Each of the foregoing paragraphs is incorporated as if fully set forth herein.
33. The plaintiff Mr. Craig Ashley has a right under the Fourth Amendment to the United States Constitution to be free from the use of excessive force by agents of the state, and in particular by the police.
34. The actions of the individual defendants, as described above, violated those rights.
35. As a proximate result of that violation, Mr. Craig Ashley was injured as set forth above.

**WHEREFORE**, plaintiff demands judgment in his favor and against the defendants as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorney's fees and costs pursuant to 42 U.S.C. § 1988;
- and
- d. For all other appropriate relief.

**COUNT II:**

**ACTION UNDER 42 U.S.C. § 1983 - LIABILITY IN CONNECTION WITH  
THE ACTIONS OF ANOTHER - FAILURE TO INTERVENE**

(Against Defendant Pleasantville Police Detective James Searle)

- 36. Each of the foregoing paragraphs is incorporated as if fully set forth herein.
- 37. Defendants Pleasantville Police Officer Angelo Maldonado and Atlantic County Sheriff's Officer Grant Cunningham, Jr. violated plaintiff's rights under the Fourth Amendment to the United States constitution to be free from the use of excessive force by agents of the state, and in particular by the police.
- 38. Defendant Pleasantville Police Detective James Searle had a duty to intervene to prevent the use of excessive force by a fellow police officer.
- 39. Defendant Searle had a reasonable opportunity to intervene during plaintiff's interactions with defendants Maldonado and Cunningham.

40. Defendant Searle chose not to intervene during plaintiff's interaction with Maldonado and Cunningham.

**WHEREFORE**, plaintiff demands judgment in his favor and against defendant Searle as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorney's fees and costs pursuant to 42 U.S.C. § 1988;
- d. For all other appropriate relief.

**COUNT III:**

**ACTION UNDER 42 U.S.C. § 1983 AND N.J.S.A. FOR CONSPIRACY**  
(Against Individual Defendants)

- 41. Each of the foregoing paragraphs is incorporated as if fully set forth herein.
- 42. The defendants agreed in some manner to perform acts that would deprive Mr. Ashley of his Federal & State constitutional rights.
- 43. The members of this conspiracy came to a mutual agreement, either express or implied, to perform acts which violated Mr. Ashley's constitutional rights.
- 44. The members of this conspiracy took step(s) in furtherance of this agreement.
- 45. The conspiracy was developed to deprive Mr. Ashley of his Federal & State Constitutional Rights.

46. The sequence of events on July 12, 2010, makes it more likely than not that Defendants Maldonado, Searle, and Cunningham agreed to perform acts that would deprive Mr. Ashley of his Constitutional Rights.
47. The actions of the individual defendants, as described above, violated Mr. Ashley's rights.
48. As a proximate result of that violation, Mr. Ashley was injured as set forth above.

WHEREFORE, the plaintiff demands judgment in his favor and against defendants as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorneys fees and costs pursuant to 42 U.S.C. § 1988 & N.J.S.A. 10:6-2(f);
- d. For all other appropriate relief.

COUNT IV:

**ACTION UNDER N.J.S.A. 10:6-2 FOR VIOLATIONS OF  
ARTICLE I, PARAGRAPH 7 OF THE NEW JERSEY CONSTITUTION**  
(Against all individual defendants)

49. Each of the foregoing paragraphs is incorporated as if fully set forth herein.
50. Craig Ashley has a right under the Article I, Paragraph 7 of the New Jersey Constitution to be free from the use of

excessive force by agents of the state, and in particular by the police.

51. The actions of the individual defendants, as described above violated those rights.

**WHEREFORE**, the plaintiff demands judgment in his favor and against defendants as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorneys fees and costs pursuant to N.J.S.A. 10:6-2(f);
- d. For costs, fees, and all other appropriate relief.

**COUNT V:**

**ACTION UNDER N.J.S.A. 10:6-2 FOR VIOLATIONS OF  
ARTICLE I, PARAGRAPH 7 OF THE NEW JERSEY CONSTITUTION**  
(Against defendants Pleasantville City and Atlantic County)

52. Each of the foregoing paragraphs is incorporated as if fully set forth herein.
53. The training program of Pleasantville City and Atlantic County was inadequate to train its employees in the methods of lawfully, properly, and safely executing arrests.
54. The defendants Pleasantville City and Atlantic County failed to adequately supervise defendants Maldonado, Searle, and Cunningham to ensure that they were effecting proper and lawful arrests.
55. The failure of the defendants Pleasantville City and Atlantic County to adequately train and adequately supervise

defendants Maldonado, Searle, and Cunningham amounted to deliberate inference to the fact that inaction would obviously result in the violation of plaintiff's rights. The failure of the defendants Pleasantville City and Atlantic County to adequately train and supervise defendants Maldonado, Searle, and Cunningham proximately caused the violation of plaintiff's rights.

**WHEREFORE**, the plaintiff demands judgment in his favor and against defendants as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorneys fees and costs pursuant to N.J.S.A. 10:6-2(f);
- d. For costs, fees, and all other appropriate relief.

**COUNT VI:**

**MUNICIPAL LIABILITY UNDER 42 U.S.C. § 1983**

(Against defendants Pleasantville City and Atlantic County)

- 56. Each of the foregoing paragraphs is incorporated as if fully set forth herein.
- 57. Defendants Pleasantville City and Atlantic County have a policy and practice of failing to adequately train police officers concerning the proper use of force and the proper procedure for making arrests.
- 58. In accordance with that policy, defendants Pleasantville City and Atlantic County failed to adequately train and

supervise the individual defendants in the use of force and the proper manner of detaining and arresting individuals.

59. The policy and practice of the city and county as set forth above was deliberately indifferent to, and violated Mr.

Ashley's rights under the Fourth Amendment to the United States Constitution.

60. As a proximate result of the policy and practice of the city and county, Mr. Ashley was injured as set forth above.

**WHEREFORE**, plaintiff demands judgment in his favor and against the defendants as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorney's fees and costs pursuant to 42 U.S.C. § 1988; and
- d. For all other appropriate relief.

**CERTIFICATION**

To the best of my knowledge, the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

BARRY, CORRADO, GRASSI & GIBSON, P.C.  
Attorney(s) for plaintiff



Aaron T. Penrod, Esquire

Dated: 12-27-11

**JURY DEMAND**

Plaintiff hereby demands trial by jury as to each and every issue raised by this complaint.

BARRY, CORRADO, GRASSI & GIBSON, P.C.  
Attorney(s) for plaintiff



Aaron T. Penrod, Esquire

Dated: 12-27-11

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

CRAIG ASHLEY,

Plaintiff,

v.

PLEASANTVILLE POLICE OFFICER  
ANGELO MALDONADO, et al.,

Defendants.

HONORABLE JOSEPH E. IRENAS

CIVIL ACTION NO. 11-7526  
(JEI/JS)

ORDER

**APPEARANCES:**

BARRY, CORRADO, GRASSI & GIBSON, P.C.

By: Joseph C. Grassi, Esq.

Aaron T. Penrod, Esq.

Christopher Gillin-Schwartz, Esq.

2700 Pacific Avenue

Wildwood, New Jersey 08260

Counsel for Plaintiff

BARKER, GELFAND & JAMES, P.C.

By: A. Michael Barker, Esq.

Jeffrey A. Jaketic, Esq.

Linwood Greene - Suite 12

210 New Road

Linwood, New Jersey 08221

Counsel for Defendants Angelo Maldonado, James Searle, and  
City of Pleasantville

ATLANTIC COUNTY DEPARTMENT OF LAW

By: Alan J. Cohen, Esq.

1333 Atlantic Avenue

Atlantic City, New Jersey 08401

Counsel for Defendants Grant Cunningham, Jr., and Atlantic  
County

**IRENAS**, Senior District Judge:

This matter having appeared before the Court upon Defendants Officer Angelo Maldonado, Detective James Searle, and City of Pleasantville's Motion for Summary Judgment (dkt. no. 38), and Defendants Officer Grant Cunningham, Jr. and Atlantic County's Motion for Summary Judgment (dkt. no. 39); having reviewed the parties' submissions; and for the reasons set forth in an Opinion on even date herewith; and for good cause appearing:

**IT IS** on this 24th day of March, 2014,

**ORDERED THAT:**

1. Defendants Officer Angelo Maldonado, Detective James Searle, and City of Pleasantville's Motion for Summary Judgment (Docket #38) is hereby **GRANTED**.
2. Defendants Officer Grant Cunningham, Jr. and Atlantic County's Motion for Summary Judgment (Docket #39) is hereby **GRANTED**.
3. The Clerk of Court is hereby directed to **CLOSE THIS FILE**.

s/ Joseph E. Irenas  
**JOSEPH E. IRENAS, S.U.S.D.J.**

RECEIVED and  
FILED  
OCT 18 2013  
ATLANTIC COUNTY  
LAW DIVISION

JERRY C. GOLDEAGEN  
ATTORNEY AT LAW  
Central Park East  
222 New Road, Suite 302  
Linwood, NJ 08221  
(609) 927-9227  
ATTORNEY FOR PLAINTIFF

JOVAN COTTMAN

Plaintiff,

vs.

Defendant(s)

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
ATLANTIC COUNTY

DOCKET NO. ATL-L- 6356-13

CIVIL ACTION

CITY OF PLEASANTVILLE;  
DAVID ARISTZABAL; DANNY HARPER;  
STACY WILLIAMS; MICHAEL GAZO;  
FRANK CORREA; ANDRE GRAVES;  
JOHN DOE 1 THRU JOHN DOE IX,  
FICTITIOUS NAMES; jointly,  
severally and in the  
alternative,

COMPLAINT AND JURY DEMAND

Plaintiff, Jovan Cottman, residing at 116 N. New Road, in the  
City of Pleasantville, County of Atlantic, and State of New Jersey, by  
way of complaint against the Defendants, says:

FIRST COUNT

1. At all times mentioned herein and relevant hereto,  
defendant, City of Pleasantville, was and is a municipal corporation  
organized under the laws of the State of New Jersey.

2. At all times mentioned herein and relevant hereto,  
defendant, City of Pleasantville, was and is a municipality organized  
pursuant to Title 40 of New Jersey laws and has its principal offices  
located at Municipal Building, 18 N. First Street, in the City of  
Pleasantville, in the County of Atlantic and State of New Jersey.

3. At all times mentioned herein and relevant hereto, the Pleasantville Police Department, was owned, operated, supervised and controlled by defendant, City of Pleasantville.

4. Defendants, John Doe I through John Doe IX, are unknown persons, entities or public entities.

5. Although plaintiff has made a diligent inquiry, the actual identity of defendants, John Doe I through John Doe IX, are unknown to the plaintiff and accordingly are designated by fictitious names.

6. At all times relevant herein, defendant, John Doe I, was the Chief of Police for the Pleasantville Police Department in the City of Pleasantville.

7. At all times relevant herein, defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, and Andre Graves, were acting as agents, servants, employees and police officers of the defendant, City of Pleasantville and its Police Department.

8. At all times relevant herein, defendants, John Doe I through John Doe IX, were agents, servants, employees and police officers for the defendant, City of Pleasantville and its Police Department, and were responsible for the selection, hiring, training, supervision, and disciplining, of City of Pleasantville police officers, including, but not limited to, defendant, David Aristzabal.

9. At all times relevant herein, defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, and Andre Graves, and John Doe I through John Doe IX were acting under color of law and under color of law and under color of authority as police officers or other agents, servants, and employees of the defendant, City of Pleasantville and its Police Department.

10. On or about October 18, 2011, plaintiff was walking near his home located at 116 N. New Road in Pleasantville, Atlantic County, New Jersey.

11. At the time and place aforementioned, plaintiff did not have any weapon or contraband on him, and was not acting unlawfully or suspiciously.

12. At the time and place aforementioned, plaintiff was walking toward his home, when a vehicle suddenly drove up onto the front lawn of plaintiff's residence, heading toward the person of plaintiff.

13. At the time and place aforementioned, plaintiff feared for his life and safety and retreated toward the backyard of his residence.

14. At the time and place aforementioned, plaintiff heard the sound of what was apparently the vehicle driving into a tree on the lawn of plaintiff's residence.

15. At the time and place aforementioned, one or more police officers, including but not limited to defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, and Andre Graves, ran into the backyard of plaintiff's residence and yelled at plaintiff, who could see that they were armed police officers.

16. At the time and place aforementioned, plaintiff immediately laid down on the grass with his arms out, giving himself up, and not threatening or resisting the police in any way.

17. At the time and place aforementioned, defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, and Andre Graves, and other presently unidentified Pleasantville

police officers attacked, assaulted, used excessive and unnecessary force, and inflicted blows with fists and boots upon plaintiff, causing plaintiff to sustain serious and permanent injuries.

18. At all times mentioned herein and pertinent hereto, the defendants did not have any reasonable suspicion or belief that plaintiff had committed any unlawful activity.

19. At all times mentioned herein and pertinent hereto, the defendants did not have a reasonable basis to stop, detain, arrest or imprison plaintiff and committed an unlawful and false arrest imprisonment of plaintiff.

20. At all times mentioned herein and pertinent hereto, the plaintiff did not threaten, assault or attempt to threaten or assault or utilize any force against any of the police officers, nor did plaintiff attempt to resist the police officers or use any violence or force upon them.

21. The defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and the other John Doe police officers, at all times relevant hereto and mentioned herein, were acting as agents, servants, employees and police officers of the defendant, City of Pleasantville and its Police Department.

22. The defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and the other John Doe police officers, at all times relevant hereto and mentioned herein, were negligent, grossly negligent, reckless, wanton, wilful and malicious in their investigation, handling, treatment, detention,

searching, arresting, and taking plaintiff into custody, and were not acting in good faith.

23. At all times mentioned herein and pertinent hereto, the defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and the other John Doe police officers, had no reasonable cause or justification to physically accost, injure and assault plaintiff.

24. At all times mentioned herein and pertinent hereto, plaintiff was under the complete control of defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and the other John Doe police officers, before any physical violence or force, including excessive force and assault, was inflicted by the defendants and the officers upon plaintiff.

25. At all times mentioned herein and pertinent hereto, defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and the other John Doe police officers, wrongful conduct constituted assault and battery, and negligent and intentional infliction of emotional distress.

26. At all times mentioned herein and pertinent hereto, the defendant, City of Pleasantville, was responsible for the aforementioned wrongful and violative conduct of defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and the other John Doe police officers, under the theory of respondeat superior, and negligent training, supervision, and discipline.

27. As a direct and proximate result of the aforementioned negligent and wrongful conduct of the defendants, City of Pleasantville, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and John Doe I through John Doe IX, plaintiff, Jovan Cottman, suffered substantial permanent injury, suffered severe permanent psychological injury, suffered substantial and permanent disability, suffered substantial and permanent scarring and disfigurement, has been caused to endure and in the future will endure severe pain and suffering, and has been caused to spend and will in the future spend large sums of money for medical and psychological treatment, in excess of \$4,000.00, causing him to be unable and will in the future be unable to attend to his normal duties, activities, occupations, training, education, and relationships.

28. A timely New Jersey Tort Claims Notice has been served upon the defendants.

WHEREFORE, plaintiff, Jovan Cottman, demands Judgment against the defendants, City of Pleasantville, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and John Doe I through John Doe IX, jointly, severally, and in the alternative, for compensatory damages, punitive damages, costs of suit, interest, attorney's fees, and such other relief as allowed by law.

SECOND COUNT

1. Plaintiff repeats the allegations of the first Count as if set forth fully herein.

2. The conduct of the defendants described heretofore constitutes an intentional and wanton and wilful assault and battery, and infliction of emotional distress

3. The aforementioned wrongful conduct of said defendants described heretofore was extreme, outrageous, unjustifiable, wanton and willful, malicious, and not committed in good faith.

WHEREFORE, plaintiff, Jovan Cottman, demands Judgment against the Defendants, City of Pleasantville, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and John Doe I through John Doe IX, jointly, severally, and in the alternative, for compensatory damages, punitive damages, costs of suit, interest, attorney's fees, and such other relief as allowed by law.

#### THIRD COUNT

1. Plaintiff repeats the allegations of the first two Counts as if set forth fully herein.

2. The aforementioned wrongful conduct of defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and the other John Doe police officers, constituted an unreasonable search and seizure of plaintiff's person.

3. The aforementioned wrongful conduct of defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and the other John Doe police officers, constituted an unlawful stopping and arresting of plaintiff.

WHEREFORE, plaintiff, Jovan Cottman, demands Judgment against the Defendants, City of Pleasantville and its Police Department, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa,

Andre Graves, and John Doe I through John Doe IX, jointly, severally, and in the alternative, for compensatory damages, punitive damages, costs of suit, interest, attorney's fees, and such other relief as allowed by law.

#### FOURTH COUNT

1. Plaintiff repeats the allegations of the three Counts as if set forth fully herein.

2. Plaintiff names each and all the defendants in both their individual and official capacities as agents, servants, employees, and/or police officers of the defendant, City of Pleasantville and its Police Department.

3. The actions of the aforesaid defendant police officers resulted from and pursuant to a de facto policy of the defendants, City of Pleasantville and its Police Department, and John Doe I through John Doe IX, which was implemented, encouraged, and ratified, with deliberate indifference to its police officers, including defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, unlawfully stopping, arresting and detaining, and using excessive and unnecessary force upon citizens such as plaintiff.

4. The existence of the de facto policy described above, and the practice of said defendant police officers to follow and implement this policy, was and has been known by supervisory and policy-making officers and officials of the defendants, City of Pleasantville and its Police Department, and John Doe I through John Doe IX, for a substantial period of time. Said defendants had actual and

constructive knowledge of said de facto policy and the adherence of said defendant police officers to it.

5. Despite their knowledge of said illegal and wrongful policies and practices, the supervisory and policy-making officer defendants, City of Pleasantville and its Police Department, and John Doe I through John Doe IX, and as a matter of policy, did not take steps to terminate such practices, and did not discipline or otherwise properly train or supervise the individual officers to engage in said practices, did not effectively train said officers with regard to the proper constitutional and statutory limits on the exercise of their authority, and have instead sanctioned the policies and practices described above through their deliberate indifference to the effect of said policies and practices upon the constitutional rights and health and safety of citizens and residents such as the plaintiff.

6. All of the named defendants further ratified the unlawful acts and policies by attempting to conceal and cover up the incidents which took place, as described in this Complaint.

7. The aforementioned conduct of all of the named defendants was negligent, grossly negligent, intentional, reckless, malicious, wanton and willful disregard for the health and safety of plaintiff, and for the constitutional and statutory rights of plaintiff, depriving plaintiff of substantive due process and/or equal protection rights, and privileges or immunities secured by the Constitution and/or laws of the United States, and/or any substantive rights, privileges, and/or immunities secured by the Constitution or laws of the State of New Jersey, and plaintiff's exercise or enjoyment of those substantive

rights, privileges, or immunities have been violated and interfered with by the aforementioned wrongful conduct, threats, intimidation, and coercion and de facto deliberate policy, by the defendants acting under color of law.

8. At all times mentioned herein and pertinent hereto, the defendants, City of Pleasantville and John Doe I through John IX, were careless and negligent in creating and implementing appropriate policies, in supervising, training, controlling and disciplining the defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and the other John Doe police officers involved, in regard to when citizens can be stopped, when force can be used upon citizens, and the degree of force.

9. The aforementioned wrongful conduct of the defendant police officers was not the result of discretionary activities, but carrying out the administrative duties and functions to be carried out by the police officers.

10. As a direct and proximate result of the aforesaid wrongful and violative conduct of the defendants, plaintiff has the right to bring this civil action for damages, and reasonable attorneys fees and costs, pursuant to the New Jersey Civil Rights Act, N.J.S.A. 10:6-2.

WHEREFORE, plaintiff, Jovan Cottman, demands Judgment against the defendants, City of Pleasantville, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and John Doe I through John Doe IX, jointly, severally, and in the alternative, for compensatory damages, punitive damages, costs of suit, interest, attorney's fees, and such other relief as allowed by law.

FIFTH COUNT

1. Plaintiff repeats the allegations of the first four Counts as if set forth fully herein.

2. Defendants, City of Pleasantville, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and John Doe I through John Doe IX, had knowledge or if they had diligently exercised their duties to instruct, supervise, control and discipline on a continuing basis, should have had knowledge, that the wrongs conspired to be done or committed upon plaintiff were about to be committed. Said defendants had the power to prevent or aid in preventing the commission of said wrongs, could have done so by reasonable diligence, and negligently and willfully failed to do so.

3. Said defendants, directly or indirectly, under color of law, approved and ratified the unlawful, deliberate, malicious, reckless, wanton and negligent conduct of the defendant police officers as heretofore described.

4. As a direct and proximate result of the negligent, intentional, and wanton and willful acts or omissions of said defendants, plaintiff was injured as aforementioned.

WHEREFORE, plaintiff, Jovan Cottman, demands Judgment against the Defendants, City of Pleasantville, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and John Doe I through John Doe IX, jointly, severally, and in the alternative, for compensatory damages, punitive damages, costs of suit, interest, attorney's fees, and such other relief as allowed by law.

SIXTH COUNT

1. Plaintiff repeats the allegations of the first five Counts as if set forth fully herein.

2. After plaintiff was taken into custody, he was falsely charged with resisting arrest, assaulting a police officer, and other offenses for which the defendants had no probable cause, and which charges were false and fabricated in order to try to justify the unlawful stopping, arrest and excessive and unlawful force inflicted upon plaintiff by defendants.

3. The defendants did not have any reasonable basis, nor probable cause or justification to cause to be filed the aforementioned charges.

4. Plaintiff was found not guilty of the aforementioned charges, otherwise those charges were dismissed.

5. The defendants filing and pursuing the aforementioned charges constituted malicious prosecution, and abuse of criminal and civil process.

6. As a direct and proximate cause of the aforementioned malicious prosecution, abuse of process, and wrongful conduct of the defendants, plaintiff was caused to sustain emotional injuries, was falsely detained and imprisoned, required to the answer to the charges in Court, was humiliated and suffered from extreme emotional distress and humiliation, and incurred attorney's fees and costs.

WHEREFORE, plaintiff, Jovan Cottman, demands Judgment against the Defendants, City of Pleasantville, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and John

Doe I through John Doe IX, jointly, severally, and in the alternative, for compensatory damages, punitive damages, costs of suit, interest, attorney's fees, and such other relief as allowed by law.

SEVENTH COUNT

1. Plaintiff repeats the allegations of the first six Counts as if set forth fully herein.

2. Defendants, John Doe I through John Doe IX, are unknown persons, government entities or business entities.

3. Despite diligent inquiries, the actual identity of defendants John Doe I through John Doe IX are unknown to plaintiff and accordingly are designated as fictitious names

4. Defendants, John Doe I and John Doe III, were otherwise responsible for selecting, hiring, training, supervising, disciplining, and implementing policies and procedures, in regard to its police officers.

5. Defendants John Doe IV and VII were agents, servants and employees and police officers employed by the City of Pleasantville and its Police Department who negligently, with gross negligence, recklessness, and/or wanton, wilfully, or maliciously committed harassment, assault and battery, falsely restraint, false arrest, false imprisonment, malicious prosecution, abuse of criminal and civil process, and violated plaintiff's civil rights.

6. Defendants John Doe VIII through John Doe IX, were individuals or entities of the City of Pleasantville or otherwise that directly and proximately caused, and were liable for all of plaintiff's injuries, damages, and losses as aforementioned, under any

theory of liability whatsoever, at law, equity, strict liability, statutory, regulatory, constitutional, contractual, or otherwise.

WHEREFORE, plaintiff, Jovan Cottman, demands Judgment against the Defendants, City of Pleasantville, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, Andre Graves, and John Doe I through John Doe IX, jointly, severally, and in the alternative, for compensatory damages, punitive damages, costs of suit, interest, attorney's fees, and such other relief as allowed by law.

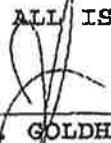
10/18/13  
DATE

  
JERRY C. GOLDHAGEN, ESQUIRE  
Attorney for Plaintiff

JURY DEMAND

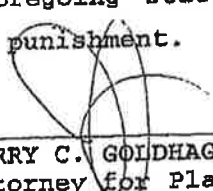
A TRIAL BY JURY IS HEREBY DEMANDED ON ALL ISSUES.

10/18/13  
DATE

  
JERRY C. GOLDHAGEN, ESQUIRE  
Attorney for Plaintiff

I am an attorney admitted to practice law in the State of New Jersey, counsel for the above-named Plaintiff. The matter in controversy in this case is not the subject of any other action pending in any court or of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated. There are no other parties who should be joined in this action, except for specifically designating those defendants presently designated by fictitious names.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

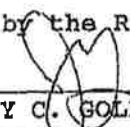
  
\_\_\_\_\_  
JERRY C. GOLDHAGEN  
Attorney for Plaintiff

TAKE NOTICE that the undersigned attorney, counsel for this plaintiff, does hereby demand, pursuant to Rules 1:5-1(a) and 4:17-4© that each party herein serving pleadings and Interrogatories and receiving answers thereto, serve copies of all such pleadings and answered Interrogatories received from any party, including any documents, papers, and other materials referred to therein, upon the undersigned attorney, and TAKE NOTICE that this is a continuing demand.

  
\_\_\_\_\_  
JERRY C. GOLDHAGEN  
Attorney for Plaintiff

TAKE NOTICE that the undersigned attorney, counsel for this plaintiff, does hereby demand, pursuant to R.4:17-2 answers to Form C and the annexed Supplementary Interrogatories.

TAKE NOTICE that the undersigned attorney, counsel for plaintiff, does hereby demand, pursuant to R.4:18-1, responses to the Notice to Produce Documents annexed to the within Complaint, as Exhibit A, within the time limits prescribed by the Rules of the Court.

  
JERRY C. GOLDHAGEN, ESQUIRE  
Attorney for Plaintiff

Date: 10/18/13

Exhibit "A"

1. Results of any CIB check on plaintiff.
2. Photographs, video tapes, sound recordings, diagrams or other depictions of any persons, locations, vehicles, objects or products which involve the subject matter of this lawsuit.
3. Repair estimates, repair invoices, proof of payment for repairs, proof of payment for totaled vehicle, for any vehicle, object, location or product involved in the incident which is the subject of this lawsuit.
4. Declaration sheet for any insurance policy covering the plaintiff's claims at the time of the incident which is the subject matter of this lawsuit, and the declaration sheet for any excess or umbrella coverage.
5. Any statements provided, completed, written and/or signed by the plaintiffs, or agents, servants or employees of plaintiffs, in any form, or any memorialization of such statements.
6. Statements of any defendant, or their agents, servants and employees, in any form regarding the subject matter of this lawsuit, (other than statements to their attorneys).
7. Any accident, incident, security or similar form produced by Defendant, or its agents, servants or employees regarding the incident which is the subject matter of this lawsuit, including, without limitation any employee's statements.
8. Reports of any proposed expert witnesses for trial and their current resumes, and any learned treatises, or articles they may rely upon.

9. The entire contents of any investigation file or files and any other documentary material in your possession which support or relate to the allegations of plaintiff's Complaint (excluding references to mental impressions, conclusions or opinions representing the value or merit of the claim or defense or respecting strategy or tactics and privileged communications to and from counsel).

10. Any and all statements concerning this action, as defined by R.4:10-2 from any witnesses including any statements from the parties herein, or their respective agents, servants or employees.

11. Any and all documents containing the name, home and business address of all individuals contacted as potential witnesses.

12. Agreements, or any document evidencing any term of any agreements, which are relevant to the issues in this case, including, without limitation, lease agreements, construction agreements, installation agreements, and maintenance agreements.

13. Any police rules, procedures, policies, and manual regarding the training, supervision of police officers regarding a person may be stopped, questioned, or arrested.

14. Any police manual, rules, procedures and policies governing the conduct of the police officers and the use of force and violence in effect at the time of the incidents described in the preceding Complaint.

15. A copy of any criminal, quasi criminal, Municipal Court disorderly persons Summons and/or Complaints and indictments, accusations or charges against the plaintiff resulting from the preceding Complaint, or any incidents allegedly involving the City of Pleasantville and its Police Department.

16. Any document evidencing the disposition of any of the Complaints or charges referred to in the preceding document demands.

17. Any internal affairs, internal discipline, or similar investigations, charges and findings against any police officer involved in the incident involved in the preceding Complaint arising out of such incidents, or any incident prior thereto, whether or not involving plaintiff.

18. A copy of plaintiff's criminal record ("rap sheet") and DMV record.

19. Any records, reports, or complaints involving defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, and Andre Graves, alleging improper, excessive, unnecessary, or unlawful use of force.

20. Any records, reports, or complaints involving defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, and Andre Graves, alleging improper or false detention or improper or false arrest.

21. Any records, reports, or complaints involving defendants, David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, and Andre Graves, alleging the filing of false charges or charges without reasonable probable cause or malicious prosecution or abuse of process.

22. The City of Pleasantville personnel and disciplinary file, including but not limited to, any Internal Affairs complaints or disciplinary action and the results thereof, for David Aristzabal, Danny Harper, Stacy Williams, Michael Gazo, Franco Correa, and Andre Graves defendants (their social security number, home address and

salary information may be redacted therefrom. If any other information is intended to be redacted, the nature of that information should be provided to describe in sufficient detail for plaintiff's counsel such that he can make an informed determination as to whether or not such claimed privileges is appropriate).

23. Provide a compilation of any Internal Affairs' Complaints, charges or allegations against any Pleasantville Police Department Officer, involving charges of use of excessive force, or improper, unlawful detention, arrest or imprisonment, or unlawful filing of false charges or charges without probable cause, or malicious prosecution, or abuse of process, or other alleged improper or unlawful police conduct, and the disposition, findings and conclusions of those Internal Affairs' Complaints, for the period of time beginning January 1, 2000 through December 31, 2012.

24. Provide any recordings and transcripts for all police dispatch communications to and from the Pleasantville Police Department Dispatcher(s) regarding the October 18, 2011 police incident involving plaintiff and/or the underlying alleged incident at the nearby commercial bar.

25. Clear color photographs taken of Jovan Cottman or any scene, object, or other person regarding the subject matter of this lawsuit.

26. Any communications by or on behalf of the City of Pleasantville or its representatives to plaintiffs and/or their legal representatives regarding the subject incident or the Internal Affairs Complaint or any quasi-criminal Complaints arising therefrom.

27. Produce the gloves and boots that any individually named defendant was wearing during his/her physical involvement with

plaintiff on October 18, 2011 or a facsimile of the same type, model and brand.

28. Provide any documentation of how long plaintiff was in the custody of the Pleasantville Police and/or in their holding cell, until his release, including but not limited to any turnkey records or log.

29. Any Use of Force reports related to the subject incident;

30. The IA file related to the plaintiff's IA Complaint regarding this incident;

31. Any police reports, arrest report, Use of Force reports, Complaint, charges, discovery and disposition of charges against any other suspect the police were investigating around the time of the subject incident;

32. Any photographs, medical records or other documentation of alleged injuries sustained by any Officer or plaintiff in the subject incident;

33. The "rap sheet" of any officer involved in the subject incident;

34. Records and reports for any criminal, quasi-criminal, IA or police disciplinary complaints, charges or charge convictions against any of the individually named defendants.

35. All police reports; all dispatcher records; statements; photographs; tapes; turnkey and other imprisonment records; medical records; statements from any officer or Judge to find probable cause and/or to set bail, and any other documentation of the subject incident.

36. A copy of the personnel and discipline file for any of the individually named defendant, including his/her entire term of employment with the Pleasantville Police Department: (a) including and leading up to the October 18, 2011 incident; and (b) thereafter.

37. The hat, shirt, pants, or other clothing worn by plaintiff on October 18, 2011.

38. Documentation of any IA Complaints ever filed against any of the individually named defendants, from January 2000 through December 31, 2011, including but not limited to, the date of the IA Complaint, nature of the charges and allegations, and the findings and conclusions reached by the City of Pleasantville as to each IA Complaint and charge, the name and address, employer and job title of the City representative(s) who conducted the IA investigation and rendered the IA findings and conclusions.

39. Copies of any written, typed, transcribed or other statements by made any of the individual defendant officers in regard to any IA Complaint which has ever been filed against them.

40. Any documentation including but not limited to, all procedures, policies, rules, regulations, and standing orders, in effect from October 18, 2011 forward, for the handling of Internal Affairs' Complaint with the Pleasantville Police Department.

41. Did anyone employed by the City of Pleasantville, have any communications with anyone employed by the County of Atlantic in regard to the October 18, 2011 incident and any charges against anyone arising therefrom? If so, set forth the date, nature, and substance of the communications, the name and employer of the person(s) involved, and if in writing, attach a clear, complete copy.

42. Where there any surveillance or other cameras that could have captured or did capture any aspect of the October 18, 2011 incident, and if so, set forth the location, name and address of owner and operator, whether or not the camera captured any images, what image was captured, and attach a clear, complete copy of any video or photographic images obtained or made.

43. Did plaintiff plead guilty to any offense arising out of the October 18, 2011 incident. If so, attach a copy of any plea, guilty judgment of conviction, dismissal, plea bargain, sentencing, or pre-sentence report.

44. If plaintiff had any criminal record, arrest, or warrant leading up to and including October 18, 2011, set forth in detail what record he had, and attach a clear, complete copy of his record and "rap sheet".

45. Did plaintiff have identification documentation on his clothing or person, accurately identifying him as plaintiff on October 18, 2011? If so, what type of identification did he have, when, who, and how possession of it was obtained, and attach a clear, complete copy.

46. Was there a policy and procedure in effect on October 18, 2011 for the City of Pleasantville and its Police Department requiring police officers observing a suspect resisting or engaging in threatening or assaultive conduct against another police officer, to assist that police officer, instead of just standing there, or looking or walking away? If so, describe the policy in detail and attach a clear, complete copy.

47. Was there a policy or procedure of the City of Pleasantville and its police department for its officers to promptly report over the air if a suspect that is physically fleeing, resisting, or assaulting a police officer? If so, describe that policy or procedure in detail and attach a clear, complete copy.

48. Did the City of Pleasantville and its police department have a policy or procedure requiring its officers to report physical force used by a police officer upon a suspect, and if so describe that policy or procedure in detail, what type of reports were to be filed and when and by whom, and attach a clear, complete copy of any documentation of such policy or procedure, and whether or not it was complied with in the case of plaintiff, and if not, why not.

49. From January 1, 2011 through June 30, 2013 describe the Pleasantville Police Department's routine policy or procedure for investigating Internal Affairs Complaints and rendering conclusions, and the time frame involved in doing so, and if in written form, attach a clear, complete copy.

50. Was there any policy or rules or procedure in effect on October 18, 2011 for handcuffing suspects; and what was to be told to suspects before cuffing. If so, describe it in detail, and in writing, attach a clear, complete copy.

NOTE: As to any documents claimed to be non-discoverable, state the basis for this position, and describe the document, (e.g. date, author, recipient, form, purpose, etc.), with sufficient specificity to permit plaintiffs and the Court to determine the validity of defendant's position.

SUPPLEMENTARY INTERROGATORIES

1. Did any individually named defendant grab, bring down to the ground, kick, punch or stomp plaintiff , and if so, who did what and when?
2. Describe in detail who and why any of the individually named defendants (a) stopped plaintiff; (b) physically held plaintiff; and (c) arrested plaintiff?
3. From the time that the Pleasantville police first was in the direct view of plaintiff, state the identity, location, and distance of the observing police officer and each other officer from plaintiff, and what each officer was doing or saying during that time.
4. State the name, rank and badge number of any Pleasantville Police Officer that had any physical contact with plaintiff at any time during the October 18, 2011 incident, and describe that physical contact in detail, and any reason(s) for that contact.
5. Describe in detail any physical injuries sustained by plaintiff as a result of the subject October 18, 2011 incident and who inflicted those injuries, and how and why they were inflicted.
6. Describe in detail any force used upon plaintiff at any time during the subject October 18, 2011 incident, who used that force, the nature of that force, by whom, when and why.
7. Did plaintiff ever communicate while he was in the custody of the Pleasantville Police Department that he wanted to go to a hospital emergency room for the injuries he sustained in the October 18, 2011 incident? If so, when, where and to whom was such request(s) made, and what was the response(s)? If in writing, attache a clear, complete copy.

8. Were any arrests or charges ever filed against any other person in connection with the neighboring bar incident on that evening, and if not, explain in detail the reason(s) why not. If they were, attach a copy.

9. Did the individually named defendants file all reports required by the police department rules and regulations in effect on October 18, 2011, and if not, set forth which type of report was not filed, by whom, and the reason(s) it was not filed.

10. Describe in detail the reasons for any delay involved in obtaining statements of the police officers involved or present at the subject October 18, 2011 incident, after plaintiff filed his Internal Affairs Complaint.

11. Did any police officer, drive a police car onto the property of plaintiff's residence on October 18, 2011, and if so, identify which officer(s) did so, specifically where he or she drove, what the car impacted, and what property damage was caused, and state the reason(s) for driving on to the plaintiff's property.

12. What statements did any officer make to plaintiff, which officer made them, when they were made, the location of each statement, the distance and position of plaintiff to the officer making the statement, the purpose of each statement, and state plaintiff's reaction or response, physically or verbally to it.

13. Did plaintiff fully cooperate with the officers, and if not, explain in detail what he did not do that he was supposed to do, or what he did that he was not supposed to do, and what each officer did as a result.

14. Did any Pleasantville Police Officer witness another officer grab or bring plaintiff down to the ground, or punch, strike or kick plaintiff at any time on October 18, 2011? If so, identify which officer made what specific observation, when, and from what vantage point and distance?

15. Describe and document and provide the date of any prior contact, or involvement, the Pleasantville Police Department had with plaintiff.

16. Did plaintiff exhibit any threatening or assaultive conduct, or attempt to resist or flee, and if so, what did he do, when and where, from what vantage point and distance, and who observed this, and what was done by whom as a result?

17. Did anyone employed by the City of Pleasantville, have any communications with anyone employed by the County of Atlantic in regard to the October 18, 2011 incident and any charges against anyone arising therefrom? If so, set forth the date, nature, and substance of the communications, the name and employer of the person(s) involved, and if in writing, attach a clear, complete copy.

18. Set forth in detail the policy and procedure of the City of Pleasantville for a citizen such as plaintiff to file and pursue an assault charge against a Pleasantville Police Officer, and if in writing, attach a clear, complete copy.

19. Set forth in detail all of the alleged reason(s) for the assault or resisting arrest charge or other charge against plaintiff being dismissed?

20. Where there any surveillance or other cameras that could have captured, or did capture, any aspect of the October 18, 2011

incident, and if so, set forth the location, name and address of owner and operator, whether or not the camera captured any images, what image was captured, and attach a clear, complete copy of any video or photographic images obtained or made.

21. Set forth the best estimate of the age, height and weight of the following persons on October 18, 2011: (a) Plaintiff; (b) David Aristzabal; (c) Danny Harper; (d) Stacy Williams; (e) Michael Gazo; (f) Franco Correa; and (g) Andre Graves.

22. Describe in detail any training or experience and where and when it was obtained, that any of the following persons had in wrestling, boxing, martial arts, gaining physical control over someone, leading up to and including October 18, 2011, and attach documentation of any such training and experience: (a) Plaintiff; (b) David Aristzabal; (c) Danny Harper; (d) Stacy Williams; (e) Michael Gazo; (f) Franco Correa; and (g) Andre Graves.

23. Was there any City of Pleasantville or its Police Department policy or procedure in effect on October 18, 2011 for advising a suspect such as plaintiff that he was under arrest, and for what reason(s) before physically restraining and/or handcuffing him? If so, set forth the policy and procedure in detail, and if in any written form, attach a clear, complete copy.

24. Was the policy and procedure referred to in response to the preceding Interrogatory complied with in regard to plaintiff? If so, describe in detail who and how it was complied with, when, where and what plaintiff was told, and attach any document is alleged that such policy or procedure was complied with.

25. Did any policy or procedure of the City of Pleasantville and its Police Department in effect on October 18, 2011 permit a police officer to physically grab, take down to the ground, or punch, kick or strike, a suspect that allegedly delayed in verbally responding to a request to stop? If so, set forth the policy and procedure in detail, and if in writing, attach a clear, complete copy.

26. Did plaintiff plead guilty to any offense arising out of the October 18, 2011 incident. If so, attach a copy of any plea, guilty judgment of conviction, dismissal, plea bargain, sentencing, or pre-sentence report.

27. If plaintiff had any criminal record, arrest, or warrant leading up to and including October 18, 2011, set forth in detail what record he had, and attach a clear, complete copy of his record and "rap sheet".

28. Did plaintiff have any unlawful weapon or contraband on his person, clothing, or in the vicinity of his person or clothing, on October 18, 2011? If so, describe in detail what item was found, where, when and by whom, and produce the item(s) found and any photographs taken of it.

29. Did plaintiff have identification documentation on his clothing or person, accurately identifying him as plaintiff on October 18, 2011? If so, what type of identification did he have, when, who, and how possession of it was obtained, and attach a clear, complete copy.

30. Was plaintiff asked to produce documentation of his identity before any defendant physically grabbed or took him to the ground or punched or kicked him, and if so, who asked him, when, what was

plaintiff's response, and attach any report or other documentation of this exchange. If no such request was made before any defendant grabbed or threw down or punched or kicked plaintiff, explain in detail why not.

31. Had plaintiff committed any unlawful act before any defendant either grabbed, threw him to the ground, kicked or punched him? If so, describe in detail what alleged unlawful act plaintiff did, to whom, and who witnessed this alleged unlawful act.

32. Was there a policy and procedure in effect on October 18, 2011 for the City of Pleasantville and its Police Department requiring police officers observing a suspect resisting or engaging in threatening or assaultive conduct against another police officer, to assist that police officer, instead of just standing there, or looking or walking away? If so, describe the policy in detail and attach a clear, complete copy.

33. Describe in detail what plaintiff and each police officer involved did and said, until plaintiff was handcuffed, and after he was cuffed, and the best approximation of how much time elapsed from the first physical contact until plaintiff was handcuffed.

34. Was there a policy or procedure of the City of Pleasantville and its police department for its officers to promptly report over the air if a suspect that is physically fleeing, resisting, or assaulting a police officer? If so, describe that policy or procedure in detail and attach a clear, complete copy.

35. If the policy or procedure provided in response to the preceding question was complied with, when and who complied with it, how was it complied with, and attach any report or other documentation of this alleged compliance.

36. Did the City of Pleasantville and its police department have a policy or procedure requiring its officers to report physical force used by a police officer upon a suspect, and if so describe that policy or procedure in detail, what type of reports were to be filed and when and by whom, and attach a clear, complete copy of any documentation of such policy or procedure, and whether or not it was complied with in the case of plaintiff, and if not, why not.

37. State the name, job title, and current employer and inclusive dates, of the person in a supervisory capacity, investigating and reviewing, for Pleasantville Police Department Internal Affairs Complaints rendering and approving conclusions in regard thereto, from (a) January 1, 2000 to the present time; (b) October 18, 2011 through December 30, 2011?

38. From January 1, 2011 through June 30, 2013 describe the Pleasantville Police Department's routine policy or procedure for investigating Internal Affairs Complaints and rendering conclusions, and the time frame involved in doing so, and if in written form, attach a clear, complete copy.

39. State whether or not any of the individual named defendant Officers were wearing anything on either fist at the time of his/her contact with plaintiff, and if so provide a description, photograph and facsimile of that item(s), and state whether it was authorized police equipment at the time;

40. State Whether or not there were any cameras at the incident site and any recordings made.

41. State the name, rank and badge number of every officer involved with plaintiff on October 18, 2011 both outside and inside the police station and during his being beaten and taken and held in custody, indicating what involvement each had, and their height, weight and race.

42. Was there any policy or rules or procedure in effect on October 18, 2011 for handcuffing suspects; and what was to be told to suspects before cuffing. If so, describe it in detail, and in writing, attach a clear, complete copy.

ATTORNEY ID #001711979  
GERALD F. MIKSIS, ESQ.  
1125 Atlantic Avenue  
Suite 647  
Atlantic City, NJ 08401  
(609) 344-7700  
Attorney For Plaintiff

RAFAEL G. MARTINEZ

: SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION-ATLANTIC COUNTY

Plaintiff,

v.

: DOCKET NO. ATL-L-

1458-17

CITY OF PLEASANTVILLE,  
GIRARD J. TELL, AND JOHN DOE

: Civil Action

Defendants

COMPLAINT

Plaintiff residing in the City of Pleasantville by way of complaint against defendants says:

**PREAMBLE**

1. This matter is governed by Title 59 of New Jersey Statutes.
2. The incident occurred November 16, 2016, wherein the Plaintiff suffered damages.
3. More then six (6) months have elapsed since the happening of the event and no settlement has occurred.

**COUNT ONE**

1. On or about November 16, 2016, plaintiff, Rafael G. Martinez, was in the City of Pleasantville at or near East Princeton Avenue.
2. On that day and at that time, Plaintiff was subject to false arrest, false imprisonment, malicious prosecution, and battery by Patrolman Girard J. Tell.
3. Patrolman Girard J. Tell was in the course of his employment for the City of Pleasantville when he caused the plaintiff to sustain false arrest, false imprisonment, malicious prosecution, and battery.
4. As the result of the conduct of defendant, Girard J. Tell, Rafael G. Martinez sustained pain

and suffering, emotional distress, loss of employment, permanent injury, medical bills and other damages of a permanent and ongoing nature.

5. As a result of the conduct of defendant, Girard J. Tell, plaintiff's civil rights have been violated.

WHEREFORE, plaintiff, Rafael G. Martinez demands Judgment against the City of Pleasantville for compensatory damages, punitive damages, costs of suit, and attorney's fees.

### COUNT TWO

1. Plaintiffs repeat paragraphs one through five of Count One as if fully set forth herein, but for the sake of brevity are not set out at length.

2. Girard J. Tell caused plaintiff injury as recited above and false arrest, false imprisonment, malicious prosecution, and battery.

3. Girard J. Tell, as an employee and an individual did violate plaintiff's civil rights.

WHEREFORE, Rafael G. Martinez demands Judgment against defendant, Girard J. Tell, for compensatory damages, punitive damages, costs of suit, and attorney's fees.

### COUNT THREE

1. Plaintiffs repeat paragraphs one through three of Count Two as if fully set forth herein, but for the sake of brevity are not set out at length.

2. John Doe is a party, to be named more specifically in discovery, who may be responsible to this plaintiff as a result of negligence and damages.

WHEREFORE, Rafael G. Martinez demands Judgment against defendant, John Doe, for compensatory damages, punitive damages, costs of suit, and attorney's fees.

**DEMAND IS MADE FOR JURY TRIAL AS TO ALL ISSUES OF THE WITHIN MATTER.**

July 10, 2017

  
Gerald F. Miksis

CERTIFICATION PURSUANT TO RULE 4:5-1  
AND DESIGNATION OF TRIAL COUNSEL

I hereby certify that the matter in controversy, herein, is not the subject matter of any other action in any other Court or arbitration process of which the undersigned is aware. Further, I hereby certify that no other action or arbitration process is contemplated. I further certify that it is not contemplated that any other party should be joined in this action.

I hereby certify that the foregoing statements made by me are true and I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Pursuant to Rule 4:25-4, GERALD F. MIKSIS, ESQUIRE is hereby designated as trial counsel on behalf of the Plaintiff.

  
GERALD F. MIKSIS

Dated: July 10, 2017

RECEIVED and  
FILED  
JUL - 7 2017  
ATLANTIC COUNTY  
LAW DIVISION

|                                                                                                                                                                                                                                                                 |                                                                                                                                                                          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Joseph McGee,</p> <p>Plaintiff,</p> <p>v.</p> <p>City of Pleasantville, Police Department, Sgt.<br/>Brandon Stocks, individually, jointly and in<br/>the alternative, John Does 1-3, individually<br/>and in their official capacity,</p> <p>Defendants.</p> | <p>SUPERIOR COURT OF NEW JERSEY,<br/>LAW DIVISION</p> <p>COUNTY OF ATLANTIC</p> <p>Docket No.: 1-1380-17</p> <p>Civil Action</p> <p><b>COMPLAINT AND JURY DEMAND</b></p> |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

This is a claim brought on behalf of the Plaintiff, Joseph McGee, who suffered severe nerve damage in his left hand after Defendant, Sergeant Brandon Stocks, of the City of Pleasantville Police Department, unjustifiably slammed a truck mirror against Mr. McGee's hand. Mr. McGee alleges that Defendants are liable for damages under the New Jersey Civil Rights Act, excessive use of force, State created danger and the tort principles of assault and battery, negligence, intentional infliction of emotional distress, and negligent infliction of emotional distress.

### **PARTIES & RELEVANT FACT WITNESSES**

1. Plaintiff, Joseph McGee, resides in Northfield, NJ 08225, and is employed by McLandscaping, Inc. also located in Northfield, New Jersey.
2. Plaintiff, Joseph McGee is nineteen (19) years of age; his date of birth is July 28, 1997.
3. Defendant, City of Pleasantville, Police Department, is located at 17 N 1st St., Pleasantville, NJ 08232.
4. At all times relevant, the City of Pleasantville is a public entity subject to the
5. Defendant, Sergeant Brandon Stocks ("Stocks" and/or "Sgt. Stocks"), was at all relevant times, a member, employee and agent of the City of Pleasantville, Police Department, Officer Badge No. 1110.
6. At all times relevant, Stocks was acting under color of state law.
7. Sgt. Stocks is a K-9 Sergeant.
8. A K-9 unit is a specialized group of law enforcement officers that train, care for and utilize service dogs to assist in criminal investigations. Each K-9 officer assumes the responsibility of a dog handler in addition to normal police duties.
9. Defendants, John Doe 1-3 are unknown police officers and/or municipal employees, agents and/or supervisors responsible for training and supervising Sgt. Stocks and/or having adopted and/or enforced customs policies and/or practices that encourage violations of the laws as identified below.

## STATEMENT OF FACTS

### *Background*

10. Joseph McGee is employed by McLandscaping, Inc. in Northfield New Jersey.
11. On or about October 24, 2016 at approximately 5:00PM, Mr. McGee was to deliver shrubs in Pleasantville, New Jersey.
12. En route to the delivery, Mr. McGee passed by a construction area on Shore Road in Pleasantville.
13. After he was "waved on" by a construction worker, Mr. McGee drove through the construction area.
14. While driving through the area, Mr. McGee had his driver's side window down and his left hand positioned hanging outside of the window.
15. Towards the end of the construction area, Sgt. Brandon Stocks stepped towards Mr. McGee's work vehicle, taking a swing at Mr. McGee through the window of his truck.
16. Sgt. Stocks struck Mr. McGee's mirror, slamming it against his hand, causing his hand to bend backwards and causing a jamming injury to his elbow..
17. At the time, Mr. McGee was travelling at a rate of speed of 15 mph.
18. Mr. McGee, shocked, quickly braked to check to see what just occurred.
19. Mr. McGee looked in his mirror and saw the officer look away, seemingly as if nothing had happened.
20. Immediately, Mr. McGee felt pain and weakness, following by a numb, tingling sensation in his left hand.

21. Mr. McGee continued with his delivery, however he now had severe pain in his hand as a result of Sgt. Stocks' actions.
22. Upon his return from the delivery, Mr. McGee passed the construction area again.
23. Mr. McGee, still confused as to what had previously transpired, stopped to inquire from the Officer why he had assaulted plaintiff.
24. Mr. McGee did so while recording the conversation with Sgt. Stocks.
25. Sgt. Stocks berated Mr. McGee, admitted that he had intentionally and forcefully smacked in the mirror to the vehicle McGee was operating.
26. Sgt. Stocks then repeatedly asked Mr. McGee if he "would like a citation to go with that" referring to Mr. McGee's injury.
27. Mr. McGee asked why Sgt. Stocks had smacked his mirror, which in turn crushed McGee's hand.
28. Sgt. Stocks responded by getting increasingly more aggressive towards Mr. McGee, culminating in Sgt. Stocks' order for Mr. McGee to pull over to the side of the road.
29. Mr. McGee obliged.
30. Sgt. Stocks then issued Mr. McGee a citation for violation of N.J.S.A. 39:4-57 Failure to Observe Direction of Officer, ticket No. 0119-P-059806.
31. Mr. McGee, in an attempt to avoid more hostility from Sgt. Stocks, said nothing more and left upon receipt of the citation.
32. On or about October 25, 2016, the sensation in his left did not subside. Instead, he suffered constant swelling, stiffness, weakness, tingling and numbness in his left hand.
33. On or about October 25, 2016, Mr. McGee went to Urgent Care in Northfield, NJ.

34. On or about October 31, 2016, Mr. McGee was placed on "modified duty" by Dr. Stanley Marczyk, M.D. of Shore Orthopaedic University Associates, which restricted Mr. McGee's lifting to zero (0) pounds.
35. Mr. McGee suffered from constant numbness and tingling and has significant weakness and inability to grip in his left hand.
36. On or about December 7, 2016, Mr. McGee was evaluated by Dr. Arvind Baliga, M.D. in regards to his injury.
37. Mr. McGee's nerve test shows, among other things, that Mr. McGee suffers from ulnar neuropathy and median neuropathy.
38. Mr. McGee has markedly positive Tinsels' over his ulnar nerve at the elbow, positive Tinsel's over his carpal tunnel nerve, and median nerve at the wrist.
39. Mr. McGee's extensive nerve damage and injuries were a direct result of Sgt. Stocks' actions on or about October 24, 2016.
40. Mr. McGee was also instructed to participate in physical therapy three (3) times a week.
41. Mr. McGee filed his Tort Claims Notice against the City of Pleasantville on or about January 23, 2017. (**Exhibit A**, Tort Claims Notice)
42. As of this time, Mr. McGee's treatment for the nerve damage is ongoing and is anticipated to be permanent and significant.
43. Mr. McGee has been unable to fully perform his duties under his employment since Sgt. Stocks' actions towards him.
44. Mr. McGee is only nineteen (19) years old at the time of filing and thus, has a long career ahead of him prior to retirement.

45. Upon information and belief, Defendants failed and/or refused to provide adequate, appropriate and/or any training to Sgt. Stocks with respect to the use of force and the refrain from creating a dangerous condition.
46. As a direct and proximate result of Defendants actions, recklessness, deliberate indifference and negligence, Plaintiff has been caused to suffer severa and permanent bodily injuries.

#### **FIRST COUNT**

#### **Violation of the New Jersey Civil Rights Act, Excessive Force; New Jersey Constitution Article I, ¶1, Eighth and Fourteenth Amendments to the U.S. Constitution**

47. The above paragraphs are repeated as if set forth at length herein.
48. The New Jersey Civil Rights Act provides, in pertinent part:

*Any person who has been deprived of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States or any substantive rights, privileges or immunities secured by the Constitution or laws of this State...may bring a civil action for damages and for injunctive or other appropriate relief.*

N.J.S.A. 10:6-2(c).

49. New Jersey Constitution Article I, ¶1 states that “[a]ll persons are by nature free and independent, and have certain natural and inalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.”
50. Additionally, the United States Constitution provide that no “cruel and unusual punishment [be] inflicted” upon citizens, U.S. Const. Amendment VIII, and that no State

shall “deprive any person of life, liberty, or property, without due process of law[.]” U.S. Const. Amendment XIV, ¶ 1.

51. In evaluating a violation of substantive due process under the New Jersey Constitution, N.J. Const. Art. 1 ¶ 1, courts use the standards developed by the United States federal courts under the United States Constitution and 42 U.S.C. § 1983. *Roman Check Cashing v. N.J. Dept. of Banking & Ins.*, 169 N.J. 105, 110 (2001).
52. The conduct and actions of Defendants, acting in concert and under color of law, in authorizing, directing and/or causing the injury to Mr. McGee, was excessive and unreasonable, was done intentionally, willfully and maliciously, with deliberate indifference and/or with a reckless disregard for the natural and probable consequences of their acts, was done without lawful justification or reason, and was designed to and did cause specific and serious physical and emotional pain and suffering in violation of Plaintiff’s rights as guaranteed under New Jersey Civil Rights Act, and the Eighth and Fourteenth Amendments to the United States Constitution, and Article 1, ¶ 1 of the New Jersey Constitution, including the right to be free from cruel and unusual punishment, and the right to be free from the use of excessive, unreasonable and unjustifiable force.
53. Moreover, Sgt. Stocks issued a citation to Mr. McGee only after Mr. McGee returned to inquire as to the physical force used by Sgt. Stocks and thus was a retaliatory action by Defendant Stocks.
54. In intentionally slamming the mirror against Mr. McGee’s hand, causing severe nerve damage, Sgt. Stocks was an intentional, reckless, malicious and purposeful action by Stocks.

55. It is clear that Sgt. Blocks acted both with deliberate indifference and with the purpose to harm, as he admits to his intent in the audio-recording Mr. McGee obtained following his injury.

56. Sgt. Blocks had previously been a named party to other complaints regarding Civil Rights Violations, including use of excessive force. See Horton v. City of Pleasantville, Dkt. No. 1:2009-CV-02757; and Whitted v. City of Pleasantville, Dkt. No. 1:2013-CV-07316.

57. As a direct and proximate result of the foregoing, Plaintiff was subject to great physical and emotional pain and humiliation, was deprived of his liberty, and was otherwise damaged and injured.

**WHEREFORE**, Plaintiff seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, injunctive and equitable relief, every day and daily stress caused by Defendants' illegal acts, liquidated damages and any other damages the Court deems fair and just.

## **SECOND COUNT**

### **Violation of the New Jersey Civil Rights Act, State Created Danger; Article I and the Fourteenth Amendment**

58. The above paragraphs are repeated at length as if set forth herein.

59. The New Jersey Civil Rights Act provides, in pertinent part:

Any person who has been deprived of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States or any substantive rights, privileges or immunities secured by the Constitution or laws of this State...may bring a civil action for damages and for injunctive or other appropriate relief.

N.J.S.A. 10:6-2(c).

60. Article 1, ¶ 1 of New Jersey Constitution and the Fourteenth Amendment to the United States Constitution guarantees Plaintiff the substantive due process right to be free from state-created dangers.
61. To prove a theory of a “state created danger theory” of liability under the Civil Rights Act, four elements must be proven: (1) the harm ultimately caused was foreseeable and fairly direct; (2) the state actor acted in willful disregard for the safety of the plaintiff; (3) there existed some relationship between the state and the plaintiff; and (4) the state actor used their authority to create an opportunity of harm that otherwise would not have existed. *Estate of Smith v. Marasco*, 318 F.3d 347, 506-07 (3d Cir. 2003).
62. Defendant’s actions caused and/or created a clear and foreseeable harm when Sgt. Stocks intentionally, recklessly and deliberately smashed in the mirror to Plaintiff’s vehicle thereby causing it to smash up and into Plaintiff’s hand.
63. Defendant, Stocks, at all times relevant, acting under color of state law, acted in willful disregard for the safety of the Plaintiff.
64. Sgt. Stocks was directing traffic when he inappropriately struck Plaintiff’s vehicle in the process and Plaintiff’s hand became seriously injured as a direct consequence which injury would not have resulted had it not been for the Defendant’s position and authority over Plaintiff.
65. As a direct and proximate result of Defendant’s reckless, deliberate and intentionally harmful actions, Plaintiff was permanently injured by the state created danger when Sgt. Stocks smashed Mr. McGee’s truck mirror inward towards his hand.

66. It is clear that Sgt. Stocks' conduct "shocks the conscience" as his attack on Mr. McGee was unprovoked, unwarranted, and not in furtherance of any police action.

**WHEREFORE**, Plaintiff seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, injunctive and equitable relief, every day and daily stress caused by Defendants' illegal acts, liquidated damages and any other damages the Court deems fair and just.

### **THIRD COUNT**

#### ***Montell Claim against John Doe 1-3 and City of Pleasantville***

67. The above paragraphs are repeated at length as if set forth herein.

68. The City and John Does 1-3 directly caused the constitutional violations suffered by Plaintiff and is liable for the damages suffered by Plaintiff as a result of the conduct of Defendant Sgt. Stocks. The conduct of Defendant officer was a direct consequence of policies and practices of Defendant City of Pleasantville.

69. At all times relevant, Defendant City and John Does 1-3, acting through the Pleasantville Police Department, had in effect policies, practices and customs that condoned and fostered the unconstitutional conduct of the individual defendant and were a direct proximate cause of the damages and injuries complained herein.

70. Additionally, the City and John Does 1-3 knew or should have known, more specifically of Defendant Sgt. Stocks' propensity to engage in misconduct of the type alleged herein.

Upon information and belief, prior to the incident, the City was aware of at least two (2) claims of constitutional violations involving Sgt. Stocks.

71. Sgt. Blocks had previously been a named party to other complaints regarding Civil Rights Violations, including use of excessive force. See *Horton v. City of Pleasantville*, Dkt. No. 1:2009-CV-02757; and *Whitted v. City of Pleasantville*, Dkt. No. 1:2013-CV-07316.
72. The failure to appropriately train Sgt. Stocks by John Does 1-3 “amounts to deliberate indifference to the rights of persons” Sgt. Stocks came in contact with, serving as the basis of liability under the New Jersey Civil Rights Act. See, *Sutton v. Utah State School for the Deaf and Blind*, 173 F.3d 1226, 1240 (10th Cir. 1999); *Williams v. Fedor*, 69 F.supp. 2d 649, 660-63 (M.D. Pa. 1999), aff’d, 211 F.3d 1263 (3d Cir. 2000); *Popow v. City of Margate*, 476 F. Supp. 1237, 1246-47 (D.N.J. 1979).
73. Despite its knowledge of such incidents of prior misconduct, the City and John Does 1-3 failed to take remedial action.
74. Additionally, the City of Pleasantville has been the subject of multiple claims violations of civil rights protections by its officers. *Johnson v. City of Pleasantville*, Dkt. No. 05-4258 (JBS) (D.N.J. May 14, 2007); *Ashley v. Pleasantville Police Officer Angelo Maldonado, et al.*, Dkt. No. 1:11-cv-07526-JEI-JS (D.N.J. March 24, 2014); *Morris v. United States*, Dkt. No. 1:12-cv-2926-NLH-JS (D.N.J. Jul. 9, 2015); *Mozelle v. City of Pleasantville*, Dkt. No. 1:12-cv-1700 (D.N.J. Jul. 2, 2012); *Free v. City of Pleasantville*, Dkt. No. 1:07-cv-2716-RMB (D.N.J. Jul. 24, 2008); *Baker v. New Jersey*, Dkt. No. 1:10-5790-NLH (D.N.J. Jan. 31, 2012).

75. It was the policy and/or custom of the City and John Does 1-3 to inadequately and improperly investigate citizen complaints of police misconduct, and the acts of misconduct were instead tolerated by the City, including but not limited to the incidents listed above. For example, upon information and belief, despite the numerous complaints of misconduct that were filed against Sgt. S. Stocks, Sgt. Stocks received a promotion and pay increase on or about January 19, 2017, obtaining the rank of K-9 Sergeant.

76. It was the policy and/or custom of the City and John Does 1-3 to inadequately train, supervise and discipline its officers, including Defendant Sgt. Stocks, thereby failing to adequately discourage further constitutional violations on the part of its officers. The City did not require appropriate in-service training or re-training of officers who were known to have engaged in police misconduct.

**WHEREFORE**, Plaintiff seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, injunctive and equitable relief, every day and daily stress caused by Defendants' illegal acts, punitive damages and any other damages the Court deems fair and just.

#### **FOURTH COUNT**

##### **Assault**

77. Under *N.J.S.A. 59:2-2*, a public entity is liable "for injury proximately caused by an act or omission of a public employee within the scope of his employment in the same manner and to the same extent as a private individual under like circumstances."

78. “*N.J.S.A.* 59:3-14(a) strips away immunity for acts of willful misconduct, requiring “a showing that there has been a deliberate act or omission with knowledge of a high degree of probability of harm and reckless indifference to consequences.” *Berg v. Reaction Motors Div., Thiokol Chem. Corp.*, 37 N.J. 396, 414 (1962); *see also, Fielder v. Stonack*, 141 N.J. 101, 123 (1995) (willful misconduct is conduct that falls “between simple negligence and the intentional infliction of harm.”).

79. A person is subject to liability for assault if (a) he acts intended to cause a harmful or offensive contact with the plaintiff, or an imminent apprehension of such a contact, and (b) the plaintiff is thereby put in such imminent apprehension. *Leang v. Jersey City Bd. of Educ.*, 198 N.J. 557, 591 (N.J. 2009) (quoting *Wigginton v. Servidio*, 324 N.J. Super. 114, 129 (App. Div. 1999).

80. Contact includes any application of force to the person of the plaintiff even though it entails no pain or bodily harm and leaves no mark. *Kelly v. County of Monmouth*, 380 N.J. Super. 552, 558 (N.J. Super. App. Div. 2005)

81. No particular degree of contact is necessary for an assault and therefore, the touching and/or striking of the body of the plaintiff without legal justification against his will constitutes an assault.

82. In intentionally slamming the mirror against Mr. McGee’s left hand, Sgt. Stocks committed an assault on Mr. McGee, causing severe nerve damage.

**WHEREFORE**, Plaintiff seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness,

economic damages, injunctive and equitable relief, every day and daily stress caused by Defendants' illegal acts, punitive damages and any other damages the Court deems fair and just.

### **FIFTH COUNT**

#### **Battery**

83. The above paragraphs are repeated as if set forth at length herein.

84. Under N.J.S.A. 59:2-2, a public entity is liable "for injury proximately caused by an act or omission of a public employee within the scope of his employment in the same manner and to the same extent as a private individual under like circumstances."

85. A battery includes a preceding assault and in addition extends to actual, non consensual contact. *Perna v. Pirozzi*, 92 N.J. 446, 460-61 (1983); see also, *Russo Farms, Inc. v. Vineland Bd. of Educ.*, 144 N.J. 84, 105 (1996).

86. In intentionally slamming the mirror against Mr. McGee's left hand, Sgt. Stocks committed a battery on Mr. McGee, causing severe nerve damage.

**WHEREFORE**, Plaintiff seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, injunctive and equitable relief, every day and daily stress caused by Defendants illegal acts, punitive damages and any other damages the Court deems fair and just.

### **SIXTH COUNT**

#### **Intentional Infliction of Emotional Distress**

87. The above paragraphs are repeated as if set forth at length herein.

88. Defendant Sgt. Stocks' conduct, in slamming Plaintiff's truck mirror into Plaintiff's hand, without provocation or justification, was extreme, outrageous, and utterly intolerable in a civilized community; conduct which exceeded all reasonable bounds of decency.
89. Sgt. Stocks' conduct, described above, was intended to and did cause severe emotional distress to Plaintiff.
90. Sgt. Stocks' conduct was the direct and proximate cause of injury and damage to Plaintiff and violated her statutory and common law rights as guaranteed by the laws and Constitution of the State of New Jersey.
91. As a result of the foregoing, Plaintiff was deprived of his liberty, was subjected to serious and continuous physical and emotional pain and suffering, and was otherwise damages and injured.

**WHEREFORE**, Plaintiff seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, injunctive and equitable relief, every day and daily stress caused by Defendants illegal acts, punitive damages and any other damages the Court deems fair and just.

#### **SEVENTH COUNT**

##### **Negligent Infliction of Emotional Distress**

92. The above paragraphs are repeated as if set forth at length herein.
93. Defendant Sgt. Stocks' conduct, in assaulting and battering Plaintiff, was careless and negligent as to the emotional health of Plaintiff, and caused severe emotional distress to Plaintiff.

94. The acts and conduct of Sgt. Stocks was the direct and proximate cause of injury and damage to Plaintiff and violated her statutory and common law rights as guaranteed by the laws and Constitution of the State of New Jersey
95. As a result of the foregoing, Plaintiff was deprived of his liberty, was subjected to serious and continuous physical and emotional pain and suffering and was otherwise damaged and injured.

**WHEREFORE**, Plaintiff seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, injunctive and equitable relief, every day and daily stress caused by Defendants illegal acts, punitive damages and any other damages the Court deems fair and just.

### **EIGHTH COUNT**

#### **Negligence**

96. The above paragraphs are repeated as if set forth at length herein.
97. Defendant Sgt. Stocks, while acting as an agent and employee for Defendant City of Pleasantville, in his capacity as an officer for the City of Pleasantville, owed a duty to Plaintiff to perform his police duties without the use of excessive force. Defendant Sgt. Stocks' use of force upon Plaintiff, when Plaintiff was unarmed and did not pose a threat of death or grievous bodily injury to Defendant Sgt. Stocks or to others constitutes negligence for which Sgt. Stocks is individually liable.

98. Sgt. Stocks' use of force upon Plaintiff when Sgt. Stocks had no lawful authority to deliberately injure Plaintiff or use force against Plaintiff unprovoked constitutes negligence for which Sgt. Stocks is individually liable.
99. As a proximate result of Defendant Sgt. Stocks' negligent use of excessive force, Plaintiff sustained serious and continuous physical and emotional pain and suffering, and was otherwise damaged and injured.

**WHEREFORE**, Plaintiff seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, injunctive and equitable relief, every day and daily stress caused by Defendants illegal acts, punitive damages and any other damages the Court deems fair and just.

#### **NINTH COUNT**

##### **Respondeat Superior Liability of the City of Pleasantville and John Does 1-3**

100. The above paragraphs are repeated as if set forth at length herein.
101. The conduct of Defendant Sgt. Stocks alleged herein occurred while he was on duty and in uniform, in and during the course and scope of his duties and functions as a City of Pleasantville Police Officer, under the command and supervision of John Does 1-3, and while he was acting as an agent, officer, servant, and employee of Defendant City of Pleasantville. As a result, Defendant City of Pleasantville and John Does 1-3 are liable to Plaintiff pursuant to the state common law doctrine of respondeat superior.

**WHEREFORE**, Plaintiff seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily

limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, injunctive and equitable relief, every day and daily stress caused by Defendants illegal acts, punitive damages and any other damages the Court deems fair and just.

### **TENTH COUNT**

#### **Negligent Supervision, Retention and Training**

102. The above paragraphs are repeated as if set forth at length herein.
103. Defendant City of Pleasantville and John Does 1-3 negligently trained, retained and supervised Defendant Sgt. Stocks. The acts and conduct of Defendant Sgt. Stocks were the direct and proximate cause of injury and damage to Plaintiff and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New Jersey.
104. As a result of the foregoing, Plaintiff was deprived of his liberty, was subjected to severe and continuing physical and emotional pain and suffering, and was otherwise damaged and injured.

**WHEREFORE**, Plaintiff seeks damages to vindicate his rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, injunctive and equitable relief, every day and daily stress caused by Defendants illegal acts, punitive damages and any other damages the Court deems fair and just.

**DESIGNATION OF TRIAL COUNSEL**

Michelle J. Douglass, Esq., is hereby designated as trial counsel in the above-captioned matter.

**CERTIFICATION OF NO OTHER ACTIONS PURSUANT TO RULE 4:5-2**

I certify that the dispute about which I am suing is not the subject of any other action pending in any other court or a pending arbitration proceeding to the best of my knowledge and belief. Also, to the best of my knowledge and belief no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

**CERTIFICATION OF COMPLIANCE WITH R. 1:38-7(c)**

I certify the 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 R. 1:38-7(b).

**NOTICE OF LITIGATION HOLD**

The parties are hereby required to preserve all physical and electronic information that may be relevant to the issues to be raised, including but not limited to, Plaintiff's employment, to Plaintiff's cause of action, and/or prayers for relief, to any defenses to same, and pertaining to any party, including but not limited to, electronic data storage, close circuit TV footages, digital images, computer images, cache memory, searchable data, emails, spread sheets, employment files, memos, text messages and any and all online social or work related websites, entries on

social networking sites (including, but not limited to, Facebook, Twitter, LinkedIn, etc.,) and any other information and/or data and/or things and/or documents which may be relevant to any claim or defense in this litigation.

Failure to do so may result in separate claims for spoliation of evidence and/or for appropriate adverse inferences.

The obligation to preserve evidence begins when a party knows or should have known that the evidence is relevant to future or current litigation. You are on notice of litigation and therefore have an obligation to suspend your routine document retention/destruction policy and put in place a 'litigation hold' to ensure preservation of relevant documents." Failure to do so has been found to be 'grossly negligent' and may subject you to punishment.

**JURY DEMAND**

The plaintiff hereby demands a trial by jury on all of the triable issues of this complaint, pursuant to New Jersey Court Rules 1:8-2(b) and 4:35-1(a).

**MY RIGHTS LAWYERS**

Attorneys for Plaintiff

By 

MICHELLE J. DOUGLASS, Esq.

Dated: July 5, 2017

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY, CAMDEN VICINAGE**

**Plaintiff(s)**  
ALLEN D. MORRIS, JR.

JURY DEMANDED

vs.

Civil Action

**Defendant(s)**  
UNITED STATES OF AMERICA by and  
through UNITED STATES MARSHALL  
SERVICE FUGITIVE TASK FORCE,  
DOMINICK FERRARI CITY OF VINELAND,  
DOUGLAS HERBERT ATLANTIC COUNTY  
SHERIFF'S OFFICE, MARK ROWE OF NEW  
JERSEY STATE POLICE, STEVE BROWN  
NEW JERSEY STATE POLICE, RICHARD  
HENDERSON CITY OF PLEASANTVILLE,  
and STATE OF NEW JERSEY

NO. 1:12-CV-02926-NLH-JSMORRIS

Plaintiff, Allen D. Morris, Jr., residing in the City of Bridgeton, County of Cumberland, State of New Jersey by way of Amended Complaint against the defendants says:

**PARTIES**

1. Allen D. Morris, Jr. submit this amended complaint by order of Your Honor to specifically address that Atlantic County, City of Pleasantville, City of Vineland and the NEW Jersey State Police are properly named in the complaint and are a responsible party for the employees that were acting under them during the incidents that occurred which violated plaintiff's civil rights.
2. At all times hereinafter mentioned, Allen D. Morris, Jr., was a resident of the City of Bridgeton, County of Cumberland and State of New Jersey and an individual protected by the provisions of 42 U.S.C. §1983 and a resident of Cumberland County, New Jersey.
3. At all times hereinafter mentioned, the defendant, United States of America, by and through its US Marshall Service Fugitive Task Force, was an entity as defined/described by 42 U.S.C. §§1983, 1981, and 1985 and charged with the responsibility of testing, training, hiring and supervising the co-defendants who acted under color of state law and/or otherwise violated plaintiff's rights guaranteed through the *United States Constitution*.
4. At all times hereinafter mentioned, the defendant, Steven Brown, was a member/employee of the State Police of the State of New Jersey and assigned to the US Marshall's Fugitive Task Force.
5. At all times hereinafter mentioned, Dominick Ferrari, was a City of Vineland police officer assigned to the US Marshall's Service Fugitive Task Force.
6. At all times hereinafter mentioned, Douglas Herbert, was employed by the Atlantic County Sheriff's Office and assigned to the US Marshall's Service Fugitive Task Force.  
At all times hereinafter mentioned, Mark Rowe, was a Detective Sergeant employed by

7. the New Jersey State Police, State of New Jersey and assigned by the US Marshall's Service Fugitive Task Force.
8. At all times hereinafter mentioned, Richard Henderson, was employed by the City of Pleasantville Police Department and assigned to the US Marshall's Service Fugitive Task Force.
9. Defendants, Dominick Ferrari, Douglas Herbert, Mark Rowe, Steve Brown and Richard Henderson were acting under the color of the state law.
10. Defendants, City of Vineland, City of Pleasantville, Atlantic County, State of New Jersey and/or US Marshall Task Force were the co-defendants' employer.
11. All responsible parties were employed and acting under their employers during the incidents and used their positions of authority based on the powers the named employers gave them.

#### JURISDICTION

12. Jurisdiction is appropriate under Federal Law and due to the Federal question presented and 28 U.S.C. §§ 1331 and 1343.
13. Venue is appropriate under 28 U.S.C. § 1391(b) because the cause of action upon which the complaint is based arose in Cumberland County, New Jersey in the District of New Jersey.

#### COUNT ONE

14. On or about May 18, 2010, while the plaintiff, Allen D. Morris, Jr., was lawfully upon his own property and premises, the plaintiff was assaulted and/or otherwise sustained significant personal injuries as a direct and proximate result of the acts/omissions of the defendants and the use/employment of excessive force.
15. At the same time and place, the co-defendants, Dominick Ferrari, Douglas Herbert, Steve Brown, Richard Henderson and Mark Rowe, were acting in concert and under color of state law, and violated the plaintiff's Fourth, Fifth, Eighth, and Fourteenth Amendment rights as guaranteed by the *United States Constitution* or otherwise utilized or otherwise permitted the use of excessive force upon the plaintiff which conduct was unreasonable and resulted in significant and severe permanent injuries.
16. The conduct of the defendants, while acting under color of state law, was objectively unreasonable in that the plaintiff did not pose an immediate threat to the safety of the co-defendants or others nor was he actively engaged in escape.
17. The co-defendants violated the plaintiff's right to be free from false arrest and unlawful imprisonment and cruel and unusual punishment consistent with 42 U.S.C. § 1983 in that they were without probable cause to arrest and detain the plaintiff and without a reasonable belief to conclude that an offense had been committed by the plaintiff.
18. The acts/omissions of the defendants in the course and scope of their employment constituted actions under color of state law and an excessive use of force that in that the officers used force in excess of the circumstances relating to the severity of the alleged crime and the plaintiff did not pose an immediate threat to safety of the officers or others. The plaintiff was not actively resisting arrest and the force applied was significant and resulted in a permanent injury.
19. The co-defendants violated the plaintiff's right of equal protection under the law as guaranteed by the Fourteenth Amendment of the *United States Constitution* as well as 42 U.S.C. § 1983, 1981 and 1985 in that their actions were pursuant to the customs, policies, and/or practices of the defendants and malicious/intentional which included but were not limited to striking the plaintiff in his face causing him to fracture his orbital bone resulting in the need for medical treatment and causing severe personal injuries and emotional distress.
20. Defendants acts and conspiracy to act deprived plaintiff of his rights, privileges guaranteed by the *Constitution of the United States*, in particular, to be free from the excessive use of force by an officer, which violated plaintiff's Fourth Amendment rights in further violation of 42 U.S.C. § 1983, 1981 and 1985.

21. The defendants were deliberately indifferent to the rights of citizens to be free from the excessive use of force, which deliberate indifference violated the plaintiff's rights under the Fourth and Fourteen Amendments of the United States Constitution and in violation of 42 U.S.C. § 1983.

22. As a direct and proximate result of the malicious, intentional and reckless actions of the defendants, plaintiff suffered personal injuries, pecuniary losses and other damages.

Wherefore, pursuant to U.S.C. 42 §§ 1983 and 1988, the plaintiff demands compensatory and punitive damages against the defendants in an amount not in excess of Three Hundred Thousand (\$300,000.00) Dollars, plus interest, costs, attorney fees and other appropriate relief.

  
Allen Morris

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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ALLEN D. MORRIS,

Plaintiff,

v.

CIVIL NO. 12-2926(NLH) (JS)

UNITED STATES OF AMERICA,

et al.,

ORDER

Defendants.

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AND NOW, this 29th day of December, 2014, it is

ORDERED that the motion for summary judgment filed by defendants Steve Brown, Dominick Ferrari, Richard Henderson, Douglas Herbert, and Mark Rowe [104] be, and the same hereby is, GRANTED; and it is further,

ORDERED that the motion for summary judgment filed by defendant City of Pleasantville [107] be, and the same hereby is, GRANTED; and it is further,

ORDERED that the motion for leave to file a second amended complaint [117], be, and the same hereby is, DENIED; and it is further

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE**

---

KEITH ROBINSON,

Plaintiff,

v.

CITY OF PLEASANTVILLE,  
THROUGH ITS POLICE  
DEPARTMENT; OFFICER JUAN  
MORILLO; OFFICER DANIEL  
DAVIS; JOHN DOES 1-10 and ABC  
ENTITIES 1-10,

Defendants.

---

Civil No.

Civil Action

**Complaint and Jury Demand**

Plaintiff, Keith Robinson, is a resident of the City of Mays Landing, New Jersey, by way of  
Complaint against Defendants, says:

**JURISDICTION**

1. The jurisdiction of this Court is invoked pursuant to 42 U.S.C. §1983. This Court has jurisdiction over Plaintiff's federal civil rights claims pursuant to 28 U.S.C. §1331 and §1343, and supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. §1367.

**PARTIES**

2. Plaintiff, Keith Robinson, is a resident of the City of Mays Landing, Atlantic County, New Jersey.
3. At all times relevant to the allegations of this Complaint, Defendant, City of Pleasantville, was the employer of the individually named Defendants and acted under

color of state law. Defendant, City of Pleasantville, is a municipal entity that is sued for ratifying the unconstitutional actions, customs and practices of its police officers.

4. Defendant, Officer Juan Morillo, is a police officer employed by the City of Pleasantville who, at all times relevant to the allegations of this Complaint, was acting in the course of his employment and/or under color of state law. He is sued in his individual capacity.
5. Defendant, Officer Daniel Davis, is a police officer employed by the City of Bridgeton who, at all times relevant to the allegations of this Complaint, was acting in the course of his employment and/or under color of state law. He is sued in his individual capacity.
6. Defendants, John Does 1-10 and ABC Entities 1-10 are fictitious persons and/or entities who or which are unknown at present but may become known at a later date.

#### **FACTS**

7. On January 27, 2017, at approximately 10:30 a.m., the Plaintiff was at the Bay Harbor Village Apartments located at 1006 S. Main Street, Pleasantville, New Jersey when he was approached by Defendants Officer Juan Morillo and Defendant, Officer Daniel Davis of the Pleasantville City Police Department.
8. Defendant Officers Morillo and Davis informed the Plaintiff that they were responding to a 911 call from someone at the Bay Harbor Village Apartments requesting police assistance for a disturbance.
9. Without probable cause or knowledge of an ongoing emergency and/or an investigation being conducted, Plaintiff was detained.
10. While the Plaintiff was detained, Defendant Officer Morillo without any reasonable justification put Plaintiff into a choke hold then spun him towards Defendant Officer

Davis who repeatedly punched Plaintiff about his head, face and body causing him to fall to the ground.

11. While on the ground and defenseless the assault upon Plaintiff by the Defendants, Officer Morillo and Officer Davis continued.
12. At all times material hereto, the Plaintiff never posed an immediate threat to the safety of Defendants, Officer Morillo and/or Officer Davis or anyone else. The force used by Defendants Officer Morillo and Officer Davis against the Plaintiff was excessive and unreasonable under the circumstances.
13. Defendants Officer Morillo and Officer Davis had reason to know that they had inflicted injury upon the Plaintiff as they caused him to fall.
14. Nonetheless, as the Plaintiff was lying injured on the ground, Defendants Officer Morillo and Officer Davis struck the Plaintiff about his head and face with their fists.
15. The citizens of Defendant City of the Pleasantville have filed numerous complaints against its police officers alleging the use of excessive force.
16. Defendant City of Pleasantville was placed on notice and knew for a significant time prior to the subject incident that its police officers were using excessive and abusive force and tactics against its citizenry yet failed to train, supervise and/or discipline them, thus encouraging and acquiescing to this unconstitutional practice.
17. Defendant City of Pleasantville's well-documented history of subjecting its citizens to excessive force, and encouragement and/or acquiescence of this unconstitutional practice, was done pursuant to an existing and longstanding pattern and culture condoned and/or overlooked by Defendant City of Pleasantville.

18. The conduct of the individually named Defendants Officers was in keeping with Defendant City of Pleasantville's longstanding pattern and culture of subjecting its citizens to excessive force.
19. Upon securing the Plaintiff at the said location, Defendant Officer Morillo arrested him and charged him with aggravated assault of a law enforcement officer, obstruction of the administration of the law and resisting arrest. These charges were improper, had no basis in fact and were not supported by probable cause.
20. The Plaintiff was taken Atlantic County Jail where he was subjected to processing and then admitted into custody.
21. As a direct result of the incident described herein, the Plaintiff suffered physical injuries about his head, face and body and he was caused great emotional distress.

### **CAUSES OF ACTION**

#### **COUNT I VIOLATION OF FEDERAL CIVIL RIGHTS DEFENDANTS MORILLO and DAVIS**

22. Plaintiff repeats the allegations of the previous paragraphs as if set forth at length herein.
23. The actions of Defendants, Officer Morillo and Officer Davis, as described above, constitute the use of excessive force against Plaintiff's person, in violation of the Fourth Amendment to the United States Constitution.
24. The actions of Defendants Officer Morillo and Officer Davis resulted in Plaintiff being unlawfully detained and falsely arrested, thereby depriving Plaintiff of his right to be

free from an unreasonable seizure of his person, in violation of the Fourth Amendment to the United States Constitution.

**COUNT II  
MUNICIPAL LIABILITY  
DEFENDANT CITY OF PLEASANTVILLE**

25. Plaintiff repeats the allegations of the previous paragraphs as if set forth at length herein.
26. Defendant, City of Pleasantville, through its Police Department, is required to properly train, and supervise its police officers to ensure they exercise their law enforcement authority within safe and constitutional parameters. Defendant City of Pleasantville, through its Police Department, also is required to discipline its police officers when they abuse their authority and/or fail to carry out their duties and responsibilities within safe and constitutional parameters.
27. At all times material hereto, the Defendant, City of Pleasantville, through its Police Department, acting under color of state law, failed to properly train, supervise and/or discipline its police officers on the use of force and failed to provide the appropriate safeguards to prevent the deprivation of Plaintiff's Fourth Amendment rights by the individually named Defendants.
28. Defendant, City of Pleasantville, through its Police Department, acting under color of state law pursuant to policy and/or through custom and practice, has been deliberately indifferent to the violent propensities of its police officers, including the individually named Defendants.

29. Defendant, City of Pleasantville, through its Police Department, had knowledge of, or had it diligently exercised its duties, should have had knowledge of, the fact that its police officers were engaging in the use of excessive and abusive force against individuals within the community.

30. By virtue of Defendant, City of Pleasantville's deliberate indifference to the need for proper training, supervision and/or discipline of its police officers on the use of force, the individually named Defendants engaged in malicious, reckless and indifferent violence toward Plaintiff.

**COUNT III  
VIOLATION OF PLAINTIFF'S NEW JERSEY STATE CIVIL RIGHTS  
ALL DEFENDANTS**

31. Plaintiff repeats the allegations of the previous paragraphs as if set forth at length herein.

32. This Court has supplemental jurisdiction to hear and adjudicate state law claims.

33. At all times material hereto, the Defendants violated Plaintiff's civil rights under the New Jersey Constitution and New Jersey Civil Rights Act.

**COUNT IV  
ASSAULT AND BATTERY  
DEFENDANTS, MORILLO and DAVIS**

34. Plaintiff repeats the allegations of the previous paragraphs as if set forth at length herein.

35. Defendants, Officer Morillo and Officer Davis's actions, as described above, were done with the intent to cause a harmful or offensive contact with Plaintiff's person, or an imminent apprehension of such a contact.

36. As a direct thereof result, Plaintiff was put in imminent apprehension, and thus assaulted by Defendants, Officer Morillo and Officer Davis.

37. The assault of Plaintiff's person and actual, non-consensual contact by Defendants Officer Morillo and Officer Davis constituted a battery upon the Plaintiff.

### **RELIEF**

**WHEREFORE**, Plaintiff seeks relief and judgment against the Defendants, including but not limited to:

1. An award of compensatory damages and punitive damages based on the intentional and malicious acts of the Defendants, which are allowed by statutes pleaded herein or as permitted by common law and rules;
2. An award of reasonable attorney's fees and all costs of suit and interest thereon;
3. An award of damages as allowed under 42 U.S.C. §1983 and 42 U.S.C. §1988;
4. Any other award and equitable relief allowed under statute or pursuant to the law or equitable and just power of this Court to which Plaintiff is entitled; and
5. Any prospective injunctive relief that the Court deems just and appropriate under the circumstances.

**JURY DEMAND**

Plaintiff hereby demands trial by jury of all issues in this action.

**DESIGNATION OF TRIAL COUNSEL**

Plaintiff designates the Law Offices of Conrad J. Benedetto as trial counsel in this matter.

LAW OFFICES OF CONRAD J. BENEDETTO

BY: **CONRAD J. BENEDETTO/s**

Date: January 22, 2019

Conrad J. Benedetto, Esquire  
ID No. 031921981  
Attorney for Plaintiff, KEITH ROBINSON  
1233 Haddonfield Berlin Road, Suite 1  
Voorhees, NJ 08043  
[cjbenedetto@benedettolaw.com](mailto:cjbenedetto@benedettolaw.com)

# Form A

## Plaintiff or Filing Attorney Information:

Name Sylvester Sykes  
 NJ Attorney ID Number \_\_\_\_\_  
 Address 143 Collins Ave.  
Pleasantville, NJ 08232  
 Telephone Number \_\_\_\_\_

RECEIVED  
 2019 JUN -3 4 11 PM  
 SUPERIOR COURT OF NEW JERSEY

Superior Court of New Jersey

LAW Division Atlantic County

CIVIL Part

Docket No: \_\_\_\_\_  
 (to be filled in by the court)

Civil Action

Complaint

Sylvester Sykes

Plaintiff,

Pleasantville Police

v.

Atlanticare Behavioral Health

Defendant(s).

Plaintiff, Sylvester Sykes

(your name)

, residing at

143 Collins Ave

(your address)

City of Pleasantville

(your city or town)

County of Atlantic

(your county)

State Of New Jersey, complaining of defendant, states as follows:

1. On 6-3, 2019, \_\_\_\_\_, Defendant

(name of person being sued)

(Summarize what happened that resulted in your claim against the defendant. Use additional pages if necessary.)

The reason I'm taking this action to file a lawsuit for 5 million is that the Pleasantville Police are continuing the pattern of abuse and neglect by beating me up in front of Apt Mat 106 S. Main Street Apt 213 on 12-31-17 and continuing the act of misconduct and false reports. This is why I'm taking this action because it is taking me from Pleasantville Police - 11 North First Street, Pleasantville NJ 08232

The defendant in this action resides at Atlanticare Behavioral Health - 2511 Fire Road St B-10

(defendant's address)

In the County of Atlanticare, State of New Jersey.

(name of county where defendant lives)

2. Plaintiff is entitled to relief from defendant under the above facts.

Additional Information Sheet

(Use this sheet to tell the court what else you want the court to know about your reason for your application.)

Full Name: Sylvester Sykes

Date: 6-19

doing Art work and Air brush in the Community that could give myself independence. This pattern started and going all the way back until 1987 That caused me PTSD and spent time at Anticore Hospital instead of dealing with the real issue that the abuse that was caused by many Police Officers in many different countries and states has caused me ~~bad~~ pain and suffering and homeless for many years and I'm trying to break this pattern.

Of deliberate indifference right here in Atlantic County that has been continue at the hands of law enforcement, mental health, and the landlords. I would like to end this that come along with the actions and break my pain and suffering. Thank you and God bless. Pro Se Sylvester Sykes.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

6-3-19  
Date

Sylvester Sykes PRO-SE  
Signature of Plaintiff/Complainant



**SUPERIOR COURT OF NEW JERSEY  
COUNTIES OF ATLANTIC AND CAPE MAY  
VICINAGE 1**

**CHRISTINE SMITH, J.S.C.**  
*Civil Division*

**1201 Bacharach Boulevard  
Atlantic City, N.J. 08401  
Tel. (609)402-0100**

**NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE  
COMMITTEE ON OPINIONS**

**MEMORANDUM OF DECISION ON MOTION  
Pursuant to Rule 1:6-2(f)**

**TO: Thomas B. Reynolds, Esq.**  
**Attorney for Defendant, Pleasantville Police**  
**Department**  
**Reynolds & Horn P.C.**  
**116 South Raleigh Avenue**  
**Suite 9B**  
**Atlantic City, New Jersey 08401**

**Sylvester Sykes**  
**Pro Se Plaintiff**  
**15 S. Essex Avenue, Apt 7**  
**Pleasantville, New Jersey 08232**

**RE: Sykes v. Pleasantville Police Department, et al**

**DOCKET ATL-L-1475-19  
NO.**

**NATURE OF MOTION: SUMMARY JUDGMENT**

**MOVANT: DEFENDANT, PLEASANTVILLE POLICE DEPARTMENT**

**MATERIALS REVIEWED: MOVANT'S NOTICE OF MOTION, CERTIFICATION OF COUNSEL,  
BRIEF IN SUPPORT OF MOTION AND EXHIBITS**

**HAVING CAREFULLY REVIEWED THE MOVING PAPERS AND ANY RESPONSE FILED, I HAVE RULED ON THE ABOVE CAPTIONED MOTION AS FOLLOWS:**

**NATURE OF MOTION AND PROCEDURAL BACKGROUND**

The Pleasantville Police Department files this motion seeking Summary Judgment against pro se plaintiff, Sylvester Sykes, pursuant to R. 4:46-2.

On June 3, 2019, plaintiff initiated this Civil Rights lawsuit against defendant seeking damages for injuries sustained stemming from an alleged pattern of abuse and neglect.

The discovery end date is September 30, 2020. On December 9, 2019, defendant filed the instant motion. This motion remains unopposed.

**FINDINGS OF FACT**

1. Plaintiff's complaint alleges that he is entitled to five million dollars because the Pleasantville Police are continuing a pattern of abuse and neglect by beating plaintiff up in front of his apartment located at 106 S. Main Street, Apt 37B and continuing acts of misconduct and false reporting.
2. Plaintiff further alleges that he suffers from "PST" and "abuse that was caused by many police officers in many different counties and states."
3. Plaintiff's complaint contains one page of a two-page Pleasantville Police Department Investigation Report regarding a 911 call for an attempted sexual assault, which occurred on December 13, 2017, at 106 S. Main Street, Apt 37B.
4. The two- page report reflects that the police were called to the scene and upon arrival encountered plaintiff, who matched the description of the suspect. In the course of their investigation, plaintiff failed to comply with the officers' orders, and was arrested. Plaintiff was processed and charged with obstruction of justice.

5.

### PARTY CONTENTIONS

Defendant contends that plaintiff has failed to present any evidence to support his various claims regarding unconstitutional municipal policies and actions by the Pleasantville Police Department. Further, defendant argues that they are entitled to qualified immunity because plaintiff has failed to provide evidence that illustrates defendant committed acts that violated plaintiff's constitutional rights. Defendant also contends that plaintiff's claims should be dismissed pursuant to the New Jersey Tort Claims Act. Specifically, plaintiff may be able to establish that plaintiff's claims arise out of defendant's officers' enforcement of the law, which is subject to immunities under the New Jersey Torts Claims Act. Moreover, plaintiff has failed to proffer evidence of medical treatment expenses in excess of \$3,600.00, as required to support an award for pain and suffering under the New Jersey Tort Claims Act.

### LEGAL STANDARD

### SUMMARY JUDGMENT

Motions for Summary Judgment are made pursuant to R. 4:46-1. A court should grant

Summary Judgment when:

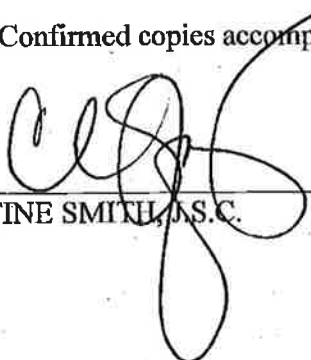
***[T]he pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to a judgment or order as a matter of law. An issue of fact is genuine only if, considering the burden of persuasion at trial, the evidence submitted by the parties on the motion, together with all legitimate inferences therefrom favoring the non-moving party, would require submission of the issue to the trier of fact.***

R. 4:46-2(c) (emphasis added). This rule guides a court to "deny a Summary Judgment Motion ***only*** where the party opposing the motion has come forward with evidence that creates 'a genuine issue as to any material fact challenged.'" Brill v. Guardian Life Ins. Co., 142 N.J. 520, 529 (1995) (emphasis in original). Under Brill, once the movant has presented competent evidence of the absence of any genuine issue of material fact remaining in dispute, to avoid Summary Judgment

the non-movant must show competent evidence of a disputed material issue that, if viewed in a light most favorable to the non-movant, a rational jury could resolve in the non-movant's favor at trial.

DISCUSSION

This motion is unopposed, and plaintiff has not disputed the material facts stated herein. Accordingly, defendant is entitled the requested relief. For the reasons set forth in defendant's moving papers, summary judgment is hereby GRANTED. An appropriate Order has been entered. Confirmed copies accompany this Memorandum of Decision.



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CHRISTINE SMITH, J.S.C.

Date of Decision: January 10, 2020

Douglass Kinniry Law, L.L.C.  
1601 Tilton Road, Suite 6  
Northfield, NJ 08225  
Phone 609 788-3595; Facsimile 609 788-3599  
Email: [mjd@myrightslawyers.com](mailto:mjd@myrightslawyers.com)  
Attorneys for Plaintiff, Alma Z. Toro-Hartman

RECEIVED and  
FILED

MAY 16 2014

ATLANTIC COUNTY  
LAW DIVISION

|                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ALMA TORO-HARTMAN</b><br><br>Plaintiff,<br><br>vs.<br><br><b>CITY OF PLEASANTVILLE;</b><br><b>DUANE COMEAUX</b> , Former Chief of<br>Police for the Pleasantville Police<br>Department, in his official and<br>individual capacity; <b>ROCKY</b><br><b>MELENDEZ</b> , Captain with the<br>Pleasantville Police Department, in his<br>official and individual capacity,<br><br>Defendants. | <b>SUPERIOR COURT OF NEW JERSEY</b><br><b>LAW DIVISION</b><br><br><b>ATLANTIC COUNTY</b><br><br>Docket No.<br><br>Civil Action<br><br><b>COMPLAINT AND JURY DEMAND</b> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Plaintiff, Alma Z. Toro-Hartman, residing in Atlantic County, New Jersey hereby says by  
way of Complaint against the Defendant:

**Preliminary Statement**

Plaintiff Alma Z. Toro-Hartman ("Plaintiff") is an elementary school teacher and mother  
to two young children. Born in Puerto Rico, Plaintiff moved to New Jersey when she was ten.  
Plaintiff was inspired and encouraged to become a teacher by her own teachers at Oakcrest High  
School in Mays Landing, NJ. Plaintiff worked full-time throughout college and landed her first  
full-time teaching position in 2004.

In 2002, Plaintiff met Matthew Hartman ("Hartman") in Atlantic City. Hartman is a police  
officer for the City of Pleasantville. Two years later the couple married. The marriage proved

tumultuous. Hartman has long struggled to manage his anger, which is often explosive and unpredictable. He admitted to being unfaithful to Plaintiff prior to and throughout the marriage. Hartman engaged in counseling and anger management, both alone and with Plaintiff, but eventually the relationship proved unsalvageable.

Plaintiff no longer felt safe around Hartman, fearing he might harm her or their children. Plaintiff and Hartman have been estranged, living separately and apart, since 2009. The separation was not a secret. Plaintiff and Hartman's social group consisted mainly of other Pleasantville Police officers and their spouses. And Hartman was notorious for airing his dirty laundry.

In 2012, several years after she and Hartman agreed to see other people, Plaintiff began dating Scott Seliga ("Seliga"), also an officer with the Pleasantville Police Department. Due to Hartman's volatile temperament, Plaintiff tried to be discreet about her relationship with Seliga. But when Hartman eventually discovered the truth, he was enraged.

Motivated by revenge, jealousy, and a desire to control Plaintiff, Hartman filed an Internal Affairs investigation against Scott Seliga, accusing him of improper relations with "his wife." He then told Plaintiff he would drop the complaint if she returned to him.

That the Pleasantville Police Department even entertained such a complaint casts doubt on the integrity and judgment of its decision-makers. Plaintiff's relationship with Seliga did not touch on the inner-workings of the police department. Neither she nor Seliga were under any obligation to report their private, interpersonal affairs to anyone, let alone the City of Pleasantville.

Yet, with little consideration for Plaintiff's safety or reflection on the motivations behind Hartman's flagrant show of machismo, the Police Department embarked on a senseless, outrageous and unconstitutional invasion of Plaintiff's privacy. The investigation, allowed to advance with no departmental oversight, was conducted by Defendant, Captain Rocky Melendez.

Using his authority as a police officer, Melendez coerced Plaintiff into answering extremely personal questions about her sex life and other private affairs, and then surreptitiously recorded same without Plaintiff's consent! Inexplicably, Melendez also showed up at the high school of Plaintiff's niece, Alyssa, whom Plaintiff had legal custody of at the time. Without receiving consent from or even consulting Plaintiff, Melendez proceeded to question Alyssa, a high school student, about private matters concerning Plaintiff. The interview took place at the high school, in the presence of school personnel, within the school district where Plaintiff's children attend school. Both as a teacher and a member of the community, Plaintiff was *horrified* to discover that the City of Pleasantville's police department was releasing, exposing and investigating details of her intimate affairs with neighbors and professional peers.

That Melendez was permitted to conduct an IA investigation so inappropriate and so unbecoming of law enforcement shows a blatant failure to train and failure to supervise on the part of the Department. The safety and well-being of Plaintiff and her children were jeopardized by the Department. The Department allowed the delusional caprices of an angry, estranged husband to dictate its actions.

What's more, the Department was aware of Hartman's anger issues and the fact that he had admitted to *stalking* Plaintiff and Seliga. On one occasion Hartman left work early, heavily armed, with the stated purpose of finding his "wife." He later admitted to hiding in the bushes

outside Seliga's home. Yet the Department did nothing to protect Plaintiff's safety! Instead, it simply continued its campaign of harassment against her.

Such conduct by a police department is not only unconstitutional, but undermines public trust in law enforcement. Plaintiff, who, in spite of everything continues to maintain the utmost respect for police, never thought she would be the victim of such a baseless, degrading attack. As a result of Defendants' behavior, Plaintiff has suffered humiliation, stress, anxiety, trouble sleeping and more. She has been forced to seek medical treatment for same.

Such behavior cannot be tolerated. Plaintiff has a right to live her life free from such government harassment and intrusion into her most intimate thoughts and affairs. As such, she presents a more completed explanation of events and assertion of claims against Defendants, below.

#### **The Parties and Other Interested Individuals**

1. Plaintiff, Alma Z. Toro-Hartman resides at 545 East Revere Way, Smithville, New Jersey 08205. Plaintiff has been employed as a first grade teacher at the Texas Avenue School in Atlantic City since in or around 2004.
2. Defendant, the City of Pleasantville is located in Atlantic County, New Jersey. City Hall is located at 18 N. 1<sup>st</sup> Street, Pleasantville, New Jersey 08232.
3. Atlantic County. The City maintains the Pleasantville Police Department, located at 17 N. 1<sup>st</sup> Street, Pleasantville, New Jersey 08232.
4. Matthew Hartman is Plaintiff's estranged husband and a Lieutenant with the Pleasantville Police Department. Plaintiff and Hartman have been separated since in or

around August 2009. (Exhibit A, December 11, 2013 Decision of Administrative Law Judge Miller)

5. Scott Seliga is Plaintiff's boyfriend. Mr. Seliga is a Captain with the Pleasantville Police Department and a twenty-two year veteran on the force.
6. Defendant Rocky Melendez is a Captain with the Pleasantville Police Department.
7. Defendant Duane Comeaux is the former Chief of Police for the Pleasantville Police Department.
8. Jose Ruiz is the current Chief of Police for the Pleasantville Police Department.
9. James Williams is a Sergeant with the Pleasantville Police Department.

#### Statement of Facts

10. Plaintiff met Matthew Hartman in the summer of 2002. The couple began dating and married on or about August 19, 2004.
11. Their marriage was tumultuous. Mr. Hartman has long-term anger and emotional issues. He also struggles with being honest and is extremely promiscuous.
12. Mr. Hartman later admitted to being unfaithful to Plaintiff during the entirety of their relationship. The couple engaged in marriage counseling throughout their relationship but ultimately separated in or around August 2009 and has resided in separate residences since that time. Both agreed to date other people outside the marriage. (Exhibit A, p. 3)
13. The couple has two (2) children who now reside primarily with Plaintiff. (Exhibit A, p. 3)

14. Mr. Hartman has admitted to seeing at least four (4) different counselors or psychologists for marriage counseling and/or anger related issues before and during the marriage. (**Exhibit A**, p. 3)
15. Plaintiff first met her now-boyfriend, Scott Seliga, in 2001, but the two (2) did not become romantically involved until 2012.
16. Seliga is also employed by the City as a Captain in the Police Department.
17. At first, due to Mr. Hartman's frequent angry outbursts, Plaintiff and Seliga chose to keep their relationship private.
18. However, Hartman became aware that Plaintiff and Seliga were seeing each other when Alyssa Toro, Plaintiff's niece who was residing with Plaintiff at the time, revealed it to her mother and her mother revealed it to Hartman. (**Exhibit A**, p. 5)
19. Plaintiff's relationship with Seliga was a private, discreet affair that did not touch on the Pleasantville Police Department.

***Motivated By Jealous Rage, and With an Intent to Manipulate Plaintiff, Matthew Hartman Files a Frivolous Internal Affairs Complaint against Scott Seliga***

20. On or about April 26, 2012, Hartman asked Captain Melendez to come to his house in Absecon to discuss a personal matter. (**Exhibit B**, April 30, 2014 Letter/Special Report from Defendant Melendez to Chief Comeaux)
21. Melendez agreed and when he arrived at Hartman's home, Hartman stated, "My Captain is fucking my wife." He admitted to Melendez that he had been following Plaintiff and had seen her pull her car out of Seliga's garage on or about April 25, 2012. (**Exhibit B**)

22. Hartman stated that he “extremely disappointed, hurt and angry.” On the spot, he turned in all his service and privately owned weapons to Melendez, stating that he did not want to be blamed for any false allegations. (**Exhibit B**)
23. Hartman was so distraught that he requested—and received—time off from work from on or about April 26, 2012 through May 14, 2012. (**Exhibit A**, p. 4)
24. Hartman also requested that Seliga be advised by Melendez not to have any further contact with Plaintiff, “his wife.” (**Exhibit A**, p. 4)
25. (Despite Hartman’s erratic state and admission that he had been following Plaintiff, Melendez took no action to protect or warn Plaintiff or the Police Department that Hartman posed a potential risk to Plaintiff and Seliga’s safety.)
26. Later that same day, on or about April 26, 2012, an angry and emotionally disturbed Matthew Hartman showed up unannounced at Plaintiff’s residence. (**Exhibit A**, p. 4)
27. Plaintiff knew he was on edge; he was pacing back and forth and appeared flushed and sweating. Plaintiff, home alone with her two (2) small children, tried to remain calm. Hartman cornered her in the bedroom and accused her of being involved with Seliga.
28. Hartman informed Plaintiff that he had filed an Internal Affairs complaint against Seliga with the Police Department, their place of employment, and that Seliga would be disciplined/punished.
29. Due to Hartman’s stressed and agitated demeanor, Plaintiff feared for her safety and that of her children. When Hartman wanted to discussed the matter further, Plaintiff insisted that they go to a public place, Gourmet Restaurant in Galloway.
30. Hartman tried to manipulate and coerce Plaintiff; he told her that he would drop the IA complaint if she agreed to come back and live with him. He further told Plaintiff that

he “had to” file the IA complaint so that he did not look like a “pussy” in front of the other officers. He also admitted to Plaintiff that he had been secretly following her.

(Exhibit A, p. 4)

31. Though Plaintiff and Hartman had been living separately and apart since 2009, Hartman alleged in his IA complaint that Seliga was having an “improper personal relationship” with Plaintiff, his “wife.” (Exhibit C)

32. Plaintiff considered filing a complaint against Hartman with the Police Department but feared that this would add more fuel to the fire. Plaintiff was aware that Hartman’s career as a police officer was the most important part of his life. Again, she feared for her and her family’s safety. She believed any formal action against Hartman could very possibly result in violence.

33. Plaintiff was aware of countless stories of women who filed restraining orders against their abusive partners only to be later murdered by the accused. Hartman is a seasoned police officer on the Atlantic County Response Team with access to weapons.

34. Based on past experiences, Plaintiff also did not trust the Pleasantville Police Department to take the proper steps needed to protect her.

35. On or about April 29, 2012, Mr. Hartman told Plaintiff that Sergeant James Williams told Hartman that he “heard about his [Internal Affairs] complaint and that he and Matt should get together and compare notes.”

36. It should be noted that Sergeant Williams is Rocky Melendez’s best friend. The two (2) men spend countless off-duty hours together working on cars and doing other activities.

37. Both Williams and Melendez knew that Plaintiff and Hartman were living separate and apart from one another.
38. In fact, one evening after Plaintiff and Hartman had separated, Hartman failed to show up for work. Lieutenant Peterson of the Pleasantville Police Department telephoned Plaintiff to inquire as to Hartman's whereabouts. Plaintiff informed Peterson that she and Hartman were no longer living together, and that Peterson should contact Hartman's girlfriend, Lynn Bradford.
39. Both Williams and Melendez also knew about Hartman's counseling. Hartman had always been very open about this part of his life. He often spoke to co-workers and friends about attending therapy sessions for issues including infidelity, lying and anger.
40. Until the separation, Plaintiff and Hartman had been a part of a small social group that included Williams and his wife, Patrolman Stacey Schlachter-Williams. They would communicate via Facebook, spend time together at the same children's birthday parties and adult parties, and were frequent invitees to the Williams' home prior to the separation.
41. On or about April 30, 2012, Hartman filed a Special Report, which became the official IA complaint against Seliga. A Special Report is used to communicate information directly to the Chief of Police. Plaintiff was never provided with a copy of same. (Exhibit C, April 30, 2012 Special Report)
42. On or about May 1, 2012, Plaintiff emailed a letter to then Chief Comeaux advising that she and Mr. Hartman were "separated...and not together as a married couple." She explained that she and Hartman had mutually agreed to see other people and that

Hartman's complaint created a false impression about their relationship. Plaintiff copied all three (3) Captains within the Department, Captains Melendez, Seliga and Ruiz. (**Exhibit D**, May 1, 2012 Letter from Plaintiff to Chief Comeaux)

43. In spite of Plaintiff's letter, to which she received no response, an Internal Affairs investigation ensued resulting in numerous charges being sustained against Captain Seliga and his removal from service. (**Exhibit E**, June 3, 2013 decision of Hearing Officer Robert A. Verry)

***Melendez Conducts a Biased and Offensively Intrusive IA Investigation into Plaintiff's Private Affairs***

44. On or about May 2, 2012, then Chief Comeaux officially assigned Melendez to investigate Hartman's IA complaint against Seliga. (**Exhibit A**, p. 4)
45. According to the current Chief of Police, Jose L. Ruiz, although there had been known extramarital affairs in the past, this was the first departmental IA complaint filed by an officer against another officer. (**Exhibit A**, p. 4)
46. Also on or about May 2, 2012, Seliga was served with the IA complaint notification. The notice alleged "Violation of Rules and Regulations Code of Ethics." No civil service or departmental rules were cited. (**Exhibit A**, p. 5)
47. On or about May 7, 2012, Melendez interviewed Hartman. Hartman admitted that he had had prior affairs that damaged his marriage to Plaintiff. Following the separation, Hartman admitted to following Plaintiff on more than one occasion. (**Exhibit A**, p. 5)

***Melendez Interrogates Plaintiff's Teenage Niece***

48. On or about May 16, 2012, as part of the IA investigation, Melendez chose to conduct an interview of Plaintiff's teenage niece, Alyssa Toro, at Absegami High School in Galloway, where she was a student. (**Exhibit A**, p. 6)

49. (Alyssa is Plaintiff's brother's daughter. She came to live with Plaintiff in or around the summer of 2010. Thereafter, Plaintiff became Alyssa's legal guardian. However, at the time of the interview Alyssa was not living in Plaintiff's home and instead was temporarily staying with Seth Putney on 4<sup>th</sup> Avenue, Galloway.
50. The interview took place in the presence of faculty member, Mr. Callendar, with the knowledge and apparent consent of Vice Principal Michael Wilbraham.
51. Despite the fact that Plaintiff was Alyssa's legal guardian, Melendez did not seek Plaintiff's consent to interview Alyssa.
52. Absegami High School is within the district where Plaintiff resides and her children and niece attend school. It is a close-knit community. The high school Principal, Dr. Jerry Lynn Gatto helped Plaintiff apply for college and served as Plaintiff's mentor when she too became a teacher.
53. Plaintiff was mortified and disgusted that Melendez would discuss her private personal life in front of her peers and fellow community members.
54. As an educator, Plaintiff fears she cannot now apply for a position with the school district without her application being clouded by the personal information discussed in the presence of district personnel.
55. Before the incident, Plaintiff was a regular presence at the high school plays and sporting events. Now, out of embarrassment and knowledge that school personnel are aware of her private business, Plaintiff has been unable to return to the school.
56. According to his report, Melendez had contacted Alyssa the day prior and arranged to interview at her home once school let out. There was no good reason why Melendez had to include Absegami School personnel in this highly private and personal matter.

***The Department Takes No Action to Protect Plaintiff***

57. On or about May 18, 2012, while at work, Hartman told Officer Terri Tully that he was leaving early to “go find his wife.” (Exhibit A, pp. 6-7)
58. Hartman was armed with multiple firearms and appeared “strange, distracted and not himself.” (Exhibit A, p. 7)
59. Tully immediately informed Seliga, as well as her supervisor, Sergeant TJ Zyckowski, of the conversation. (Exhibit A, p. 7)
60. Despite Tully’s notice to a supervisor that Hartman was a potential danger to himself or another, no action was taken by the Police Department to warn Plaintiff or ensure her safety and the safety of her children.

***Melendez Secretly Records His Interview of Plaintiff; Asks About Her Sex Life***

61. Melendez’s bias is perhaps most evidenced by his shockingly unprofessional conduct during his May 23, 2012 interview of Plaintiff. (Exhibit F, Audio of May 23, 2012 Interview with Plaintiff)
62. (Prior to the interview, Melendez showed up unannounced at Plaintiff’s home when Plaintiff was not there. He questioned Plaintiff’s mother, Margarita Camacho, in Spanish about matters pertaining to the investigation. However, this interview was never mentioned in Melendez’s IA report.)
63. After interrogating Plaintiff’s mother, Plaintiff and Melendez exchanged several texts messages wherein Melendez told Plaintiff he needed to interview her as part of the Internal Affairs Investigation.

64. Melendez led Plaintiff to believe she had no choice but to submit to an interview. The interview took place in a police vehicle in the parking lot of Elizabeth Ann Seton Church in Absecon. Williams was also present. (**Exhibit A**, p. 8)
65. (Melendez stated during the interview that he and Plaintiff were friends that have known each other for a long time. While Plaintiff disagrees that Melendez is her "friend," the fact that they are longtime social acquaintances should have precluded Melendez's involvement in the IA investigation.) (**Exhibit F**)
66. Plaintiff was *purposefully* not advised by Melendez that the interview was being recorded. She was the only witness interviewed during the course of the investigation, was not told the interview was being recorded and was not provided with a PPD statement of her rights to sign. (**Exhibit A**, p. 10)
67. (Melendez later tried to explain that it was an investigative technique that he decided to use because he believed Plaintiff would not be as cooperative if she knew she was being recorded. However, Melendez did not properly provide an explanation for this thought-process.) (**Exhibit A**, p. 10)
68. In fact, Plaintiff was cooperative but Melendez refused to believe her words.
69. Plaintiff was uncomfortable and embarrassed; her hands shook as she tried to answer Melendez's invasive questions. Melendez made it clear that he did not believe Plaintiff's answers to his questions. (**Exhibit F**)
70. Plaintiff repeatedly and unconditionally explained that she and Hartman were no longer a married couple due to Hartman's repeated affairs; his following and stalking her; and his anger issues. She explained that they remained together for legal and financial reasons only, and for the benefit of their children. (**Exhibit F**)

71. Melendez refused to accept Plaintiff's explanation that her marriage with Hartman was over and repeatedly and improperly pressed Plaintiff to admit that she was in the process of reuniting with Hartman. Plaintiff flatly denied this. (**Exhibit F**)
72. During the interview, Melendez asked Plaintiff to answer personal, intimate questions about her relationships with Seliga, as well as questions about her estranged husband, Hartman. (**Exhibit F**; See also **Exhibit A**, p.10)
73. Melendez asked Plaintiff about spending one Valentine's Day at the Trump Plaza. He even knew that she had stayed on the 28<sup>th</sup> floor! He repeatedly asked Plaintiff whether she had been having sex with Hartman in February of 2012. (**Exhibit F**)
74. Melendez told Alma that she needed to "work on" her relationship with Hartman. (**Exhibit F**, at 20:00)
75. Contrary to the facts, Melendez told Plaintiff that he didn't believe that Hartman was trying to follow her. (**Exhibit F**, at 34:40)
76. Plaintiff felt humiliated and degraded. She couldn't wait to get out of the car. Afterward, she had difficulty sleeping, often replaying the interview in her head. When she did sleep, she had nightmares. Plaintiff felt exposed. She feared that Williams would tell his wife what had occurred, and that soon others in her social circle would know all sorts of private details about her personal life. Plaintiff no longer feels comfortable in most social settings.
77. On or about May 25, 2012, Melendez interviewed Seliga. Again, he asked Seliga whether he was engaging in a sexual relationship with Plaintiff. Seliga responded that these were private matters and not the business of the Pleasantville Police Department. (**Exhibit A**, p. 12)

*Defendant Fails to Adhere to the New Jersey Attorney General's Guidelines on Domestic Violence*

78. The New Jersey Attorney General's Office has issued the "Departmental Policy for Handling of Domestic Violence Incidents Involving Law Enforcement Officers," which is intended to serve a model for law enforcement agencies in formulating a written policy. (**Exhibit G**, Departmental Policy for the Handling of Domestic Violence Incidents Involving Law Enforcement Officers)
79. Departmental Responsibilities Include the following:
80. "This Department will, either in response to warning signs of domestic violence behavior or at the request of an officer, provide non-punitive avenues of assistance to officers, their partners, and other family members." (**Exhibit G**, p. 3)
81. "When this Department is aware that an officer is undergoing a separation or divorce, or that officer is otherwise undergoing a high conflict period with a spouse or intimate partner, and that officer is exhibiting warning signs of domestic violence behavior, the Department will encourage the officer to seek individual counseling." (**Exhibit G**, p. 4)
82. Here, Defendants were aware of Hartman's erratic behavior and warning signs of potential domestic violence yet no steps to offer Plaintiff protection or offer assistance to Mr. Hartman in dealing with his emotions of anger, jealousy and rage.
83. Mr. Hartman was permitted to continue to serve as a police officer. He was permitted to continue to carry his police-issued weapon. He was not referred to a Fitness for Duty Evaluation. In fact, investigation was initiated into Mr. Hartman's mental health or stability.

84. Accordingly, Defendants' actions are in blatant violation of the Attorney General's Guidelines.

***Plaintiff Testifies Before the Office of Administrative Law***

85. *In the Matter of Scott Seliga, City of Pleasantville*, was transmitted to the Office of Administrative Law on or about June 6, 2013. (**Exhibit A**)

86. Plaintiff was subpoenaed to testify. Hearings were held on or about October 31, 2013; November 12, 14-15, 21 and 25, 2013. (**Exhibit A**, p. 2)

87. In an effort to ensure that the bogus allegations against Seliga were dismissed, Plaintiff was required to testify about her separation from Hartman and relationship with Seliga. (**Exhibit A**, p. 15)

88. Plaintiff testified that Hartman already had domestic complaints filed against him by other women he had dated and by the local police, without charges being filed. Plaintiff expressed concern that escalating legal matters by filing for a restraining order might infuriate Hartman to the degree that it would place her in harm's way. Instead, to protect herself, she tried to keep her dating and other personal matters secure from Sergeant Hartman. Plaintiff tried to serve Hartman with divorce papers but he kept refusing service. (**Exhibit A**, p. 15)

89. Administrative Law Judge Miller found Plaintiff's testimony to be credible. (**Exhibit A**, p. 15)

***Captain Melendez Was Permitted to Operate as a Rogue Agent and Never Should Have Been Charged with Conducting the Investigation***

90. Captain Ruiz testified that he discussed the Hartman Complaint with Chief Comeaux. Ruiz explained to the Chief that he was close, personal friends with Seliga and that it would be a conflict of interest for him to investigate.

91. Due to the sensitive nature of the allegations and the fact that so many officers and their spouses socialized outside of work, Ruiz asked Chief Comeaux to bring in an independent outside party to conduct the investigation.
92. Ruiz testified that Comeaux told him that due to financial restraints, the investigation would be handled in-house by Captain Melendez.
93. Due to his stated conflict, the usual supervisory attention normally provided by Captain Ruiz was absent. As a result of being unsupervised, Melendez was free to conduct his inquiry without oversight or the benefit of an investigate plan suggested by the Department in accordance with the Attorney General Guidelines.
94. This lack of oversight also allowed Melendez to present a wildly mischaracterized version of the facts.
95. Melendez was also able to conceal the content of his interview with Plaintiff's mother, which he conducted in Spanish.
96. Melendez also chose not to interview certain individuals who would have provided information critical to showing a more comprehensive, fair and objective picture of the case, such as Hartman's parents and neighbors, Plaintiff's brother and neighbors, and Seliga's neighbors.

***Judge Miller Dismisses the "Frivolous" Charges against Captain Seliga; Finds Investigation Was "Tainted"***

97. In his written decision of December 11, 2013, Judge Miller found the following pertaining to Melendez:

Captain Melendez accurately reiterated the sum and substance of his I/A investigation, as it was recorded in written form. He left out, or cherry-picked, portions from Alma's recorded statement, making the marriage look stronger than it seemed. He also sought to discredit Alma Hartman and he totally ignored and/or left out of his written report the very serious allegations made by Alma Hartman against Sergeant Hartman that are mandated to be examined pursuant to the Attorney General's Internal Affairs Guidelines (Fitness for Duty-R-21:178; Investigation of any alleged misconduct-R-21:179; Domestic Violence by officers R-21:191). This dereliction made him appear biased. Therefore, his testimony was not credible nor was the I/A investigation. Finally, Melendez and Seliga, as department captains, were positioned to be candidates as the next Chief of Police, if the position opened. Melendez therefore, had something to gain, if Seliga was disciplined.

98. Judge Miller did not find Hartman to be credible. (Exhibit A, p. 17)

99. Ultimately, Judge Miller "found the Internal Affairs complaint filed by Sergeant Matt Hartman which formed the basis of the disciplinary action, to be frivolous and the investigation to be tainted." He dismissed all charges against Seliga. (Exhibit A, p. 18)

100. Judge Miller wrote:

This case represents a bizarre culmination of events resulting in the misuse of police resources, to investigate a private relationship between two consenting adults. The April 30, 2012, I/A complaint alleging that Captain Seliga was having an improper personal relationship with Hartman's wife was spurious upon filing. There was no rule or regulations cited that required Captain Seliga to report this personal relationship to his employer. Alma Hartman was not an employee of Pleasantville. Therefore, Captain Seliga had no duty to report his relationships outside of work to his employer, as a means to avoid a conflict or favoritism that might result in discrimination claims by others. Conversely, there was legitimate concern raised by Captain Seliga and Alma Hartman to conceal their relationship from Sergeant Hartman due to his erratic history and behavior.

101. Judge Miller found the IA investigation troubling (Exhibit A, p. 18):

I also found many parts of the I/A investigation very troubling, particularly the interview of Alma Hartman by Captain Melendez. Alma Hartman was a civilian (witness) who was involved with a difficult separation from a police sergeant employed by Pleasantville. The interview of Alma Hartman was unorthodox to say the least. She was surreptitiously recorded; while all other witnesses were informed they were recorded. She mentioned numerous times that she had legal counsel for her marriage issues with Sergeant Hartman. This was ignored. The majority of the taped discussion involves Captain Melendez talking to, lecturing, or advocating for Sergeant Hartman and/or counseling Alma Hartman. This is not a role fitting for a police department or an I/A investigation and it was a form of intimidation.

***The Police Department Was Aware of But Failed to Address Hartman's Anger Management and Mental Instability, Creating a Safety Risk to Both Plaintiff and the Public***

102. Judge Miller also questioned why no action was taken to address Hartman's apparent mental instability and the potential safety risk he posed to both Plaintiff and Seliga (**Exhibit A**, p.20) :

The concerns raised by Alma Hartman regarding Sergeant Hartman included potential domestic violence against her, prior domestic violence against his girlfriends, stalking like actions, fitness for duty, extortion or coercion, release of confidential I/A information, multiple extramarital affairs, some with Pleasantville officers that he may have supervised, and official corruption by hiding DWIs. Astonishingly, none of these allegations inspired Melendez. These allegations go directly to the heart that Sergeant Hartman's motivations for filing I/A case in the first case was anger, rage and retribution. It is the same pattern. They undermine Sergeant Hartman's credibility for lying to, coercing, and threaten Ms. Hartman. Sergeant Hartman's motivation was to either get Alma Hartman back or deter Captain Seliga from dating Alma, by improperly using police resources as a form of intimidation.

103. On or about February 12, 2014, the Civil Service Commission upheld the decision of ALJ Miller. (**Exhibit H**)

## COUNT I

### **Violation of the New Jersey Civil Rights Act, N.J.S.A. 10:6-1, et seq.; Invasion of Privacy Claim**

104. Plaintiff complains against Defendants, and re-alleges all the allegations contained in the complaint, and incorporates them by reference into this cause of action as though fully set forth at length herein.
105. Defendants as agents, employees and /or separately are jointly, together and individually liable and/or responsible under the law(s) for their respective wrongful actions.
106. Invasion of privacy is defined as an intentional intrusion, "physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns" that "would be highly offensive to a reasonable person." Bisbee v. John C. Conover Agency, Inc., 186 N.J. Super. 335, 339 (1982) (quoting Restatement (Second) of Torts, supra, § 652B). "The thrust of this aspect of the tort is that a person's private, personal affairs should not be pried into." Id. at 340. A plaintiff must first show that he or she possessed a reasonable expectation of privacy. Id. at 339-41.
107. Within the New Jersey Constitution's declaration that individuals have the right to life, liberty and the pursuit of happiness is the right to privacy. N.J. CONST. ART. I § I ("All persons are by nature free and independent, and have certain natural and inalienable rights, among which are those of enjoying life and liberty, of acquiring, possessing and protecting property and pursuing and obtaining safety and happiness."); Doe v. Poritz, 142 N.J. 1, 89 (1995).
108. As to Article I, paragraph 1, the New Jersey Supreme Court has made is clear that "the language if that paragraph is more expansive that that of the U.S. Constitution. It

incorporates within its terms the *right of privacy* and its concomitant rights.” Planned Parenthood v. Farmer, 165 N.J. 609, 629 (2000) (emphasis added).

109. “It is readily apparent that the extent to which individuals may justifiably maintain a reasonable expectation of privacy in information provided to or gathered by the government or others is broader under our state constitution than the federal constitution.” Nunez v. Pachman, 2009 N.J. Super. Unpub. LEXIS 2559 (2009) (citing e.g. State v. McCalister, 184 N.J. 17, 32-33 (2005))
110. The New Jersey Civil Rights Act permits any person who has been deprived of any substantive rights secured by the Constitution to bring a civil action for damages and for injunctive or other appropriate relief. N.J.S.A. § 10:6-2(c). The Court may also award the prevailing party reasonable attorney’s fees and costs. Id. § 10:6-2(f).
111. In State v. Saunders, 75 N.J. 200 (1977), the New Jersey Supreme Court held that the right of privacy extended to consensual sexual relations between adults. “Private personal acts between two consenting adults are not be lightly meddled with by the state. The right of personal autonomy is fundamental to a free society.” Id. at 219.
112. In Saunders, the Supreme Court stressed that the constitution protects “the freedom of personal development.” Id. at 213. It recognized privacy as a right of personal autonomy and dignity: “Whether one defines that concept as a right to intimacy and a freedom to do intimate things, or a right to the integrity of one’s personality, the crux of the matter is that governmental regulation of private personal behavior under the police power is sharply limited.” Id. at 213.
113. Fundamental rights—like the right to privacy—can only be curtailed when the state asserts a compelling governmental interest. Yet, “even if the governmental

interest is legitimate and substantial, the invasion of the fundamental right of privacy must be minimized by utilizing the narrowest means which can be designed to achieve the public purpose." In re Martin, 90 N.J. 295, 318 (1982).

114. Defendant, the City of Pleasantville, at all times relevant, had an unconstitutional policy when it failed to train its employees and agents, and policy makers because the failure to supervise and train amounts to deliberate indifference to an obvious need for such training, and the failure train has resulted in Defendant Melendez illegally conducting a baseless, improper Internal Affairs investigation into Plaintiff's personal affairs, including her sexual relationships.

115. Additionally, the unconstitutional policies and indeed, the direct acts in violation of Plaintiff's rights were caused to exist and/or were directly caused by, from and when Defendants Melendez and Comeaux, as "final policymakers," created and furthered this unconstitutional policy and unconstitutional actions resulting in violations of Plaintiff's First Amendment rights.

116. As a direct and proximate result of the Defendants' actions, Plaintiff has been caused to suffer, needlessly, extreme embarrassment, anxiety, discomfort, damage to her reputation, loss of sleep, fear for her safety, physical and personal injury, emotional distress and outrageous disruption to her personal, social and family affairs.

**WHEREFORE**, Plaintiff seeks damages to vindicate her rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, injunctive and equitable relief, every day and daily

stress caused by Defendants illegal acts, attorney's fees and costs of suit, punitive damages and any other damages the Court deems fair and just.

## COUNT II

### **Common Law Invasion of Privacy/ Intrusion on Seclusion Claim**

117. Plaintiff complains against Defendants, and re-alleges all the allegations contained in the complaint, and incorporates them by reference into this cause of action as though fully set forth at length herein.

118. The general principles behind an invasion of privacy claim: that "[o]ne who invades the right of privacy of another is subject to liability for the resulting harm to the interests of the other." Four distinct categories of an invasion are articulated in the Restatement (Second) of Torts: (a) *unreasonable intrusion upon the seclusion of another*, as stated in § 652B; or (b) appropriation of another's name or likeness, as stated in § 652C; or (c) unreasonable publicity given to the other's private life, as stated in § 652D; or (d) publicity that unreasonably places the other in a false light before the public, as stated in § 652E.

119. In recognizing intrusion on seclusion as a cognizable claim, New Jersey has adopted the definition of the Restatement (Second) of Torts: "One who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns, is subject to liability to the other for the invasion of his privacy if the intrusion would be highly offensive to a reasonable person." See e.g. Rush v. Portfolio Recovery Assocs., LLC, No. 12-2276, U.S. Dist. LEXIS 149288, at \*50 (D.N.J. Oct. 17, 2013).

120. “[T]he right of privacy encompasses the right to be protected from a wrongful intrusion which would outrage or cause mental suffering, shame or humiliation to a person of ordinary sensibilities.” N.O.C., Inc. v. Schaefer, 197 N.J. Super. 249, 254 (Law Div. 1984).

121. Defendants have intruded into Plaintiff’s personal and sexual life in such an offensive and objectionable manner to cause Plaintiff such mental suffering, shame and humiliation, as well as damage to reputation.

**WHEREFORE**, Plaintiff seeks damages to vindicate her rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, injunctive and equitable relief, every day and daily stress caused by Defendants illegal acts, attorney’s fees and costs of suit, punitive damages and any other damages the Court deems fair and just.

### **COUNT III**

#### **Negligent Infliction of Emotional Distress**

122. Nearly all of the States have recognized a right to recover for negligent infliction of emotional distress. Conrail v. Gottshall, 512 U.S. 532, 543 (1994).

123. The injury contemplated when considering negligent infliction of emotional distress is “mental or emotional harm (such as fright or anxiety) that is caused by the negligence of another and that is not directly brought about by a physical injury, but that may manifest itself in physical symptoms.” Id. at 544.

124. Here, Defendant's outrageous conduct has caused Plaintiff significant psychological injury necessitating medical treatment.

**WHEREFORE**, Plaintiff seeks damages to vindicate her rights under the laws and remedy the egregious loss and damages inflicted upon him by Defendants, including, but not necessarily limited to compensatory damages, emotional distress, bodily harm and injury, physical illness, economic damages, injunctive and equitable relief, every day and daily stress caused by Defendants illegal acts, attorney's fees and costs of suit, punitive damages and any other damages the Court deems fair and just.

#### **DESIGNATION OF TRIAL COUNSEL**

Michelle J. Douglass, Esq., is hereby designated as trial counsel in the above-captioned matter.

#### **CERTIFICATION OF NO OTHER ACTIONS PURSUANT TO**

##### **RULE 4:5-2**

I certify that the dispute about which I am suing is not the subject of any other action pending in any other court or a pending arbitration proceeding to the best of my knowledge and belief. To the best of my knowledge this matter was before the Office of Administrative Law and the New Jersey Civil Service Commission but that matter is now concluded. Also, to the best of my knowledge and belief no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, I know of no other parties that should be made a part of this lawsuit. In addition, I recognize my continuing obligation to file

and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

**JURY DEMAND**

The plaintiff hereby demands a trial by jury on all of the triable issues of this complaint, pursuant to New Jersey Court *Rules* 1:8-2(b) and 4:35-1(a).

Date: May 14, 2014

**DOUGLASS KINNIRY LAW, LLC**  
Attorneys for Plaintiff

By: \_\_\_\_\_  
MICHELLE J. DOUGLASS

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IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF NEW JERSEY  
 CAMDEN VICINAGE

JALAL WHITTED,

CIVIL ACTION- LAW

v.

NO.: 1:13-cv-07316-RBK-JS

CITY OF PLEASANTVILLE; POLICE  
 OFFICER ANGEL VALENTIN;  
 POLICE OFFICER JOHN PAYNE;  
 POLICE OFFICER ANGELO  
 MALDONATO,  
 OFFICERS MAYS, ELLIS, STOCKS,  
 WRIGHT & PORTER  
 and JOHN DOE 1-4

COMPLAINT

Jalal Whitted residing in the City of Pleasantville, County of Atlantic, State of New Jersey by way of Complaint against defendants says:

1. On December 6, 2013, at approximately 9:00 a.m. certain Pleasantville City Police Officers including defendant Valentin and defendant Payne were called to the residence of plaintiff Jalal Whitted and his mother Kimberly Whitted at the request of Kimberly Whitted as plaintiff Jalal Whitted had in his possession a knife and was suffering from a pre-existing psychiatric condition at the time.

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2. At the arrival of the defendant Officer Payne and defendant K-9 Officer Valentin plaintiff Jalal Whitted and his mother appeared on the front porch of their home at 111 Willard Avenue in Pleasantville, New Jersey at which time plaintiff's mother Kimberly Whitted was able to convince her son to drop the knife that he was holding. Simultaneously the dropping of the knife, plaintiff Jalal Whitted and his mother Kimberly Whitted accidentally stumbled on their front porch and fell to the sidewalk in front of their home next to the defendant City of Pleasantville police officers.
3. After falling to the ground, defendants Payne and Maldonado and others were then able to secure the plaintiff Jalal Whitted in handcuffs while on the cement in front of his home.
4. After plaintiff was secured in handcuffs, a Pleasantville City police officer assigned to the Pleasantville Police Department K-9 Unit, defendant Officer Valentin released his K-9 animal ordering it to attack the plaintiff. Plaintiff was not resisting arrest at the time and was completely subdued, handcuffed and face down and prone on the cement. It is further alleged, that while plaintiff was handcuffed and on the cement and subdued, that the defendants Payne, Maldonado, Mays, Stocks and Wright continued to beat him with batons, clubs, and weapons including a service revolver and/or shotgun.
5. Defendant the Pleasantville City of New Jersey is a municipality chartered by the State of New Jersey and as such is a political subdivision of the State of New Jersey and among its other functions operates and maintains a law enforcement agency known as the Pleasantville City Police Department. Pleasantville City is under a duty to run its policing activities in a lawful manner so as to preserve the rights, privileges and

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immunities guaranteed and secure to them by the constitutions and laws of the United States and the State of New Jersey.

6. On information and belief, defendant Pleasantville City Police Officer Angel Valentin is an adult resident citizen of Atlantic County, New Jersey. At all material times hereto, defendant Valentin was a member of the Pleasantville City Police Department and was acting by virtue of his position as a law enforcement officer of the Pleasantville City Police Department and under the color of State Law. Defendant Valentin is sued individually and in his official capacity as a member of the Pleasantville City Police Department.

7. Upon information and belief, defendant Pleasantville City Police Officers John Payne, Officer Maldonado, Mays, Ellis, Stocks and Wright are adult residents of Atlantic County and at all times material hereto were members of the Pleasantville City Police Department and were acting by virtue of their positions as law enforcement officers of Pleasantville City Police Department and under color of State Law. The defendants, Officers John Payne, Maldonado, Mays, Ellis, Stocks and Wright are sued individually and in their official capacity as members of the Pleasantville City Police Department.

8. Upon information and belief defendants Pleasantville City Police Officers John Doe 1-4 are adult residence of Atlantic County, New Jersey. At all material times hereto, defendants John Doe 1-4 were members of the Pleasantville City Police Department and were acting by virtue of their position as law enforcement officers of the Pleasantville City Police Department and under color of State Law. Defendants John Doe 1-4 are sued individually and in their official capacity as members of the Pleasantville City Police Department.

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### JURISDICTION AND VENUE

9. Each and all the acts of defendants Valentin, Payne, Maldonado, Mays, Ellis, Stocks and Wright were performed under the color and pretense of the constitutions, statutes and ordinances, regulations, customs and usages of the United States of America, the State of New Jersey, the County of Atlantic and the City of Pleasantville and under the authority of their office as law enforcement officers for Pleasantville City, New Jersey.

10. The incidents which give rise to the cause of action occurred within the jurisdiction and within two years of the filing of this Complaint.

11. Venue is proper in this venue pursuant to 28 U.S.C. § 1391, as all the defendants are residents of the district and/or all acts or omissions which give rise to the cause of action occurred within this district.

12. Jurisdiction is proper pursuant to federal question jurisdiction, 28 U.S.C. § 1331, 28 U.S.C. § 1343(a)(3)(4) and 42 U.S.C. § 1983. Plaintiff further invokes the pendent and supplemental jurisdiction of this Court to hear and decide claims arising under state law pursuant to 28 U.S.C. § 1367.

### FACTUAL ALLEGATIONS

Plaintiff hereby incorporates in their entirety each and every paragraph contained in this Complaint and by reference as if fully set forth herein at length:

13. On or about December 6, 2011 at approximately 9:00 a.m. the defendant Pleasantville City police officers Porter and Payne were dispatched to plaintiff's residents on 111 Willard Avenue in relation to a phone call from the plaintiff's mother Kimberly Whitted.

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14. Kimberly Whitted advised the defendant police officers Porter and Payne that her son the plaintiff Jalal was holding a knife inside the residents. Such officers were also advised that the plaintiff was suffering from a psychiatric condition and/or episode.

15. Defendant Officer Payne drew his service weapon upon the plaintiff and requested he drop the knife. Eventually plaintiff did drop the knife and walked outside his residents on to the front porch stumbling and falling from the front porch on to the cement below with his mother Kimberly Whitted.

16. Thereafter, the defendant police officers, Porter, Payne, Maldonado, Ellis, Mays, Stocks and Wright began to beat, punch, kick and strike the plaintiff with mechanical weapons including clubs and the butt of a shotgun as well as with their hands and feet in an effort to subdue the plaintiff Jalal Whitted.

17. After plaintiff was handcuffed and on the grounds and subdued and offering no resistance, the above named defendants continued to beat, punch, kick and strike the plaintiff with the mechanical devices, weapons, hands and feet.

18. It is further alleged that the Pleasantville City K-9 Officer defendant Valentin released his K-9 in order to attack plaintiff Jalal Whitted while he was completely subdued, handcuffed and helpless.

19. The vicious dog mauled the plaintiff Whitted's legs while several of the officers continued to punch, kick, strike and assault the plaintiff.

20. After a period of time the K-9 was eventually removed from plaintiff's body.

21. Plaintiff was then forcibly removed by the defendant officers from the sidewalk and while offering no resistance and while handcuffed was forcibly thrown into a driver's side front of the patrol car with such force that it caused a dent in the vehicle.

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COUNT ONE

FEDERAL CONSTITUTIONAL VIOLATIONS AGAINST DEFENDANTS  
VALENTIN, PAYNE, PORTER, MALDONADO, MAYS, ELLIS, STOCKS  
AND WRIGHT AND JOHN DOE 1-4

Plaintiff hereby incorporates in their entirety each and every paragraph of this Complaint by reference and makes said paragraphs a part as if fully set forth herein.

22. The defendants, Valentin, Payne, Maldonado, Mays, Ellis, Stock Porter and Wright and John Doe 1-4 committed the above described actions and/or omissions under the color of law and by virtue of their authority as law enforcement officers for Pleasantville City and substantially deprived plaintiff of his clearly established privileges, and immunities guaranteed to him as a citizen of the United States in violation of 42 U.S.C. § 1983, and deprived plaintiff of his rights guaranteed to him under the Fourth, Eighth, and Fourteenth Amendments of the United States Constitution, including but not limited to:

- a. freedom from unlawful search and seizure;
- b. freedom from unlawful arrest and seizure of his person;
- c. freedom from unreasonable, unjustified, and excessive force;
- d. freedom from deprivation of liberty and property without due process of law;
- e. freedom from summary punishment;
- f. freedom from State created danger; and

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- B. freedom from arbitrary government activity which shocks the conscious of civilized society.

23. As a direct and proximate result of the acts and omissions of defendants Payne, Maldonado, Mays, Ellis, Stock Porter and Wright and John Doe 1-4, plaintiff's constitutional rights were violated and plaintiff was injured and sustained substantial injuries, including but not limited to permanent physical disabilities.

#### COUNT II

#### FEDERAL CONSTITUTIONAL VIOLATIONS AGAINST CITY OF PLEASANTVILLE

Plaintiff hereby incorporates, in their entirety, each and every paragraph of this Complaint and by reference makes said paragraphs a part hereof as if fully set forth herein at length.

24. Defendant City of Pleasantville is under a duty to supervise the members of the Pleasantville Police Department and to ensure that the policing activities of the Pleasantville Police Department are run in a lawful manner preserving the citizens of Pleasantville, New Jersey the rights, privileges, and immunities guaranteed to them by Constitutions of both the United States of America and the State of New Jersey.

25. Defendant City of Pleasantville, encouraged, tolerated and knowingly acquiesced to an official pattern, practice, and/or custom of its police officers, particularly defendants, Valentin, Payne, Maldonado, Mays, Ellis, Stock Porter and Wright and John Doe 1-4 of violating the constitutional rights of the public at large, including the plaintiff. In particular the City of Pleasantville had actual knowledge that defendants Valentin, Payne, Maldonado, Mays, Ellis, Stock Porter and Wright and John

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Doe 1-4 had a propensity to deprive the citizens of the City of Pleasantville, New Jersey of their constitutional rights and failed to take proper action to protect the citizens of the City of Pleasantville, New Jersey from defendants Valentin, Payne, Maldonado, Mays, Ellis, Stock Porter and Wright and John Doe 1-4.

26. The actions of defendants Valentin, Payne, Maldonado, Mays, Ellis, Stock Porter and Wright and John Doe 1-4 were unjustified, unreasonable, unconstitutional, and deprived plaintiff of his constitutional rights in violation of the Fourth, Eighth, and Fourteenth Amendments to the United States Constitution.

27. Defendant City of Pleasantville is directly liable for plaintiff's damages due to the following policy statements, ordinances, regulations, or decisions formally adopted and promulgated by the Government rule-makers which were in effect at the time of this incident and which were the underlying cause of plaintiff's injuries:

a. City of Pleasantville and the Pleasantville Police Department have formally adopted policies and standard operating procedures designed to prevent formal complaints from being filed with Internal Affairs Unit and favoring the statements of a police officers over the statement of a citizen complaining of police abuse or misconduct, resulting in the exoneration of officers for unconstitutional behavior, creating an atmosphere where unconstitutional behavior of police officers is tolerated, condoned, and ratified by the Pleasantville Police Department, thus creating an atmosphere of illegal and unconstitutional behavior and with deliberate indifference and reckless disregard of the welfare of the public at large, including plaintiff.

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b. The City of Pleasantville and the Pleasantville Police Department have formally adopted a policy of allowing police officers to conduct arrests with the use of illegal and excessive force thus creating an atmosphere where unconstitutional behavior of police officers is tolerated, condoned, and ratified by the Pleasantville Police Department, and further creating an atmosphere of illegal and unconstitutional behavior and with deliberate indifference and reckless disregard of the welfare of the public at large, including plaintiff.

c. The City of Pleasantville and the Pleasantville Police Department have formally adopted a policy of giving police officers with extensive histories of police misconduct vicious canines for use in their policing of the public thus creating an atmosphere where unconstitutional behavior of police officers is tolerated, condoned, and ratified by the City of Pleasantville and the Pleasantville Police Department and further creating an atmosphere of illegal and unconstitutional behavior and with deliberate indifference and reckless disregard of the welfare of the public at large, including plaintiff.

d. The City of Pleasantville and the Pleasantville Police Department have formally adopted a policy of using vicious canines to stop and bite individuals who are not resisting arrest or posing a threat to officers' safety or the public at large thus creating an atmosphere where unconstitutional behavior of police officers is tolerated, condoned, and ratified by the City of Pleasantville and the Pleasantville Police Department, and further creating an atmosphere of illegal and unconstitutional behavior, and with deliberate indifference, and reckless disregard of the welfare of the public at large, including plaintiff.

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28. Defendant City of Pleasantville is directly liable for the plaintiff's damages due to the following policies, practices, or customs of the Pleasantville Police Department, which were in effect at the time of this incident and which were the underlying cause of the plaintiff's injuries:

a. The City of Pleasantville and the Pleasantville Police Department have a permanent and well-settled practice or custom of allowing police officers (including Payne, Valentin, Maldonado, Mays, Ellis, Stock, Wright, Porter, and John Doe 1-4) to employ excessive force, including deadly force, while effectuating arrests creating an atmosphere of illegal and unconstitutional behavior in deliberate indifference and reckless disregard for the welfare of the public at large, including plaintiff;

b. The City of Pleasantville and the Pleasantville Police Department have a permanent and well-settled practice of custom of allowing police officers (including Payne, Valentin, Maldonado, Mays, Ellis, Stock, Wright, Porter, and John Doe 1-4) to use excessive force and/or unreasonable force without fear of discipline, creating an atmosphere of illegal and unconstitutional behavior in deliberate indifference and reckless disregard for the welfare of the public at large, including plaintiff;

c. The City of Pleasantville and the Pleasantville Police Department have a permanent and well-settled practice of allowing police officers (including Payne, Valentin, Maldonado, Mays, Ellis, Stock, Wright, Porter, and John Doe 1-4) to falsely arrest and charge civilians without probable cause as a tool to conceal their own illegal and unreasonable conduct, creating an atmosphere of illegal and

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unconstitutional behavior in deliberate indifference and reckless disregard for the welfare of the public at large, including plaintiff.

d. The City of Pleasantville and the Pleasantville Police Department have a permanent and well-settled practice or custom of allowing police officers (including Payne, Valentin, Maldonado, Mays, Ellis, Stock, Wright, Porter, and John Doe 1-4) to file false police reports, fabricate evidence, destroy evidence, and make false statements as a tool to conceal their own illegal and unreasonable conduct in deliberate indifference and reckless disregard for the welfare of the public at large, including plaintiff.

e. The City of Pleasantville and the Pleasantville Police Department have a permanent and well-settled practice of failing to protect the Citizens of the City of Pleasantville from the unconstitutional actions of police officers (including Payne, Valentin, Maldonado, Mays, Ellis, Stock, Wright, Porter, and John Doe 1-4) by providing officers with extensive histories of civilian complaints alleging assault and excessive force with deadly canines to use in their policing activities and thereby creating an atmosphere of illegal and unconstitutional behavior in deliberate indifference and reckless disregard for the welfare of the public at large, including plaintiff.

f. The City of Pleasantville and the Pleasantville Police Department have a permanent and well-settled practice of failing to protect the Citizens of the City of Pleasantville from the unconstitutional actions of police officers (including Payne, Valentin, Maldonado, Mays, Ellis, Stock, Wright, Porter, and John Doe 1-4) by exonerating rogue police officers, by refusing to investigate

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civilian complaints, and by convincing civilians not to file formal complaints with the Internal Affairs Unit, and by creating an atmosphere of illegal and unconstitutional behavior in deliberate indifference and reckless disregard of the welfare of the public at large, including the plaintiff.

g. The City of Pleasantville and the Pleasantville Police Department have a permanent and well-settled practice of refusing to adequately respond to and investigate complaints regarding officer misconduct by the citizenry, including, but not limited to, complaints regarding arrest procedures, the use of excessive physical force, the use of deadly force, and the misuse of the K-9 Units, thus creating an atmosphere of illegal and unconstitutional behavior in deliberate indifference and reckless disregard of the welfare of the public at large, including plaintiff.

h. The City of Pleasantville and the Pleasantville Police Department have a permanent and well-settled practice of leaking the names of its citizens who have filed complaints regarding officer misconduct and allowing rogue officers to corrupt the Internal Affairs investigation by promulgating false and fabricated evidence and by destroying evidence, creating an atmosphere of illegal and unconstitutional behavior in deliberate indifference and reckless disregard to the welfare of the public at large, including plaintiff.

29. Defendant City of Pleasantville is directly liable for plaintiff's damages due to the following policies or customs of inadequate training, supervision, discipline, screening, or hiring, which were in effect at the time of this incident and which were the underlying cause of the plaintiff's injuries:

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a. The City of Pleasantville and the Pleasantville Police Department failed to adequately train and supervise police officers (including Payne, Valentin, Maldonado, Mays, Ellis, Stock, Wright, Porter, and John Doe 1-4) regarding proper arrest procedures and techniques; use of canines in policing activities; use of force; probable cause determinations; criminal investigations; and internal affairs procedures and such failure to train and the obvious consequence of leading to constitutional violations in deliberate indifference and reckless disregard of the welfare of the public at large, including plaintiff;

b. The City of Pleasantville and the Pleasantville Police Department failed to adequately monitor and evaluate the performance of its officers (including Payne, Valentin, Maldonado, Mays, Ellis, Stock, Wright, Porter, and John Doe 1-4) and their compliance with the laws and policies, practices and customs with respect to probable cause determinations, internal affairs procedures, the use of physical force, use of canines in policing activities; arrest procedures; and criminal investigations in deliberate indifference to and reckless disregard of the public at large, including the plaintiff;

c. The City of Pleasantville and the Pleasantville Police Department repeatedly and knowingly failed to properly discipline its officers (including Payne, Valentin, Maldonado, Mays, Ellis, Stock, Wright, Porter, and John Doe 1-4) with respect to violations of the law of the State of New Jersey, the Constitution of the United States, and its own policies on use of force, use of canines in the policing activities, probable cause determinations, internal affairs procedures, and arrest procedures creating a pattern, policy, practice, custom or

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atmosphere where such illegal and unconstitutional behavior is tolerated, condoned, and accepted by the Pleasantville Police Department in deliberate indifference to and reckless disregard of the public at large, including the plaintiff;

d. The City of Pleasantville and the Pleasantville Police Department allow its officers to engage in conduct that violates the constitutional rights of persons in custody, including plaintiff, without fear of reprimand, discipline or termination, creating an atmosphere where such unconstitutional behavior is ratified, tolerated, and condoned, in reckless disregard of and deliberate indifference to the welfare of the public, including plaintiff; and

e. The City of Pleasantville and the Pleasantville Police Department knew that "a code of silence" existed between and among their officers whereby officers would not report misconduct of other officers to their superiors and failed to take steps necessary to break the "code of silence" which includes, but is not limited to, properly supervising officers, properly investigating critical incidents, holding officers accountable for misconduct and failing to report misconduct, creating an atmosphere where officers violate the constitutional rights of the public at large in deliberate indifference to and in reckless disregard of the constitutional rights of the public at large in deliberate indifference to and in reckless disregard of the constitutional rights of the public, including the plaintiff.

30. Further, defendant City of Pleasantville, New Jersey is liable for the actions of defendants Payne, Valentin, Maldonado, Mays, Ellis, Stock, Wright, Porter, and John Doe 1-4 under the doctrines of agency, vicarious liability, employer-employee relations,

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master-servant, respondeat superior, joint venture, contract and as a result of their non-delegable duty to provide officers who comply with the constitutions of laws of the United States of America and the State of New Jersey.

31. As a direct and proximate result of the foregoing policies, practices, and customs of the City of Pleasantville and the Pleasantville Police Department, the violation of the constitutional rights of the citizens of the City of Pleasantville were substantially certain to occur.

32. As a direct and proximate result of the foregoing policies, practices, and customs of the City of Pleasantville and the Pleasantville Police Department, plaintiff's constitutional rights were violated and plaintiff was injured and damaged.

### COUNT III

STATE LAW TORTS AGAINST DEFENDANTS PAYNE, VALENTIN,  
MALDONADO, MAYS, ELLIS, STOCK, WRIGHT, PORTER,

AND JOHN DOE 1-4

Plaintiff hereby incorporates, in its entirety, each and every paragraph of this Complaint and by reference makes said paragraphs a part hereof as if fully set forth herein at length.

33. The acts, omissions and conduct of defendants Payne, Valentin, Maldonado, Mays, Ellis, Stock, Wright, Porter, and John Doe 1-4 constitute assault, battery, trespass, to chattel, false arrest, false imprisonment, conspiracy, slander, negligent infliction of emotional distress and intentional infliction of emotional distress.

34. As a direct and proximate result of the aforementioned acts and omissions of defendants Payne, Valentin, Maldonado, Mays, Ellis, Stock, Wright, Porter, and John Doe 1-4, plaintiff has been injured and damaged.

WHEREFORE, plaintiff demands judgment against the defendants named herein jointly, severally and in the alternative for all damages set forth above both compensatory and punitive and such other relief as the court may deem just and property.

CASTELLANI LAW FIRM, LLC

DAVID R. CASTELLANI

BY:

DAVID R. CASTELLANI, ESQUIRE

Dated: December 5, 2013

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|                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                             |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| EDWARD D. COLLINS,<br><br>Plaintiff,<br><br>v.<br><br>PATROL OFFICER DANIEL DAVIS,<br>PATROL OFFICER LAIELLI, PATROL<br>OFFICER ELLIS, PATROL OFFICER<br>GUADALUPE, PATROL OFFICER<br>VANSYKLE, THE CITY OF<br>PLEASANTVILLE, THE CITY OF<br>PLEASANTVILLE INSPECTION &<br>ZONING OFFICE, JOHN DOE OFFICERS<br>1-5, AND JOHN DOE INVESTIGATORS<br>1-5<br><br>Defendant. | SUPERIOR COURT OF NEW JERSEY<br>LAW DIVISION – CIVIL PART<br>ATLANTIC COUNTY<br><br>DOCKET NO. ATL-L-<br><br>Civil Action<br><br>COMPLAINT, JURY DEMAND and<br>DESIGNATION OF TRIAL COUNSEL |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Edward D. Collins, residing at 29 Colonial Court, Galloway, New Jersey, and complaining against the Defendants, says as follows:

1. Plaintiff Edward D. Collins, was at all times relevant hereto, a citizen of Atlantic County residing in Pleasantville, New Jersey, the self-employed owner of an electronics business called D&S Electronics located at 120 N. Main Street, Unit C, Pleasantville, New Jersey, and a partner in De La Cruz Auto Repair located at 610 W. Delilah Road, Pleasantville, New Jersey.

2. Plaintiff was also a member of the Camden County Fire Police and/or has served on a part-time basis as a Volunteer Firefighter in the State of New Jersey at all times relevant hereto.

3. Plaintiff's Fire Police position and his Volunteer Fire service evolved as follows.

4. On January 29, 2015 Chief F. Gene Sykes of the Newtonville Volunteer Fire Company offered to personally assist Plaintiff in joining the Cologne Fire Company. (Exhibit A).

5. On July 6, 2017 Plaintiff was accepted as a volunteer firefighter in the Absecon City Fire Department. (Exhibit B).

6. On September 6, 2017 Plaintiff's membership application for the New Jersey State Firemen's Association was accepted under file number 171192. (Exhibit C).

7. On November 26, 2017 Plaintiff was added to the Fire Training and Certification Computer Program. Plaintiff was assigned identification number 190666 with the Division of Fire Safety. (Exhibit D).

8. On September 17, 2017 Plaintiff was awarded a certificate for his satisfactory completion of the Hazmat Operational Program by the Atlantic County Fire Academy and operated by the Atlantic County Firefighters Association. (Exhibit E).

9. On September 27, 2017 Plaintiff was awarded a certification for his satisfactory completion of the Hazmat Awareness Program given by the Atlantic County Fire Academy and operated by the Atlantic County Firefighters Association. (Exhibit F).

10. On October 22, 2017 Plaintiff was issued a card as a Basic Life Support provider for his successful completion of the Cognitive and Skills Evaluation in

accordance with the curriculum of the American Heart Association Basic Life Support (CPR and AED Program). (Exhibit G).

11. On March 10, 2018 the New Jersey Department of Community Affairs, Division of Fire Safety, awarded Plaintiff a certificate for his completion of the New Jersey Fire Police Training Course. (Exhibit H).

12. On March 10, 2018 the Burlington County Emergency Services Training of the Burlington County Institute of Technology, Adult Education Division, certified that Plaintiff had successfully completed four (4) hours with a passing grade in NIMS compliance IS-700-I-100. (Exhibit I).

13. On March 10, 2018 Burlington County Emergency Services Training of the Burlington County Institute of Technology, Adult Education Division, certified that Plaintiff satisfactorily completed twelve (12) hours with a passing grade in basic fire police. (Exhibit J). In addition, Plaintiff has been a member of the Camden County Fire Police as of April 20, 2018 and was permitted and authorized to carry a badge so indicating on that date. (Exhibit K).

14. In or around the Spring of 2017, Plaintiff was verbally and physically accosted by Defendant Patrol Officer Laielli of the Pleasantville Police Department outside of the Pleasantville Wawa while in or about the parking lot. Defendant Laielli was dispatched to said Wawa where an altercation was occurring inside the store between two (2) young women. After Plaintiff successfully defused the situation, he was approached by Defendant Laielli. The Defendant yelled to the Plaintiff "why do you have that shit on" and thereafter told the Plaintiff he had no right or authority to wear a fire police uniform and badge. The Defendant then ripped the Plaintiff's hat off in front of

onlookers and thereafter at the Pleasantville Police Department refused to return said hat in the presence of the officer in charge. As of this date, the property of the Plaintiff remains in possession of the Pleasantville Police Department.

15. On or about May 8, 2017 multiple police officers of the City of Pleasantville Police Department and City Zoning officers arrived at the Plaintiff's electronic business located at 120 N. Main Street in Pleasantville, New Jersey. Upon information and belief, the first name of the zoning official was Rodney, who had since been terminated by the City of Pleasantville. All of the Plaintiff's customers were ordered out of the building the Plaintiff detained and his business seized and closed by police authority allegedly because that Plaintiff did not have a mercantile license. The Plaintiff then also received multiple parking summonses issued without reasonable cause.

16. On or about August 31, 2017 Plaintiff was sitting outside of De La Cruz Autobody Shop in Pleasantville, New Jersey when Patrol Officer Daniel Davis and Patrol Officer Ellis noticed him. Defendants Patrol Officer Davis and Patrol Officer Ellis came to Plaintiff's location demanding identification and information. The Plaintiff refused and was detained outside of his autobody shop and then inside of his autobody shop in excess of ninety (90) minutes. The Defendants then took a picture of Plaintiff and left.

17. On or about April 20, 2018 Plaintiff was charged with criminal offenses including obstruction of justice and impersonating a public servant under Warrant No. W-2018-000218-0119. (Exhibit L). On said date Defendant Patrol Officer Davis conducted a motor vehicle stop on a silver Volvo for a moving violation. The driver of the vehicle was Raoul Tilghman-Pugh. After coming to a complete stop, the driver informed Defendant Davis that he did not have the registration or insurance card to the vehicle but

his boss, Plaintiff Edward Collins, was bringing the items to present them to the officer. Plaintiff arrived on the scene while the Defendant was issuing the driver multiple summonses for driving an unregistered vehicle, driving without a license, driving in the wrong direction on a one-way, and failure to exhibit registration. At said time Plaintiff opened his jacket and presented to Defendant his fire police badge. Plaintiff was charged with impersonating a police officer pursuant to N.J.S.A. 2C:28-8B and obstruction of justice pursuant to N.J.S.A 2C:29-1A in the Pleasantville Municipal Court and those charges were forwarded to the Superior Court.

18. Thereafter, all charges were remanded by the Prosecutor's Office and, ultimately, conflicted out to Brigantine Municipal Court. On June 6, 2019 all charges related to this incident under Warrant No. W-2018-000218-0119 were dismissed by the Honorable Timothy P. McGuire, J.M.C. sitting in the Brigantine Municipal Court. Moreover, Two (2) traffic offenses which post-dated the Plaintiff's April 2018 arrest date were additionally dismissed.

19. On or about June 10, 2019, a mere four (4) days after the Plaintiff's charges were dismissed in the Brigantine Municipal Court, the Plaintiff was again stopped for failure to use a turn signal by Defendant Patrol Officer VanSykle of the Pleasantville Police Department. The Plaintiff was charged with multiple disorderly persons level offenses under Summons No. 2019-000417-0119. These matters remain pending in Pleasantville Municipal Court.

20. On or about September 6, 2019 Defendant Officer Laielli came to Plaintiff's home located in Pleasantville, New Jersey and threatened the Plaintiff. Twenty (20)

minutes after Defendant Officer Laielli, left he again returned to Plaintiff's home, this time with additional officers, for the sole purpose of threatening the Plaintiff.

**COUNT I**  
**(Malicious Prosecution)**

21. Plaintiff repeats and incorporates all previous allegations as if fully set forth herein.

22. This claim arises from the detention, arrest, charging and prosecution of Plaintiff by virtue of his arrest in the City of Pleasantville on April 20, 2018.

23. Following the arrest of Plaintiff, Defendant Patrol Officer Davis swore complaint number 0119-W-2018-000218 against the Plaintiff, charging him with the crimes of impersonating a police officer and obstruction of justice.

24. Defendant Patrol Officer Davis, did at all times relevant hereto, initiate criminal process against the Plaintiff which was ultimately dismissed by the Honorable Timothy P. McGuire, J.M.C. sitting in Brigantine Municipal Court on June 6, 2019. Defendant initiated the criminal process knowing there was no probable cause or reasonable basis in fact or law to charge the Plaintiff. Defendant did nonetheless charge the Plaintiff as an exercise of his power under color of state law without probable cause and maliciously.

25. Defendant Patrol Officer Guadalupe was, at all times relevant hereto, a Patrol Officer in the City of Pleasantville observed, participated and acted in combination with Defendant Patrol Officer Davis in effecting the physical arrest of the Plaintiff while knowing that the arrest was without reasonable or probable cause and was instead a function of Defendant Officer Davis's harassment of the Plaintiff. Defendants did individually, jointly and severally, maliciously prosecute the Plaintiff and did proximately

cause the Plaintiff serious and significant damages including violations of his rights against reasonable search and seizure of his person and property, emotional distress, loss of liberty, over a year of court appearances and attorneys' fees in addition to other economic and non-economic damages.

WHEREFORE, Plaintiff demands judgment against Defendants jointly, severally and individually for malicious prosecution as follows:

- (a) Compensatory damages;
- (b) Punitive damages;
- (c) Interest and attorneys' fees and costs of suit; and
- (d) Any other relief the Court deems equitable and just.

**COUNT II**  
**(False Arrest and Imprisonment)**

26. Plaintiff repeats and incorporates previous allegations as if fully set forth herein.

27. The actions and conduct of Defendant Davis and Guadalupe constituted intentional detainment and restraint of the Plaintiff and his personal liberty and freedom of movement, arresting him as aforementioned on April 20, 2018. Plaintiff's arrest was effected without the direct observation of any conduct which did or could constitute a crime or a disorderly person's offense and the Plaintiff's arrest and detention was unreasonable and unconstitutional.

WHEREFORE, Plaintiff demands judgment against Defendants jointly, severally and individually for false arrest and imprisonment as follows:

- (a) Compensatory damages;

- (b) Punitive damages;
- (c) Interest and attorneys' fees and costs of suit; and
- (d) Any other relief the Court deems equitable and just.

**Count III**  
**(New Jersey Civil Rights Act – N.J.S.A. 10:6-2)**

28. Plaintiff repeats and incorporates all previous allegations as if fully set forth herein.

29. Defendants Davis and Guadalupe did at all times relevant hereto act under the power and authority and color of State law when they arrested and charged the Plaintiff on April 20, 2018. Defendants did intentionally, recklessly, unlawfully, unreasonably and unconstitutionally seize, assault, detain and imprison the Plaintiff without reasonable or probable cause, in fact or by law, and did by virtue of that conduct violate, deprive and impair Plaintiff's right from unreasonable seizure and detention pursuant to Article 1, Paragraph 7 of the New Jersey Constitution as well as Plaintiff's right to be free from the constitutional tort of malicious prosecution.

30. Defendants actions and conduct proximately caused the Plaintiff to suffer injuries and damages as aforementioned.

WHEREFORE, Defendant demands judgment against Defendants jointly, severally and individually pursuant to the New Jersey Civil Rights Act as follows:

- (a) Compensatory damages;
- (b) Punitive damages;
- (c) Interest and attorneys' fees and costs of suit; and
- (d) Any other relief the Court deems equitable and just.

**COUNT IV**  
**(New Jersey Civil Rights Act – N.J.S.A. 10:6-2)**

31. Plaintiff repeats and incorporates all previous allegations as if fully set forth herein.

32. Defendants Patrol Officer Laielli, Patrol Officer Davis, Patrol Officer Ellis, Patrol Officer VanSykle, the City of Pleasantville Police Department and the City of Pleasantville Inspection and Zoning Office did at all times relevant hereto act under the power and authority of state law to conduct a continuing pattern of harassment of Plaintiff dating back to the Spring of 2017. Defendants did intentionally and recklessly, unlawfully, unreasonably and unconstitutionally seize, detain and imprison the Plaintiff without reasonable or probable cause, in fact or by law, and did by virtue of that conduct violate, deprive and impair Plaintiff's rights under Article I, Paragraph 7 of the New Jersey Constitution.

33. Defendants actions and conduct proximately caused the Plaintiff to suffer injuries and damages including violation of his right against reasonable search and seizure of his person and property, malicious prosecution, false imprisonment, arrest and detention, public embarrassment, injury to his reputation, injury and loss profits to his business and livelihood, pain and suffering, emotional distress and multiple incidents of arbitrary and capricious state action.

34. Defendants John Doe Officers 1-5 and John Doe Investigators 1-5 are intended to represent those currently unknow and unidentified officers, investigators, and/or supervisors that assisted, combined and facilitated the intentional and affirmative conduct of Defendants Davis, Laielli, Ellis, Guadalup, Vanskye and the city zoning office

as fully set forth above. Plaintiff fictitiously pled those individuals and reserved the right to amend his complaint.

WHEREFORE, Plaintiff demands judgment against Defendants jointly, severally and individually for violation of the New Jersey Civil Rights Act as follows:

- (a) Compensatory damages;
- (b) Punitive damages
- (c) Interest and attorneys' fees and costs of suit; and
- (d) Any other relief the Court deems equitable and just.

**Count V**  
**(New Jersey Civil Rights Act – N.J.S.A. 10:6-2)**

35. Plaintiff repeats and incorporates all previous allegations as if fully set forth herein.

36. Plaintiff's injuries including violation of his Federal and State Constitutional rights against unreasonable search and seizure of his property and person, malicious prosecution, false imprisonment, arrest and detention were the result of policy, practice and custom with in the City of Pleasantville. Although not written or published, the policy, practice and custom existing in the City of Pleasantville is palpable, given the course of conduct and continuing pattern of harassment of the Plaintiff dating back to the Spring of 2017. This continuing pattern of harassment and multiple incidents of arbitrary and capricious State action was an established the custom of the City of Pleasantville which is so well settled and permanent that it virtually constituted the law as applied to citizens such as the Plaintiff.

37. As a direct result of the City of Pleasantville's custom, Defendants Davis, Laielli, Ellis, Guadalupe, VanSykle and City Zoning Office did at all times relevant hereto

act under the color of State law in an attempt to impair and deprive the Plaintiff's Constitutional rights as secured by the New Jersey Constitution. Given the pattern of unconstitutional seizures, assaults, detentions and false imprisonments of the Plaintiff without reasonable or probable cause, in fact or by law, and did by virtue of that conduct violate, deprive and impair Plaintiff's constitutional rights.

38. Defendant, the City of Pleasantville's actions and custom proximately caused the Plaintiff to suffer injuries and damages including violation of his Federal and State Constitutional rights against unreasonable search and seizure of his person and property, malicious prosecution, false imprisonment, arrest and detention, public embarrassment, injury to his reputation, injury and loss of profit to his business and livelihood, pain and suffering, emotional distress and multiple incidents of arbitrary and capricious State actions.

WHEREFORE, Plaintiff demands judgment against Defendants jointly, severally and individually pursuant to the New Jersey Civil Rights Act as follows:

- (a) Compensatory damages;
- (b) Punitive damages;
- (c) Interest and attorneys' fees and costs of suit; and
- (d) Any other relief the Court deems equitable and just.

**RULE 4:5-1 CERTIFICATION**

Pursuant to R. 4:5-1, I hereby certify that to the best of my knowledge, information and belief, the matter in controversy is not the subject of any other action pending in any Court or arbitration proceedings, and no other action is contemplated. I know of no other parties that should be joined herein.

**CERTIFICATION OF COMPLIANCE WITH R. 1:38-7(c)**

I certify the 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 R. 1:38-7(c).

**JURY DEMAND PURSUANT TO R. 1:8-1(b) and R. 4:35-1**

Plaintiff Edward D. Collins hereby demands trial by jury as to all issues herein.

**DESIGNATION OF TRIAL COUNSEL**

Plaintiff Edward D. Collins hereby designates Louis M. Barbone, Esquire, as Trial Counsel in this case.

JACOBS & BARBONE, P.A.



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Louis M. Barbone, Esquire

Dated: April 17, 2020

Mark El d/b/a Mark Smith  
4013 Broadway Ave  
Egg Harbor Township, NJ 08234  
(non-domestic)

RECEIVED and  
FILED

MAR 28 2018

ATLANTIC COUNTY  
LAW DIVISION

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION, SPECIAL CIVIL PART  
ATLANTIC COUNTY

2018 JAIL - 8 PM 2:25

NEW JERSEY

MARK EL,

Plaintiff

-vs-

OFFICER NORMAN DENNIS  
PLEASANTVILLE POLICE  
DEPARTMENT,

Defendant.

Docket No.: ATL-L-80-18

VERIFIED COMPLAINT

PARTIES:

Plaintiff - Mark El d/b/a Mark Smith  
4013 Broadway Ave  
Egg Harbor Township, NJ 08234  
(Non-Domestic)

Defendant - Norman Dennis, Officer  
Pleasantville Police Department  
17 N. 1<sup>st</sup> Street  
Pleasantville, New Jersey

**CLAIM:**

- 1) Defendant Norman Dennis illegally seized plaintiff's personal property in the form of one (1) 2013 Honda Accord vehicle.
- 2) Defendant Norman Dennis violated plaintiff's constitutional rights under the Fourth Amendment of the United States Constitution and the New Jersey State Constitution.
- 3) Defendant Norman Dennis violated plaintiff's Fifth Amendment Right ("The Taking Clause") and plaintiff's Fourteenth Amendment Right to Due Process of Law when he illegally seized plaintiff's vehicle.

**ALLEGATIONS:**

- 4) On or about February 14, 2017, in the City of Pleasantville, New Jersey, defendant Norman Dennis, an Officer with the Pleasantville Police Department stopped plaintiff's personal vehicle in the 200 block of Woodland Avenue.
- 5) Defendant Dennis arrested plaintiff for an outstanding traffic fine. Plaintiff had a licensed driver to take possession of his vehicle and drive it to his home.
- 6) Defendant Dennis refused to allow plaintiff to retain his personal property and summarily seized plaintiff's vehicle.
- 7) Plaintiff's vehicle was ordered towed by defendant Dennis under the false pretext that plaintiff did not have a valid registration and insurance card.
- 8) Plaintiff's vehicle was towed to Guenther Tow Yard on New Road in the City of Pleasantville, New Jersey.
- 9) Plaintiff suffered economic and personal loss when defendant Dennis deprived him of his vehicle.
- 10) Lot storage fee's have accumulated to over \$4,000.00 because of the wrongful actions of defendant Dennis.

- 11) On May 4, 2017, plaintiff attempted to obtain a release of his vehicle from Guenthers through the Pleasantville Police Department. Plaintiff was advised that he had to produce a valid registration and insurance card.
- 12) Plaintiff advised the Pleasantville Police Department that these documents were in the vehicle, as they were when defendant Dennis seized the vehicle.
- 13) Plaintiff was sent to Guenthers where an employee escorted plaintiff to his vehicle and retrieved the registration and insurance card for plaintiff.
- 14) Defendant Dennis claimed to have seized plaintiff's personal property on the basis that he did not have a valid registration or insurance card. This assertion was patently false and defendant Dennis knew as much. Defendant Dennis employed a false basis for illegally seizing plaintiff's vehicle.

**RELIEF SOUGHT:**

- 15) Plaintiff seeks compensatory damages in the amount of \$50,000.00;
- 16) Plaintiff seeks punitive damages in the amount of \$250,000.00
- 17) Plaintiff seeks an award for the cost of filing this suit.

**DEMAND FOR JURY TRIAL:**

Plaintiff demand trial by jury.

**CERTIFICATION REGARDING ENTIRE CONTROVERSY:**

Plaintiff Mark El hereby certifies that the facts above cover the entire controversy in this matter.

**OTHER ACTIONS:**

Plaintiff Mark El hereby certifies that the subject of this suit is not pending in any other Court of competent jurisdiction.

Mark El  
MARK EL D/B/A MARK SMITH, PETITIONER

Dated: 1/8/18

**LOUIS CHARLES SHAPIRO, P.A.**

By: Louis Charles Shapiro, Esquire (New Jersey Bar I.D. No. 028201997)

1063 E. Landis Avenue

Vineland, New Jersey 08360

(856) 691-6800; Fax No. (856) 794-3326

Email: [shap1@prodigy.net](mailto:shap1@prodigy.net)

Attorney for Plaintiffs, Carla Weldon, Troy Sessoms, C.S., C.S.,

D.F.J., D.F.J., D.F.J., and D.F.J.

CARLA WELDON, individually and on  
behalf of C.S., C.S., D.F.J., D.F.J., D.F.J.,  
and D.F.J.; TROY SESSOMS, individually  
and on behalf of C.S., C.S., D.F.J., D.F.J.,  
D.F.J., and D.F.J.; C.S., a minor; C.S., a  
minor; D.F.J., a minor; D.F.J., a minor;  
D.F.J., a minor; and D.F.J., a minor;

Plaintiffs,

vs.

DAMON G. TYNER, in his official capacity;  
as ATLANTIC COUNTY PROSECUTOR;  
ATLANTIC COUNTY PROSECUTOR'S  
OFFICE: ATLANTIC COUNTY  
SHERIFF'S OFFICE: JOHN/JANE DOE(S)  
LAW ENFORCEMENT OFFICERS  
OF THE ATLANTIC COUNTY  
PROSECUTOR'S OFFICE 1-20; JOHN/  
JANE DOE(S) ATLANTIC COUNTY  
SHERIFF'S OFFICERS 1-20;  
JOHN/JANE DOE(S) NEW JERSEY  
STATE TROOPERS, DETECTIVES AND  
LAW ENFORCEMENT OFFICERS 1-20;  
JOHN/ JANE DOE(S) LAW  
ENFORCEMENT OFFICERS OF THE  
CITY OF PLEASANTVILLE POLICE  
DEPARTMENT 1-20; JOHN/JANE  
DOE(S) LAW ENFORCEMENT  
OFFICERS OF THE TOWNSHIP OF  
GALLOWAY POLICE DEPARTMENT  
1-20; JOHN/JANE DOE(S) LAW  
ENFORCEMENT OFFICERS OF THE

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION - ATLANTIC COUNTY

CIVIL ACTION

OCEAN COUNTY PROSECUTOR'S  
OFFICE 1-20; JOHN/JANE DOE(S)  
LAW ENFORCEMENT OFFICERS OF  
THE ATLANTIC CITY POLICE  
DEPARTMENT 1-20; JOHN/JANE  
DOE(S) LAW ENFORCEMENT  
OFFICERS OF THE EGG HARBOR  
CITY POLICE DEPARTMENT 1-20;  
JOHN/JANE DOE(S) LAW  
ENFORCEMENT OFFICERS OF THE  
EGG HARBOR TOWNSHIP POLICE  
DEPARTMENT 1-20; JOHN/JANE  
DOE(S) LAW ENFORCEMENT  
OFFICERS OF THE TOWNSHIP OF  
MULLICA POLICE DEPARTMENT 1-20;  
JOHN/JANE DOE(S) LAW  
ENFORCEMENT OFFICERS FROM  
OTHER LAW ENFORCEMENT  
AGENCIES 1-20; and ABC OTHER LAW  
ENFORCEMENT AGENCIES 1-20.

Defendants.

#### COMPLAINT AND JURY DEMAND

Plaintiffs, Carla Weldon and Troy Sessoms, individually and on behalf of minor Plaintiffs C.S., C.S., D.F.J., D.F.J., D.F.J., and D.F.J. (collectively, "Plaintiffs"), by way of Complaint against Defendants, Damon G. Tyner, in his official capacity as Atlantic County Prosecutor, the Atlantic County Prosecutor's Office, the Atlantic County Sheriff's Office, John/Jane Doe(s) Law Enforcement Officers of the Atlantic County Prosecutor's Office 1-20; John/Jane Doe(s) Atlantic County Sheriff's Officers 1-20; John/Jane Doe(s) New Jersey State Troopers, Detectives and Law Enforcement Officers 1-20; John/Jane Doe(s) Law Enforcement Officers of the City of Pleasantville Police Department 1-20; John/Jane Doe(s) Law Enforcement Officers of the Township of Galloway Police Department 1-20; John/Jane Doe(s) Law Enforcement Officers of the Ocean County

Prosecutor's Office 1-20; John/Jane Doe(s) Law Enforcement Officers of the Atlantic City Police Department 1-20; John/Jane Doe(s) Law Enforcement Officers of the Egg Harbor City Police Department 1-20; John/Jane Doe(s) Law Enforcement Officers of the Egg Harbor Township Police Department 1-20; John/Jane Doe(s) Law Enforcement Officers of the Township of Mullica Police Department 1-20; John/Jane Doe(s) Law Enforcement Officers from Other Law Enforcement Agencies 1-20; and ABC Other Law Enforcement Agencies 1-20 (collectively, "Defendants"), allege as follows:

**FIRST COUNT**  
**Violation of Article I, paragraph 7 of the**  
**New Jersey State Constitution**

**The Parties**

1. Plaintiff, Carla Weldon ("Weldon"), is an adult individual who, at all relevant times, resided at 204 Cincinnati Avenue, Egg Harbor City, Atlantic County, New Jersey 08215. Weldon is the biological mother to minor Plaintiffs C.S. and C.S. and was, at all relevant times, the foster parent of the four minor Plaintiff children whose initials are D.F.J. Weldon brings this action individually and on behalf of the minor children.

2. Plaintiff, Troy Sessoms ("Sessoms"), is an adult individual who, at all relevant times, also resided at 204 Cincinnati Avenue, Egg Harbor City, Atlantic County, New Jersey 08215. Sessoms is the biological father to minor Plaintiffs C.S. and C.S. and was, at all relevant times and upon information and belief, acting as a foster parent and/or in such capacity for the four minor Plaintiff children whose initials are D.F.J. Sessoms brings this action individually and on behalf of the minor children.

3. Plaintiff, C.S., is a female biological child of Plaintiffs Weldon and Sessoms, who was

at the time of the events described herein two years old, and who resided in the Weldon-Sessoms household.

4. Plaintiff, C.S., is a male biological child of Plaintiffs Weldon and Sessoms, who was at the time of the events described herein approximately one year old, and who resided in the Weldon-Sessoms household.

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5. Plaintiff, D.F.J., was at all relevant times a female foster child and cousin of the Plaintiff minor C.S. children who lived in the Weldon-Sessoms household, and who was 15 years old at the time of the events described in this Complaint.

6. Plaintiff, D.F.J., was at all relevant times a female foster child and cousin of the Plaintiff C.S. children who lived in the Weldon-Sessoms household, and who was 12 years old at the time of the events described in this Complaint.

7. Plaintiff, D.F.J., was at all relevant times a female foster child and cousin of the Plaintiff C.S. children who lived in the Weldon-Sessoms household, and who was 10 years old at the time of the events described in this Complaint.

8. Plaintiff, D.F.J., was at all relevant times a female foster child and cousin of the Plaintiff C.S. children who lived in the Weldon-Sessoms household, and who was seven years old at the time of the events described in this Complaint.

9. Defendant, Damon G. Tyner ("Tyner"), against whom suit is brought in his official capacity, is and was at all relevant times the appointed Atlantic County Prosecutor, was responsible for the operations of the Atlantic County Prosecutor's Office, and has a business address of 4997 Unami Boulevard, Suite 2, P.O. Box 2002, Mays Landing, Atlantic County, New Jersey 08330.

10. Defendant, Atlantic County Prosecutor's Office ("ACPO"), located at 4997 Unami

Boulevard, Suite 2, P.O. Box 2002, Mays Landing, Atlantic County, New Jersey 08330, is the chief law enforcement agency for Atlantic County and is responsible for, among other things, investigating and prosecuting felony criminal offenses which occur in Atlantic County.

11. Defendant, Atlantic County Sheriff's Office ("ACSO"), is a law enforcement agency with jurisdiction in Atlantic County, and which has a business address of 4997 Unami Boulevard, Mays Landing, Atlantic County, New Jersey 08330.

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12. Defendants, John/Jane Doe(s) Law Enforcement Officers of the Atlantic County Prosecutor's Office 1-20 ("ACPO personnel"), are spokespersons, agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed and overseen by Tyner and others at the ACPO, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the ACPO personnel have a business address at 4997 Unami Boulevard, Suite 2, P.O. Box 2002, Mays Landing, Atlantic County, New Jersey 08330.

13. Defendants, John/Jane Doe(s) Atlantic County Sheriff's Officers 1-20 ("Sheriff's Officers"), are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by the ACSO, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the Sheriff's Officers have a business address of 4997 Unami Boulevard, Mays Landing, Atlantic County, New Jersey 08330.

14. Defendants, John/Jane Doe(s) New Jersey State Troopers, Detectives and Law Enforcement Officers 1-20 (the "State Police actors"), are agents, detectives, troopers, and/or duly constituted law enforcement officers with statewide jurisdiction and are of various ranks, including

but not limited to those acting in a supervisory capacity, who are employed by the New Jersey State Police, and who may be responsible and liable for acts and omissions described in this Complaint. The State Police actors' actual locations throughout the New Jersey State Police system are presently unknown. However, the business address for the Division of State Police is River Road, P.O. Box 7068, West Trenton, New Jersey 08628-0068.

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15. Defendants, John/Jane Doe(s) Law Enforcement Officers of the City of Pleasantville Police Department 1-20 (the "Pleasantville officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by the City of Pleasantville Police Department, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the Pleasantville officers have a business address located at the Pleasantville Police Department, 17 N. 1<sup>st</sup> Street, Pleasantville, New Jersey 08232.

16. Defendants, John/Jane Doe(s) Law Enforcement Officers of the Township of Galloway Police Department 1-20 (the "Galloway officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by the Township of Galloway Police Department, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the Galloway officers have a business address located at the Galloway Township Police Department, 300 E. Jimmie Leeds Road, Galloway, New Jersey 08201.

17. Defendants, John/Jane Doe(s) Law Enforcement Officers of the Ocean County Prosecutor's Office 1-20 (the "Ocean County officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in

a supervisory capacity, who are employed by the Ocean County Prosecutor's Office, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the Ocean County officers have a business address located at the Ocean County Prosecutor's Office, 199 Hooper Avenue, P.O. Box 2191, Toms River, New Jersey 08754-2191.

18. Defendants, John/Jane Doe(s) Law Enforcement Officers of the Atlantic City Police Department 1-20 (the "Atlantic City officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by the Atlantic City Police Department, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the Atlantic City officers have a business address located at the Atlantic City Police Department, Public Safety Building, 2715 Atlantic Avenue, Atlantic City, New Jersey 08401.

19. Defendants, John/Jane Doe(s) Law Enforcement Officers of the Egg Harbor City Police Department 1-20 (the "EHC officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by the Egg Harbor City Police Department, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the EHC officers have a business address located at the Egg Harbor City Police Department, 500 London Avenue, Egg Harbor City, New Jersey 08215.

20. Defendants, John/Jane Doe(s) Law Enforcement Officers of the Egg Harbor Township Police Department 1-20 (the "EHT officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by the Egg Harbor Township Police Department, and who may be

responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the EHT officers have a business address located at the Egg Harbor Township Police Department, 3515 Bargaintown Road, Egg Harbor Township, New Jersey 08234.

21. Defendants, John/Jane Doe(s) Law Enforcement Officers of the Mullica Township Police Department 1-20 (the "Mullica officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by the Mullica Township Police Department, and who may be responsible and liable for the acts and omissions described in this Complaint. Upon information and belief, the Mullica officers have a business address located at the Mullica Township Police Department, 4528 S. White Horse Pike, P.O. Box 317, Elwood, New Jersey 08217.

22. Defendants, John/Jane Doe(s) Law Enforcement Officers from other law enforcement agencies 1-20 (the "unknown officers") are agents, detectives, and/or duly constituted law enforcement officers of various ranks, including but not limited to those acting in a supervisory capacity, who are employed by other law enforcement agencies, and who may be responsible and liable for the acts and omissions described in this Complaint. The business addresses for the unknown officers are as yet unknown.

23. Defendants, ABC Other Law Enforcement Agencies 1-20 (the "undetermined agencies") are other duly constituted law enforcement agencies whose roles, if any, in the events described in this Complaint are as yet undetermined, but which may be responsible and liable for the acts and omissions described in this Complaint. The business addresses for the undetermined agencies is as yet unknown.

24. To the extent the full and/or true name and/or identity of any Defendant is later

determined, through discovery and investigation, Plaintiffs reserve the right to amend the caption and body of this Complaint to name those individuals and/or agencies who and/or which may be responsible and liable for the acts and omissions described in this Complaint.

25. On April 20, 2017, Plaintiffs served evidence preservation letters upon numerous law enforcement agencies, including the Defendants named herein. Thus, Plaintiffs reserve the right to make a claim for evidence spoliation in the event discoverable evidence has not been preserved.

26. On June 23, 2017, Plaintiffs served Tort Claim Notices upon the Defendants pursuant to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq.

#### **Factual Allegations**

27. At approximately 6:24 a.m. on March 30, 2017, Plaintiff Weldon was walking out of her bedroom on the second floor of her residence when numerous unknown Defendant officers entered the Plaintiffs' residence at 204 Cincinnati Avenue, in Egg Harbor City, New Jersey through the front door.

28. At the time, Plaintiff Weldon heard the Defendant officers yelling, "Police, police, put your hands up!"

29. Plaintiff Sessoms came down the stairs behind Plaintiff Weldon.

30. All six of the minor Plaintiff children were at home at the time, together with Plaintiffs Weldon and Sessoms.

31. At the time, one of the foster children identified as D.J.F. was walking down the stairs.

32. The officers were dressed in all black, wearing puffy vests, the backs of which were emblazoned with the word "POLICE."

33. About five officers were on the first floor with four of the children.

34. Some of the children were sitting on the couch on the first floor waiting for their school bus to arrive to take them to school that morning.

35. Approximately another six officers were running up the stairs toward Plaintiffs Weldon and Sessoms.

36. At least two of these officers had their firearms out.

37. The daughter of Plaintiffs Weldon and Sessoms, identified as C.S., who was two years old at the time, was headed back to bed on the second floor while the son of Weldon and Sessoms, C.S., who was approximately one year old, was asleep on the second floor.

38. Plaintiff Weldon saw guns pointed in the direction of the children when she came down the stairs with her hands up.

39. Upon information and belief, all of the children saw guns, except for the son of Plaintiffs Weldon and Sessoms, C.S., who was asleep at the time.

40. Amid the chaos and confusion of this police raid, one or more of the Defendant officers who invaded Plaintiffs' home on that morning asked why a bedroom door on the second floor was locked.

41. Plaintiff Weldon told the Defendant officers of her belief that the door was not locked.

42. In response, one of the Defendant officers cursed at her, and told her to stop lying, and/or that Weldon was "f---in' lying," or words to this effect.

43. The Defendant officers broke into that bedroom and damaged the door; as it turned out, the door had been locked by accident.

44. At some point during the raid, the young daughter of Plaintiffs Weldon and Sessoms, C.S., was in the arms of one of the Defendant officers.

45. A female Defendant officer told Plaintiff Weldon not to worry, but to continue to keep her hands up on the first floor.

46. Once all of the adults and children (except for C.S., the son of Weldon and Sessoms) were in the living room of the residence, one or more of the Defendant officers began to mention a name with which the Plaintiffs were not familiar.

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47. During this time, the Plaintiff minor children were on the couch, crying and hysterical.

48. At some point, however, the Defendant officers came to the realization that they had raided the wrong residence.

49. As a recognition and admission that the Defendant officers had violated Plaintiffs' right to the sanctity of their home, one of the Defendant officers offered to walk the children to their bus stop.

50. Upon information and belief, Defendants neither had a search warrant for the premises nor presented Plaintiffs with such a document.

51. Plaintiffs did not consent to, or voluntarily allow, Defendants' entry into their home.

52. In fact, one or more of the Defendant officers told Plaintiffs that they **"came in because the door was open,"** or words to this effect.

53. Upon further information and belief, the Defendant officers also attempted, shortly after their illegal entry into Plaintiffs' residence, to gain entry into the apartment of one of Plaintiffs' neighbors, which entry that neighbor refused on account of Defendants' not being in possession of a search warrant. It is further alleged, upon information and belief, that Defendants later sought a warrant for this neighboring residence.

54. On or about April 1, 2017, Defendants Tyner, and/or the ACPO, and/or ACPO personnel

announced a joint investigation which culminated in police raids in Pleasantville, Egg Harbor City, and other areas of Atlantic County on March 30, 2017, the same day Plaintiffs' home was raided.

55. The raids announced by Tyner, by the ACPO, and/or by ACPO personnel shortly after Plaintiffs' home was raided resulted in the arrests of multiple suspects and seizures of narcotics and firearms at other locations, including the arrest of Kenneth J. Burrell, who was an alleged leader of a narcotics trafficking network and who, upon information and belief, lived on Buffalo Avenue and a short distance away from Plaintiffs' residence in Egg Harbor City.

56. Burrell's criminal case was prosecuted in Superior Court, Atlantic County.

57. On May 25, 2018, Defendants Tyner, and/or the ACPO, and/or ACPO personnel announced that Burrell had been sentenced to a lengthy prison term in Superior Court, Atlantic County.

58. Public pronouncements by Defendants Tyner, by the ACPO, and/or by ACPO personnel demonstrate that these ACPO defendants were in charge of the operation which led to the arrests of numerous individuals and seizure of illegal contraband, but which operation also resulted in the entry into Plaintiffs' home on March 30, 2017 in violation of the New Jersey Constitution.

59. These public pronouncements by Defendants Tyner, by the ACPO, and/or by ACPO personnel also confirmed the involvement, participation and/or assistance provided by officers from the multiple other law enforcement agencies referred to above in this Complaint.

60. Based on these public pronouncements by Tyner, by the ACPO, and/or by ACPO personnel, it is believed, and therefore alleged, that John/Jane Doe officers from the law enforcement agencies referred to herein entered Plaintiffs' home on March 30, 2017 in violation of the New Jersey Constitution.

61. Defendants violated Plaintiffs' rights under Article I, Paragraph 7 of the New Jersey Constitution by depriving them of their freedom from unreasonable searches and seizures -- specifically, by illegally entering and remaining in Plaintiffs' home and by subjecting Plaintiffs to excessive force as described herein.

62. As a proximate result of Defendants' acts and omissions, Plaintiffs suffered damages, including but not limited to constitutional injury, property damage, and substantial emotional upset and mental pain, suffering, grief and anguish.

63. Plaintiffs bring this Count pursuant to the New Jersey Civil Rights Act, N.J.S.A. 10:6-2 (c), (d), (e), and (f).

64. Defendants Tyner, the ACPO, ACPO personnel, and those as-yet unknown defendants acting in a supervisory capacity are liable for the acts and omissions of the Defendant officers described in this Count and in the Counts set forth below, pursuant to the doctrine of *respondeat superior*.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants individually, jointly and severally, in amounts that would reasonably and properly compensate them in accordance with the law, together with punitive damages, prejudgment interest, reasonable attorney's fees, costs of suit, and such other relief as the Court deems just.

#### SECOND COUNT

##### Trespass

65. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth at length herein.

66. Defendants, upon information and belief, were lacking a search warrant when they entered Plaintiffs' home.

67. Plaintiffs did not consent to Defendants' entry into their home.

68. Defendants' entry into Plaintiffs' home was unauthorized.

69. Upon information and belief, Defendants had no legal authority to enter Plaintiffs' residence and, in fact, indicated that they entered the Plaintiffs' home because "the door was open," or words to that effect.

70. Accordingly, Defendants committed the civil tort of trespass upon real property.

71. Defendants' actions in entering and remaining in Plaintiffs' home were intentional.

72. As a proximate result of Defendants' acts and omissions, Plaintiffs suffered damages, including but not limited to property damage, substantial emotional upset and mental pain, suffering, grief and anguish.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants individually, jointly and severally, in amounts that would reasonably and properly compensate them in accordance with the law, together with punitive damages, prejudgment interest, reasonable attorney's fees, costs of suit, and such other relief as the Court deems just.

### **THIRD COUNT**

#### **Intentional Infliction of Emotional Distress**

73. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth at length herein.

74. Defendants' actions as described herein were committed intentionally and/or recklessly.

75. Defendants' conduct as described in this Complaint was extreme and outrageous, including but not limited to the act of pointing loaded firearms at children whom Defendants could not reasonably have believed were engaged in criminal activity.

76. Defendants' actions proximately caused Plaintiffs to suffer emotional distress.

77. The emotional distress suffered by Plaintiffs was and is so severe that no reasonable person could be expected to endure it.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants individually, jointly and severally, in amounts that would reasonably and properly compensate them in accordance with the law, together with punitive damages, prejudgment interest, reasonable attorney's fees, costs of suit, and such other relief as the Court deems just.

#### **FOURTH COUNT** **Assault**

78. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth at length herein.

79. By their actions and/or behavior described in detail herein, and in particular through the use of deadly weapons aimed in Plaintiffs' direction, Defendants caused Plaintiffs reasonably to be placed in fear and to believe that they were at risk of death, physical harm and imminent bodily injury, including by Defendants' physical menace.

80. Defendants actions were intentional and/or reckless.

81. As a proximate result of Defendants' acts and omissions, Plaintiffs suffered damages, including but not limited to substantial emotional upset and mental pain, suffering, grief and anguish.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants individually, jointly and severally, in amounts that would reasonably and properly compensate them in accordance with the law, together with punitive damages, prejudgment interest, reasonable attorney's fees, costs of suit, and such other relief as the Court deems just.

**FIFTH COUNT**  
**Negligence**

82. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth at length herein.

83. Defendants in the alternative were negligent and/or reckless in entering and remaining in Plaintiffs' residence without a warrant and/or without the consent of Plaintiffs.

84. Defendants, as law enforcement officers, owed Plaintiffs and/or the public a duty of care to abide by the New Jersey Constitution, to abide by the laws and regulations of the State of New Jersey, and to abide by the guidelines and directives which governed their employment as law enforcement officers, and owed Plaintiffs and/or the public a duty of care to act as reasonable law enforcement officers and/or to refrain from placing Plaintiffs and others in danger.

85. Defendants breached their duty of care in the following ways: (1) by invading the sanctity of the home, upon information and belief, without a search warrant and/or other legal justification to enter; and/or (2) by remaining in Plaintiffs' home longer than necessary; and/or (3) by pointing loaded firearms at and/or in the direction of the adult Plaintiffs; and/or (4) by pointing loaded firearms at and/or in the direction of minor children who could not have been involved in any criminal activity Defendants were investigating at the time; and/or (5) by causing property damage

at the residence; and/or (6) by failing properly to determine whether they were entering the correct residence pursuant to a search warrant, if the same was actually obtained; and/or (7) in such other ways as may be revealed in discovery.

86. As a proximate result of Defendants' acts and omissions, Plaintiffs suffered damages, including but not limited to property damage, substantial emotional upset and mental pain, suffering, grief and anguish.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants individually, jointly and severally, in amounts that would reasonably and properly compensate them in accordance with the law, together with prejudgment interest, reasonable attorney's fees, costs of suit, and such other relief as the Court deems just.

**SIXTH COUNT**  
**Negligent Infliction of Emotional Distress**

87. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth at length herein.

88. Defendants owed a duty of care as outlined in paragraph 84 of this Complaint, which is incorporated herein by reference.

89. Defendants negligently and/or recklessly breached their duty of care as outlined in paragraph 85 of this Complaint, which is incorporated by reference.

90. As a proximate result of Defendants' acts and omissions, Plaintiffs suffered severe emotional distress.

91. Furthermore, it was foreseeable that Defendants' acts and omissions would cause fright or shock severe enough to cause emotional injury in average persons.

92. The harm was foreseeable, in that Defendants: (1) entered the Weldon-Sessoms residence on the improper basis that "the door was open," or words to this effect; and/or (2) entered the residence, upon information and belief, without a warrant; and/or (3) failed to make certain that they were entering the correct residence; and/or (4) entered the residence with a show of overwhelming force which would place any adult -- and particularly children -- in fear; and/or (5) pointed loaded firearms at the adult Plaintiffs; and/or (6) pointed loaded firearms at children in the residence who could not have been involved in any criminal activity Defendants were investigating; and/or (7) other ways which may be revealed in discovery.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants individually, jointly and severally, in amounts that would reasonably and properly compensate them in accordance with the law, together with prejudgment interest, reasonable attorney's fees, costs of suit, and such other relief as the Court deems just.

**SEVENTH COUNT**  
**Negligent Supervision**

93. Plaintiffs incorporate the preceding paragraphs of this Complaint as if set forth at length herein.

94. As alleged elsewhere herein, Defendants Tyner, the ACPO, the ACPO personnel, and/or the other as-yet unidentified supervisory officers were in charge of the law enforcement investigation and operations leading up to and on or about March 30, 2017, which resulted in the illegal raid on Plaintiffs' home in Egg Harbor City.

95. The acts and/or omissions complained of herein occurred and were within the scope of the Defendant officers' employment for Defendants Tyner, for the ACPO, for the ACPO personnel,

and/or for the other as-yet unidentified supervisory officers, and/or for the various law enforcement agencies by whom they were employed.

96. Defendants Tyner, the ACPO, the ACPO personnel, and/or other as-yet unidentified supervisory officers, and/or the various law enforcement agencies involved prior to and on March 30, 2017 negligently failed to supervise the actions and conduct of the Defendant officers who raided Plaintiffs' residence.

97. Upon information and belief, in addition to those acts and omissions which may be revealed in discovery, and in the alternative, Defendants Tyner, the ACPO, the ACPO personnel, and/or the other as-yet unidentified supervisory officers, failed to intervene and/or failed to prevent the illegal entry into Plaintiffs' home, failed to prevent the acts and omissions complained of herein, and/or failed to de-escalate the encounter at Plaintiffs' home, and/or, upon information and belief, failed to discipline some or all of those officers responsible for violating Plaintiffs' rights under the New Jersey Constitution and as otherwise described in this Complaint.

98. Such named and unnamed supervisory defendants had a duty to members of the public and to Plaintiffs to insure that such basic violations of rights under the New Jersey Constitution did not occur.

99. As a proximate result of Defendants' acts and omissions, Plaintiffs suffered damages, including but not limited to constitutional injury, property damage, substantial emotional upset and mental pain, suffering, grief and anguish.

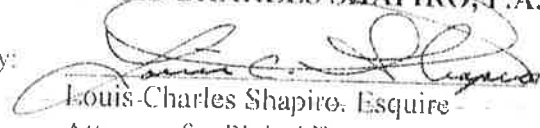
WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter judgment in their favor and against Defendants individually, jointly and severally, in amounts that would reasonably and properly compensate them in accordance with the law, together with prejudgment

interest, reasonable attorney's fees, costs of suit, and such other relief as the Court deems just.

Respectfully submitted,

LOUIS CHARLES SHAPIRO, P.A.

By:



Louis Charles Shapiro, Esquire  
Attorney for Plaintiffs

DATED: March 22 2019

NOTICE PURSUANT TO RULES 1:5-1(a) and 4:17-4( c)

TAKE NOTICE that the undersigned attorney for the Plaintiffs hereby demands pursuant to Rules 1:5-1(a) and 4:17-4 ( c) that each party herein serving pleadings and interrogatories and receiving answers thereto serve copies of all such pleadings and answered interrogatories upon the undersigned attorney, and TAKE NOTICE that this is a continuing demand.

LOUIS CHARLES SHAPIRO, P.A.

By:



LOUIS CHARLES SHAPIRO, ESQUIRE

DATED: March 22, 2019

**CERTIFICATION PURSUANT TO RULE 4:5-1**

To the best of the undersigned counsel's knowledge, information and belief, the matter in controversy is not the subject of any other court proceeding, nor is any other arbitration or court proceeding contemplated, except that Plaintiffs reserve the right to amend the within Complaint to name various as yet unknown John/Jane Doe Defendants, whose identities may become known through discovery and investigation.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

**LOUIS CHARLES SHAPIRO, P.A.**

By:   
LOUIS CHARLES SHAPIRO, ESQUIRE

DATED: March 22, 2019

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-4, Louis Charles Shapiro, Esquire is designated as Trial Counsel for Plaintiffs in this action.

**LOUIS CHARLES SHAPIRO, P.A.**

By:   
LOUIS CHARLES SHAPIRO, ESQUIRE

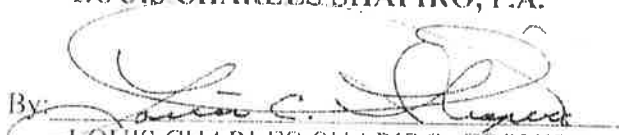
DATED: March 22, 2019

**DEMAND FOR INTERROGATORIES**

TAKE NOTICE that, pursuant to New Jersey Court Rule 4:17-1, as amended effective September 5, 2000, Plaintiffs hereby demand that Defendants provide Answers to "Uniform Interrogatories Form "C" within the sixty (60) day time period prescribed by the New Jersey Court Rules.

**LOUIS CHARLES SHAPIRO, P.A.**

By:

  
LOUIS CHARLES SHAPIRO, ESQUIRE

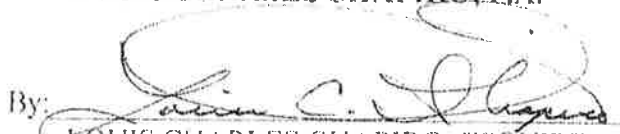
DATED: March 22, 2019

**DEMAND FOR JURY TRIAL**

TAKE NOTICE that the Plaintiffs hereby demand a Trial by Jury on all issues in accordance with the Rules of this Court.

**LOUIS CHARLES SHAPIRO, P.A.**

By:

  
LOUIS CHARLES SHAPIRO, ESQUIRE

DATED: March 22, 2019

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE

CHAKA KWANZAA,  
PEGGY BOLER KWANZAA, AND  
LAMONT SCOTT,

Plaintiff's,

-VS-

GIRARD TELL, (OFFICER PLEASANTVILLE  
POLICE DEPARTMENT), RYAN VAN  
SYKLE, (OFFICER PLEASANTVILLE  
POLICE DEPARTMENT), JESSE L.  
TWEEDLE, SR., (MAYOR), SEAN RIGGINS,  
(CHIEF PLEASANTVILLE POLICE  
DEPARTMENT), JAMES WILLIAMS,  
(CAPTAIN PLEASANTVILLE POLICE  
DEPARTMENT), OFFICER J-DOE #1,  
OFFICER J-DOE #2, OFFICER J-DOE #3,  
OFFICER J-DOE #4, and DAMON TYNER,  
PROSECUTOR ATLANTIC COUNTY,  
JENNA COOK, (PLEASANTVILLE  
MUNICIPAL PROSECUTOR), RICHARD T.  
FAUNTLEROY, J.M.C. (JUDGE MUNICIPAL  
COURT), OFFICER GAMBLE (FNU),  
OFFICER EVANS (FNU), OFFICER  
CORREA (FNU), SGT. GRESHAM (FNU),  
PLEASANTVILLE MUNICIPAL COURT  
OFFICERS, CYNTHIA DOUGHTY,  
MUNICIPAL COURT ADMINISTRATOR,  
Defendants, BEING

SUED

(In Their Official and Individual Capacities)

Complaint for Violation of Civil  
Rights

Case No. \_\_\_\_\_

Jury Trial: ☒ Yes ☐ No

## NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in *forma pauperis*.

### I. THE PARTIES TO THIS COMPLAINT

#### A. THE PLAINTIFF(S):

Provide the information below for each plaintiff named in the complaint.  
Attach additional pages if needed.

|                    |                                                                                      |
|--------------------|--------------------------------------------------------------------------------------|
| Name               | Chaka Kwanzaa                                                                        |
| Street Address     | 207 South Franklin Blvd.                                                             |
| City and County    | Pleasantville (Atlantic County)                                                      |
| State and Zip Code | New Jersey 08232                                                                     |
| Telephone Number   |  |
| E-mail Address     | _____                                                                                |

|                |                          |
|----------------|--------------------------|
| Name           | Peggy Boler Kwanzaa      |
| Street Address | 207 South Franklin Blvd. |

City and County Pleasantville (Atlantic County)

State and Zip Code New Jersey 08232

Telephone Number [REDACTED]

E-mail Address \_\_\_\_\_

Name Lamont Scott

Street Address 207 South Franklin Blvd.

City and County Pleasantville (Atlantic County)

State and Zip Code New Jersey 08232

Telephone Number [REDACTED]

E-mail Address \_\_\_\_\_

**B. THE DEFENDANT(S):**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

**Defendant No. 1**

Name Girard Tell

Job or Title Pleasantville Police Officer  
\_\_\_\_\_ (if known)

Street Address 18 North First Street

City and County Pleasantville (Atlantic)

State and Zip Code New Jersey, 08232

Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

\_\_\_\_\_ (if known)



Individual capacity



Official capacity

Defendant No. 2

Name Ryan Van Sykle  
 Job or Title Pleasantville Police Officer  
 \_\_\_\_\_ (if known)

Street Address 18 North First Street  
 City and County Pleasantville (Atlantic)  
 State and Zip Code New Jersey, 08232  
 Telephone Number \_\_\_\_\_  
 E-mail Address \_\_\_\_\_



Individual capacity



Official capacity

Defendant No. 3

Name Jesse L. Tweedle, Sr.  
 Job or Title Pleasantville Mayor  
 \_\_\_\_\_ (if known)

Street Address 18 North First Street  
 City and County Pleasantville (Atlantic)  
 State and Zip Code New Jersey, 08232  
 Telephone Number \_\_\_\_\_  
 E-mail Address \_\_\_\_\_



Individual capacity



Official capacity

Defendant No. 4

Name Sean Riggins  
Job or Title Pleasantville Chief of Police  
\_\_\_\_\_  
(if known)  
Street Address 18 North First Street  
City and County Pleasantville (Atlantic)  
State and Zip Code New Jersey, 08232  
Telephone Number \_\_\_\_\_  
E-mail Address \_\_\_\_\_  
\_\_\_\_\_  
(if known)  
☐ Individual capacity ☐ Official capacity

Defendant No. 5

Name James Williams  
Job or Title Pleasantville Police Captain  
\_\_\_\_\_  
(if known)  
Street Address 18 North First Street  
City and County Pleasantville (Atlantic)  
State and Zip Code New Jersey, 08232  
Telephone Number \_\_\_\_\_  
E-mail Address \_\_\_\_\_  
\_\_\_\_\_  
(if known)  
☐ Individual capacity ☐ Official capacity

Defendant No. 6

Name J-Doe #1  
Job or Title Pleasantville Police Officer  
\_\_\_\_\_  
(if known)  
Street Address 18 North First Street

City and County Pleasantville (Atlantic)

State and Zip Code New Jersey, 08232

Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

\_\_\_\_\_  
(if known)

☐ Individual capacity

☐ Official capacity

Defendant No. 7

Name J-Doe #2

Job or Title Pleasantville Police Officer

\_\_\_\_\_  
(if known)

Street Address 18 North First Street

City and County Pleasantville (Atlantic)

State and Zip Code New Jersey, 08232

Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

\_\_\_\_\_  
(if known)

☐ Individual capacity

☐ Official capacity

Defendant No. 8

Name J-Doe #3

Job or Title Pleasantville Police Officer

\_\_\_\_\_  
(if known)

Street Address 18 North First Street

City and County Pleasantville (Atlantic)

State and Zip Code New Jersey, 08232

Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

\_\_\_\_\_(if known)  
☐ Individual capacity      ☐ Official capacity

Defendant No. 9

Name                      J-Doe #4  
Job or Title              Pleasantville Police Officer  
\_\_\_\_\_(if known)  
Street Address          18 North First Street  
City and County        Pleasantville (Atlantic)  
State and Zip Code      New Jersey, 08232  
Telephone Number \_\_\_\_\_  
E-mail Address \_\_\_\_\_  
\_\_\_\_\_(if known)  
☐ Individual capacity      ☐ Official capacity

Defendant No. 10

Name                      Damon Tyner  
Job or Title              Atlantic County Prosecutor  
\_\_\_\_\_(if known)  
Street Address          4997 Unami Blvd.  
City and County        Mays Landing (Atlantic)  
State and Zip Code      New Jersey, 08330  
Telephone Number \_\_\_\_\_  
E-mail Address \_\_\_\_\_  
\_\_\_\_\_(if known)  
☐ Individual capacity      ☐ Official capacity

Defendant No. 11

Name                      Jenna Cook

Job or Title Pleasantville Municipal Prosecutor  
\_\_\_\_\_ (if known)

Street Address 18 N. First Street

City and County Pleasantville (Atlantic)

State and Zip Code New Jersey, 08232

Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

\_\_\_\_\_ (if known)

☐ Individual capacity

☐ Official capacity

Defendant No. 12

Name Richard T. Fauntleroy, J.M.C.

Job or Title Pleasantville Municipal Judge  
\_\_\_\_\_ (if known)

Street Address 18 N. First Street

City and County Pleasantville (Atlantic)

State and Zip Code New Jersey, 08232

Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

\_\_\_\_\_ (if known)

☐ Individual capacity

☐ Official capacity

Defendant No. 13

Name Sgt. Gresham

Job or Title Pleasantville Police Officer  
\_\_\_\_\_ (if known)

Street Address 18 N. First Street  
City and County Pleasantville (Atlantic)  
State and Zip Code New Jersey, 08232  
Telephone Number \_\_\_\_\_  
E-mail Address \_\_\_\_\_

\_\_\_\_\_ (if known)  
☐ Individual capacity ☐ Official capacity

Defendant No. 14

Name Officer Gamble  
Job or Title Police Officer Pleasantville  
\_\_\_\_\_ (if known)  
Street Address 18 N. First Street  
City and County Pleasantville (Atlantic)  
State and Zip Code New Jersey, 08232  
Telephone Number \_\_\_\_\_  
E-mail Address \_\_\_\_\_

\_\_\_\_\_ (if known)  
☐ Individual capacity ☐ Official capacity

Defendant No. 15

Name Officer Evans  
Job or Title Police Officer Pleasantville  
\_\_\_\_\_ (if known)  
Street Address 18 N. First Street  
City and County Pleasantville (Atlantic)  
State and Zip Code New Jersey, 08232  
Telephone Number \_\_\_\_\_  
E-mail Address \_\_\_\_\_

\_\_\_\_\_  
(if known)  
☐ Individual capacity      ☐ Official capacity

Defendant No. 16

Name                      Officer Correa  
Job or Title              Police Officer Pleasantville  
\_\_\_\_\_  
(if known)  
Street Address          18 N. First Street  
City and County          Pleasantville (Atlantic)  
State and Zip Code      New Jersey, 08232  
Telephone Number \_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
(if known)  
☐ Individual capacity      ☐ Official capacity

Defendant No. 17

Name                      Cynthia Doughty  
Job or Title              Municipal Court Administrator  
\_\_\_\_\_  
(if known)  
Street Address          18 N. First Street  
City and County          Pleasantville (Atlantic)  
State and Zip Code      New Jersey, 08232  
Telephone Number \_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
(if known)  
☐ Individual capacity      ☐ Official capacity

## II. BASIS FOR JURISDICTION:

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

The defendant's have infringed upon plaintiff's Chaka Kwanzaa, Peggy Boler Kwanzaa, and Lamont Scott Constitutional rights under the Fourth Amendment to be free from unreasonable search and seizures, Due Process of Law both procedurally and substantively and retaliation from public servants for exercising their right to file formal complaints or grievances .In addition certain named defendants have interfered with plaintiff's access to the courts and ability to appeal adverse determinations by abandoning their record keeping responsibility.

## III. STATEMENT OF CLAIMS:

1. The wrongful actions of all named defendant's violated plaintiff's constitutional right under the Fourth Amendment of the United States Constitution.
2. The wrongful actions of all named defendant's violated plaintiff's constitutional right under the Fourteenth Amendment to Due Process of Law.
3. The wrongful actions of all named defendant's denied plaintiff's their constitutional right to substantive due process of law by their wrongful charging. The wrongful actions of all named defendant's violated plaintiff's constitutional right to remain free absent due process of law.
4. The wrongful actions of all named defendant's violated plaintiff's due process rights in accordance with State Law and Statute.
5. The wrongful actions of defendant Damon Tyner denied plaintiff his constitutional right to be free from cruel and unusual punishment.
6. Defendant's have wrongly retaliated against all named plaintiffs with a constant patter of harassment and interference with plaintiff's access to the courts.
7. Defendant's Fauntleroy, Doughty, Gresham, Evans and Correa interfered with plaintiff Chaka Kwanzaas' constitutional right to have access to the courts. Their actions were deliberate and a gross abuse of authority.
8. On July 7, 2017 defendant J-Doe issued a false ticket based on an inaccurate record maintained by the Pleasantville Police Department. Plaintiff Kwanzaa was forced to pay a fee to obtain the accurate motor vehicle record showing that he was not on the suspended drivers list as purported by the defendant J-Doe of the Pleasantville Police Department.

**A. WHERE DID THE EVENTS GIVING RISE TO YOUR CLAIM(S) OCCUR?**

Pleasantville, State of New Jersey.

**B. WHAT DATE AND APPROXIMATE TIME DID THE EVENTS GIVING RISE TO YOUR CLAIM(S) OCCUR?**

Commencing July 2017 and January 4<sup>th</sup>, 2019 through the present for plaintiff Chaka Kwanzaa.

February 28, 2019 for plaintiff's Peggy Boler Kwanzaa and Lamont Scott .  
July 25, 2019 for plaintiff Chaka Kwanzaa.

**C. FACTUAL BASIS UNDERLYING CLAIMS:**

On January 4<sup>th</sup>, 2019 defendant Tell approached plaintiff Chaka Kwanzaa while he was sitting in his parked vehicle on a public street in the city of Pleasantville, New Jersey. Officer Tell approached from the passenger side of plaintiff's parked vehicle and demanded that plaintiff roll down his window. Plaintiff Chaka Kwanzaa complied and asked the officer what the problem was and how could he help him. Defendant Tell immediately began telling plaintiff Chaka Kwanzaa that he looked "suspicious" sitting in his parked vehicle. Plaintiff Chaka Kwanzaa provided defendant Tell with his driver's license, registration and insurance card. Defendant Tell demanded that plaintiff Kwanzaa exit his personal vehicle without probable cause or justification and stated that there appeared to be a marijuana cigarette unburnt in the middle console area of the vehicle. Plaintiff then produced his New Jersey State Medical Marijuana Card and advised defendant Tell that he had a legal marijuana card. Defendant Tell stated that he did not care about the State Medical Marijuana Card, that he saw marijuana in "plain view" and had the right to remove me from my vehicle and commence with a warrantless search of my vehicle and person. At this point defendant Van Syckle arrived on the scene. I again informed defendant Van Syckle that I had a legal marijuana medical card.

Van Syckle immediately joined defendant Tell in the illegal search of plaintiff's vehicle. Over plaintiff's objection defendant Tell and defendant Van Syckle forcefully removed plaintiff Chaka Kwanzaa from his vehicle causing injury to plaintiff, who was later transported to the local hospital for chest pains. Plaintiff was placed in handcuffs and searched. As a result of the unlawful detainment, search and seizure plaintiff Chaka Kwanzaa suffered anxiety and severe chest pains that required hospitalization. While plaintiff was being transported to AtlantaCare Medical Center defendant Tell removed a diamond ring belonging to plaintiff from the vehicle. Defendant Tell stole plaintiffs personal property while acting under color of law in his official capacity as a Pleasantville Police Officer.

Plaintiff Peggy Boler Kwanzaa as the legal owner of the vehicle illegally searched by defendants Tell and Van Syckle asserts her constitutional right to be free from an illegal search and seizure of her personal property.

Defendant Tell racially profiled plaintiff, as there was not probable cause to approach plaintiff's parked vehicle. The Pleasantville Police Department through defendants Williams and Riggins has instituted an illegal de facto policy of racial profiling, targeting African-American citizens for vehicle stops and searches. This unconstitutional policy is carried out daily by the "Streets-Crime" Unit of the Pleasantville Police Department. All of the plaintiffs were subjected to this illegal policy with their constitutional rights being violated. Defendants Tell and Van Syckle have actively carried out the policy of racial profiling in the city of Pleasantville, New Jersey,

subjecting hundreds of African-American citizens to illegal search and seizures. The actions of defendants Tell, Van Syckle, Riggins and Williams violated plaintiffs' rights to be free from discrimination and racial animus. Defendants Riggins and Williams supervise and train defendants Tell and Van Syckle, particularly the "Streets-Crime" Unit as it pertains to massive illegal stops and warrantless searches of vehicles driven by African-Americans in the city of Pleasantville, New Jersey. This de facto policy is a planned course of action by the Pleasantville Police Department and does not occur by happenstance. In effect defendants Riggins and Williams have instituted a policy of racial profiling in the Municipality of Pleasantville, New Jersey under the guise of "effective policing" through the "Street Crimes Unit".

On February 28<sup>th</sup>, 2019, Latasha Leggett and plaintiff Lamont Scott were traveling south-bound on the Black Horse Pike in Egg Harbor Township, New Jersey. Ms. Leggett a licensed driver was driving the vehicle. Defendant Van Syckle, a Pleasantville, New Jersey Police Officer initiated a motor vehicle stop on the vehicle that plaintiff Scott was a passenger in. This stop was racially motivated and not premised on probable cause. Defendant Van Syckle, a Pleasantville Police Officer admits that he was patrolling in another jurisdiction outside of the Municipality of Pleasantville, New Jersey. It is unclear why defendant Van Syckle was patrolling in Egg Harbor Township when he decided to arbitrarily stop and search plaintiff Lamont Scott. Clearly defendant Van Syckle did not pursue or follow the

vehicle plaintiff Scott was travelling in from the jurisdiction of Pleasantville, as such "fresh pursuit" is inapplicable. By defendant Van Syckles own admission, the vehicle plaintiff Scott was in was travelling east-bound on the Black Horse Pike in Egg Harbor Township, New Jersey. The plaintiff was travelling from the Municipality of Hamilton Township, New Jersey, and had not reached the city of Pleasantville before defendant Van Syckle illegally stopped and searched the vehicle. After the initial stop in Egg Harbor Township defendant Van Syckle then called police dispatch and requested a K-9 unit to conduct a narcotics sniff of plaintiff's vehicle. There was no basis for the calling of a K-9 unit, and defendant Van Syckles actions were racially motivated. Defendant Van Syckle racially profiled plaintiff Lamont Scott and driver Latasha Leggett. Plaintiff Scott was ordered to exit the vehicle even though the stop was allegedly for a minor traffic violation ("not using a turn signal within 100 feet of turn"). Defendant Van Syckle, a Pleasantville Police Officer was patrolling in Egg Harbor Township, outside of his jurisdiction and conducted a motor vehicle stop in Egg Harbor Township absent probable cause. Defendant Van Syckle alleges that plaintiff braked suddenly, used a turn signal and pulled into the Howard Johnsons parking lot. The pretextual basis of the stop was that plaintiff did not signal within 100 feet of the turn. The pretextual nature of the stop is highly indicative of racial animus and profiling on the part of defendant Van Syckle. Almost immediately after the illegal stop of the vehicle plaintiff Scott was traveling in the owner of the vehicle, plaintiff

Chaka Kwanzaa and Peggy Boler Kwanzaa arrived on the scene. Plaintiff Boler-Kwanzaa immediately advised defendant Van Syckle that she was the owner of the vehicle. In the interim plaintiff Scott exited the vehicle and left the area on foot. In spite of the fact that Scott had left the vehicle and the owner (Plaintiff Boler) was present, defendant Van Syckle commenced with a warrantless search of the vehicle over the objections of the owner Ms. Boler. This action violated plaintiff Bolers constitutional right to be free from unreasonable search and seizures.

Plaintiff Chaka Kwanzaa notified Atlantic County Prosecutor Damon Tyner, Esquire of the illegal actions of the Pleasantville Police Department and their practice of racial profiling. Defendant Tyner was aware of the unconstitutional practices of the Pleasantville Police Department, yet authorized the prosecution of cases where racial profiling was apparent. Defendant Tyner acknowledged the egregious practices of the Pleasantville Police Department, and took no action in abandonment of his official duties and responsibilities. Defendant Tyner simply returned the indictable criminal charges lodged against plaintiff Chaka Kwanzaa back to the Pleasantville Municipal Court for disposition.

Once plaintiffs case was remanded back to the Pleasantville Municipal Court plaintiff Kwanzaa moved to represent himself pro se before the Municipal Court. Plaintiff Kwanzaa then began to request specific discovery material from defendant Jenna Cook, Esquire, the Pleasantville Municipal Prosecutor. Plaintiff Kwanzaa requested exculpatory discovery

material in open court on the record before defendant Judge Fauntleroy. More specifically, plaintiff Kwanzaa requested his cellular telephone records from the date of January 4<sup>th</sup>, 2019 to demonstrate and prove that defendant Tell had falsified an official police report when he reported that he had observed plaintiff earlier in the day on Linden and Reading Streets in the city of Pleasantville, New Jersey. The tower location(s) of his cellular telephone was evidence that he was not in the area as falsely reported by defendant Tell. Defendant Fauntleroy refused to allow plaintiff to obtain this evidence from the State and stated on the record that he was not entertaining the evidence. He then misdirected plaintiff and told him that he had to get a subpoena from the Superior Court for such records. Defendant Fauntleroy arbitrarily interfered with plaintiff Chaka Kwanzaa's access to the courts. Plaintiff acting pro se filed several motions before Judge Fauntleroy that went unaddressed for an eight (8) month period in spite of the Courts calendar practice of hearing motions within an eight (8) month period. Yet when plaintiff filed a motion seeking to have Judge Fauntleroy recuse himself from the case he addressed that motion within a week by denying the motion.

Mayor Tweedle was placed on notice of the unfair practices plaintiff was receiving at the hands of his Municipal employee's. Mayor Tweedle had his secretary advise plaintiff Chaka Kwanzaa that the Mayor's Office would address the matters raised by plaintiff. However, Mayor Tweedle acquiesced in his official duties and failed to investigate or remedy the

issue of racial profiling by Pleasantville Police Officers or the denial of plaintiff's access to the courts.

Plaintiff Kwanzaa presented several motions to the Pleasantville Municipal Court Administrator Ms. Cynthia Doughty. Defendant Doughty abdicated her official duties as a clerk of the Municipal Court and refused to stamp or properly file motions presented by plaintiff Chaka Kwanzaa, who was representing himself in the Municipal Court. Defendants Fauntleroy and Doughty conspired and collaborated to deny plaintiff Kwanzaa access to the courts in violation of his constitutional rights. Plaintiff Kwanzaa was informed by defendant Doughty that the Pleasantville Municipal Court Clerks Office does not stamp "FILED" on legal documents filed with that office. As such a party does not have any proof that they filed a particular legal document with the court.

On July 25, 2019, plaintiff Kwanzaa appeared in the Pleasantville Municipal Court before Judge Fauntleroy. In spite of the fact that plaintiff was representing himself pro se defendant Fauntleroy held plaintiff in contempt of court for speaking to the court. Defendants Sgt. Gresham, Evans and Correa surrounded plaintiff Kwanzaa as he was addressing the court and forcibly placed him in handcuff restraints. Plaintiff was then dragged to a holding cell and detained without cause. Plaintiff was denied unfettered access to the courts, and denied the constitutional right to represent himself in a court of law.

#### **IV. Injuries**

Plaintiff Chaka Kwanzaa suffered the loss of his freedom without due process of law.

Plaintiff Chaka Kwanzaa suffered emotional distress as a result of his wrongful imprisonment.

Plaintiff Chaka Kwanzaa suffered economic loss as the result of defendant's unconstitutional conduct.

Plaintiff Chaka Kwanzaa suffered long-term financial calamity as a result of defendant's wrongful conduct.

Plaintiff Chaka Kwanzaa suffered personal embarrassment and loss of good reputation as a result of defendant's wrongful actions.

Plaintiff suffered personal injury by way of anxiety and physical chest pains.

Plaintiff Chaka Kwanzaa suffered without provocation an assault upon his person as a result of defendants' wrongful actions.

**V. RELIEF:**

**Punitive**

Plaintiff's seeks a monetary award in the amount of \$7,000,000.00 from defendant Girard Tell to deter future violations;

Plaintiff seeks a monetary award in the amount of \$7,000,000.00 from defendant Ryan Van Syckle to deter future violations;

Plaintiff's seeks a monetary award in the amount of \$750,000.000 from defendant Sean Riggins;

Plaintiff's seeks a monetary award in the amount of \$750,000.000 from defendant James Williams;

Plaintiff Chaka Kwanzaa seeks a compensatory award of \$250,000.00 for the loss of income resulting from his wrongful arrest.

Plaintiff seeks injunctive relief dismissing defendants Tell and Van Syckle as Pleasantville Police Officers.

Plaintiff seeks injunctive relief for body cameras.

Plaintiff seeks injunctive relief for "plain-view" policy review.

Such other relief that the Court deems just and proper.

## VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: July 30, 2019.

Signature of Plaintiff:

Chaka Kwame

Printed Name of Plaintiff

Peggy B. Lee

Signature of Plaintiff:

Jamont Scott

Printed Name of Plaintiff

\_\_\_\_\_

Signature of Plaintiff:

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Printed Name of Plaintiff

---

SETHI & MAZAHERI, LLC.  
40 EXCHANGE PLACE, SUITE 2010  
NEW YORK, NY 10005  
(646) 405-9846  
Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW JERSEY

TYRONE L. MOZELLE,  
Plaintiff

CIVIL ACTION NO. 12-CV-1700 (JEI/AMD)

v.

DISTRICT JUDGE

THE CITY OF PLEASANTVILLE, MAYOR  
JESSE L. TWEEDLE, SR., Individually and in  
his capacity as Mayor for the City of  
Pleasantville, POLICE CHIEF DUANE N.  
COMEAX, Individually and in his  
supervisory capacity as police chief for the  
Pleasantville Police Department, DETECTIVE  
STEVEN V. SAMPLE, PATROLMAN  
CHARLIE L. ELLIS, Jr., OFFICER M.  
GAZO, OFFICER N. DENNIS, John and Jane  
Does A to Z, members of the Pleasantville  
Police Department.

AMENDED COMPLAINT AND  
JURY DEMAND

Defendant(s),

The Plaintiff, **Tyrone L. Mozelle**, by way of complaint against all the Defendants, respectfully  
says:

**PRELIMINARY STATEMENT**

1. This is an action for monetary damages (compensatory and punitive) against the THE  
CITY OF PLEASANTVILLE, MAYOR JESSE L. TWEEDLE, SR., POLICE CHIEF DUANE

N. COMEAUX, DETECTIVE STEVEN V. SAMPLE, and PATROLMAN CHARLIE L. ELLIS, JR., OFFICER M. GAZO, OFFICER N. DENNIS, JOHN AND JANE DOES A TO Z, EMPLOYEES OF PLEASANTVILLE POLICE DEPARTMENT.

2. On August 4, 2010, the above-named defendants, acting under the color of state law, intentionally and willfully subjected plaintiff to, *inter alia*, false arrest, false imprisonment and detention, and malicious prosecution for acts of which plaintiff was clearly innocent. This unconstitutional and unreasonable seizure of the plaintiff and his property and the subsequent malicious prosecution was in violation of plaintiff's rights under the Fourth and Fourteenth Amendment to the U.S. Constitution, the Constitution of the State of New Jersey and the New Jersey Civil Rights Act.

#### THE PARTIES

3. The Plaintiff, Tyrone L. Mozelle, is an individual residing at 72 Black Horse Pike 2-13, Pleasantville, County of Atlantic, State of New Jersey.

4. Defendant, the City of Pleasantville, is a body politic organized under the laws of the State of New Jersey, having offices at City Hall, 18 N. First Street, Pleasantville, NJ 08232, that maintained and was responsible for the Mayor and all employees and agents of the Pleasantville Police Department. Pleasantville Police Department, is a governmental unit of the City of Pleasantville charged with the law enforcement and safety responsibility within Pleasantville, maintaining offices at 17 N. First Street, Pleasantville, State of New Jersey, organized under the laws of the State of New Jersey, and is responsible for law enforcement within its jurisdiction as well as the hiring, supervision, training and retention of its police officers and detectives.

5. Defendant, Mayor Jesse L. Tweedle Sr., (herein referred to as "Tweedle" or collectively with the other named Defendants as "Defendants") was at all times relevant herein the Mayor of Pleasantville, acting under the color of state law. Tweedle was a policy maker for the City of Pleasantville and, as such, was responsible for the harm caused to the Plaintiff.

6. At all times relevant herein, the Defendants, City of Pleasantville and Mayor Tweedle were vicariously liable for the acts of its agents, servants and/or employees acting within the scope of their employment.

7. Defendant, Police Chief Duane N. Comeaux (hereinafter referred to as "Comeaux" or collectively with the other named Defendants, as "Defendants") was at all times relevant herein the Police Chief of Pleasantville Police Department, acting under the color of state law. Comeaux was a policy maker for the Pleasantville Police Department and, as such, was responsible for the harm caused to Plaintiff.

8. Defendant, Detective Steven V. Sample (hereinafter referred to as "Det. Sample" or collectively with the other named Defendants, as "Defendants") was at all times relevant herein a detective of the Pleasantville Police Department, who participated in the arrest and prosecution of the Plaintiff and was liable for the harm caused to the Plaintiff.

9. Defendant, Patrolman Charlie L. Ellis, Jr., (hereinafter referred to as "Ptl. Ellis" or collectively with the other named Defendants, as "Defendants") was at all times relevant herein a patrolman of the Pleasantville Police Department, who participated in and was liable for the harm caused to the Plaintiff.

10. Defendant, Officer N. Dennis (hereinafter referred to as "Officer Dennis" or collectively with the other named Defendants, as "Defendants") was at all times relevant herein a police

officer of the Pleasantville Police Department, who participated in and was liable for the harm caused to the Plaintiff.

11. Defendant, Officer M. Gazo (hereinafter referred to as "Officer Gazo" or collectively with the other named Defendants, as "Defendants") was at all times relevant herein a police officer of the Pleasantville Police Department, who participated in and was liable for the harm caused to the Plaintiff.

12. Upon information and belief, John and Jane Does A to Z, were additional employees of the Pleasantville Police Department, who participated in and are liable for the harm caused to the Plaintiff.

13. At all times relevant herein, Defendants, City of Pleasantville, Mayor Tweedle and Police Chief Comeaux were vicariously liable for the acts of its agents, servants and/or employees acting within the scope of their employment.

#### JURISDICTION

14. This Court has jurisdiction over the lawsuit because the action arises under the Constitution and laws of the United States, in particular the Fourth and Fourteenth Amendments of the Constitution of the United States and 42 U.S.C. §1983 and §1985 (2) (3).

15. This Court has supplemental jurisdiction over Plaintiff's pendent state law claims pursuant to 28 U.S.C. §1367. The State claims are so related to the claims within the court original jurisdiction that they form part of the same case or controversy under Article 3 of the United States Constitution.

16. The amount in controversy exceeds \$75,000.00 excluding interest and costs.

17. Venue is proper in this Court pursuant to 28 U.S.C. §1391(b), as the claims at issue arose in this judicial district and all defendants are citizens of, reside in, or may be found within the same district.

#### **FACTUAL ALLEGATIONS**

18. On August 4, 2010, at 8:45am, claimant went to visit his elderly parents who reside at a in a senior housing facility at 140 North Main Street in Pleasantville, NJ and rely on the Plaintiff for physical and emotional help.

19. While the Plaintiff was at his parent's apartment, a neighbor reported an intruder had entered her unlocked apartment and taken an unknown amount of money that was lying on her bed. The neighbor called the property manager who contacted the Pleasantville Police Department. Based on the property manager's phone call, the police arrived on the scene and arrested the Plaintiff at his parents' apartment. He was accused of removing approximately \$70.00 from the neighbor's bed. He was taken into custody by the Pleasantville Police Department.

20. At all times, while in the common areas of the buildings, Plaintiff's movements were recorded by the building's surveillance video system. A copy of the said video footage is in the possession of the Plaintiff. The video footage clearly undermines the claims of the victim and the building.

21. The police officers claimed to have reviewed a surveillance video showing the Plaintiff entering the neighbor's apartment. However, the surveillance video clearly and unequivocally shows that the Plaintiff never entered the apartment belonging to the neighbor. In fact, the video shows that the Plaintiff only entered the apartment belonging to his parents.

22. Upon arriving at the Pleasantville Police Department, the officers, the patrolman and the detective falsely claimed that they had reviewed the video surveillance evidence showing Plaintiff's entry into the neighbor's apartment. The surveillance video recording did not show the Plaintiff entering any apartment other than his parents.

23. Both before and after being charged, Plaintiff repeatedly informed the arresting officers and detectives at Pleasantville Police Department that he had not left his father's apartment and Plaintiff adamantly denied involvement in the incident. However, the arresting officers falsely stated in their investigation reports that the surveillance video showed the Plaintiff entering the victim's apartment. The arresting officers claimed that the arrest and the filing of the complaint were based on what they observed in the surveillance video.

24. Without probable cause, the employees of the Pleasantville Police Department arrested Plaintiff and charged him with Third Degree Burglary, in violation of N.J.S.A. 2C:18-2A(1) and Theft, in violation of N.J.S.A. 2C:20-3A. Plaintiff was arrested and detained on August 4, 2010, and bail was set at \$25,000.00 cash.

25. Defendant was unable to post bail and remained in detention for six months until February 18, 2011.

26. The evidence in the Defendants' possession clearly established that Plaintiff never entered the neighbor's apartment nor removed any property belonging to her. Nevertheless, the Defendants recklessly and with absolute disregard for Plaintiff's rights and liberties persisted in their prosecution of the Plaintiff.

27. After filing the criminal complaint against him, the Plaintiff remained imprisoned while the Pleasantville Police Department intentionally made misstatements in their reports and

forwarded false information to prosecutors, thereby undermining Plaintiff's liberties and his rights under the U.S. and New Jersey Constitutions.

28. On September 30, 2010, a Grand Jury indicted the Plaintiff.

29. Although in possession of exculpatory evidence, Defendants refused to disclose to Plaintiff and the Court such exculpatory information and persisted in their prosecution of Plaintiff.

30. Despite knowing that Plaintiff was innocent of the charges, it was not until June 1, 2011, almost one year after the petitioner's arrest, that the Superior Court of New Jersey, Atlantic City, dismissed all charges against him.

31. On August 29, 2011 the Plaintiff filed, pursuant to N.J.S. 59:8-1 et. seq. a Notice of Claim against the Defendants.

### **FIRST COUNT**

#### **§ 1983 FALSE ARREST AND FALSE IMPRISONMENT**

32. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

33. At all times relevant to this action the Defendants acted under color of laws of the State of New Jersey and the City of Pleasantville, and/or in conspiracy with each other acted under the color of the law of the State of New Jersey and under authority and custom and usage of the City of Pleasantville.

34. At no time did Defendants have any information or knowledge that would establish probable cause to believe that Plaintiff was involved in the burglary or theft of the neighbor's apartment. All video surveillance evidence obtained by Defendants prior to Plaintiff's arrest showed that Plaintiff did not enter the neighbor's apartment.

35. The actions of Defendants, including Ptl. Ellis, Det. Sample, and Officers Dennis and Gazo in arresting Plaintiff without probable cause constituted willful misconduct and denied Plaintiff his right to be free from false arrest and false imprisonment.

36. Defendants, including Ptl. Ellis, Det. Sample, and Officers Dennis and Gazo, did not reasonably believe in the existence of probable cause at the time they arrested Plaintiff.

37. Defendants, including Ptl. Ellis, Det. Sample, and Officers Dennis and Gazo, in reckless disregard to the rights of Plaintiff, did together and/or in combination with one or more other Defendants arrest, search, fingerprint, photograph and prosecute Plaintiff despite knowing he did not unlawfully enter the structure and/or separately secured or occupied portion thereof with the purpose to commit an offense therein in violation of N.J.S.A. 2C:18-2.

38. The aforementioned acts of Defendants deprived Plaintiff of his right to be free from false arrest and false imprisonment, in violation of the Fourth and Fourteenth Amendment to the United States Constitution, made actionable through 42 U.S.C. Section 1983.

39. As a direct and proximate cause of the aforementioned acts, Plaintiff was caused to sustain an extended loss of freedom and reputation, and suffered severe physical and emotional damages in connection with the deprivation of his constitutional rights.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory damages, attorney's fees, costs of suit, and such other relief as the court deems just and equitable.

## **SECOND COUNT**

### **§ 1983 MALICIOUS PROSECUTION**

40. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

41. Plaintiff has a United States Constitutional right to be free from malicious prosecution.

42. The charges initiated against Plaintiff were without legal or factual justification and were not based upon probable cause. Defendants initiated the charges against Plaintiff with malice and with absolute disregard for his rights and liberties. The charges against Plaintiff were ultimately dismissed.

43. At no point during the entire proceeding against Plaintiff, did Defendants possess any evidence against Plaintiff establishing probable cause and/or a legal basis that Plaintiff was engaged in the burglary or theft of the neighbor's apartment. Nevertheless, he was arrested and prosecuted for a crime he clearly did not commit.

44. Defendants maliciously and without regard for the Plaintiff's liberty and rights initiated a prosecution against Plaintiff by falsely charging him with a felony, forwarding false information to prosecutors and swearing to a false criminal court complaint.

45. Defendants withheld exculpatory evidence when the actual content of the surveillance video was not provided to the Grand Jury.

46. Ultimately, the criminal proceedings initiated by Defendants terminated in Plaintiff's favor almost one year later when the charges were dismissed.

47. As a direct and proximate cause of the actions described herein by Defendants, Plaintiff lost his freedom for six months while he was unable to post bail, endured almost one year of legal proceedings, suffered the humiliation and degradation of being publicly arrested and prosecuted, and was unable to visit or assist his elderly parents as he was banned from their housing complex.

48. Defendants, in reckless disregard to the rights of the Plaintiff, did violate and/or conspire to violate Plaintiff's right to be free from malicious prosecution in violation of the Fourth Amendment to the United States Constitution, made actionable through 42 U.S.C. Section 1983.

49. As a direct and proximate cause of the aforementioned acts, Plaintiff was caused to sustain an extended loss of freedom and reputation, and suffered severe physical and emotional damages in connection with the deprivation of his constitutional rights.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory damages, attorney's fees, costs of suit, and such other relief as the court deems just and equitable. Additionally, Plaintiff seeks punitive damages against defendants, excluding the City of Pleasantville, but including defendant police officers individually and not in their official capacities.

### THIRD COUNT

#### § 1983 UNLAWFUL SEIZURE/FALSE ARREST

50. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

51. Following the unlawful arrest of Plaintiff, Defendants deprived Plaintiff from his right to be free from unreasonable search and seizure by placing Plaintiff under arrest without probable cause to do so.

52. As a direct and proximate cause of the aforementioned acts, Defendants violated Plaintiff's right to be free from unreasonable seizures guaranteed by Fourth Amendment to the United States Constitution, made actionable through 42 U.S.C. Section 1983.

WHEREFORE, Plaintiff demands judgment against Defendants on this Count together with compensatory damages, medical expenses, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just. Additionally, Plaintiff seeks punitive damages against defendants, excluding the City of Pleasantville, but including defendant police officers individually and not in their official capacities.

**FOURTH COUNT**

**§ 1983 UNLAWFUL CUSTOM, PRACTICE, POLICY**

53. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

54. Defendant, City of Pleasantville, is vested by state law with the authority to make policy on the use of force, effectuating arrests and police-citizen encounters.

55. At all times relevant hereto, Defendants, including Ptl. Ellis, Det. Sample, and Officers Dennis and Gazo were acting under the direction and control of the City of Pleasantville and were acting pursuant as agents, servants and/or employees of the Pleasantville Police Department.

56. Acting under color of state law, Pleasantville Police Department intentionally, knowingly, recklessly and/or with deliberate indifference failed to adequately screen, train, instruct, supervise, control, and/or discipline, on a continuing basis, the officers under its control, including Defendants Ptl. Ellis, Det. Sample, and Officers Dennis and Gazo to refrain from: (1) unlawfully and maliciously, arresting, prosecuting and harassing citizens; (2) intentionally, recklessly and/or negligently misrepresenting the facts of arrests and/or other police-citizen encounters; (3) falsifying police and/or other official records; (4) withholding and/or mishandling evidence; (5) making false arrests, and/or (6) committing unlawful searches and seizures.

57. Despite having such notice, Defendant, City of Pleasantville, failed to employ any type of corrective or disciplinary measures against John and Jane Does A to Z , and defendants Ptl. Ellis, Det. Sample, and Officers Dennis and Gazo.

58. Defendant, City of Pleasantville, had knowledge of, or, had they diligently exercised their duties, should have known, that the Constitutional deprivations set forth above were likely to occur and, with deliberate indifference, did nothing to prevent such deprivations from occurring.

59. Defendant, City of Pleasantville, had vested authority to prevent or aid in preventing the commission of said wrongs, and could have done so by reasonable diligence, and intentionally, knowingly, recklessly and/or with deliberate indifference failed to do so.

60. Defendant, City of Pleasantville, directly or indirectly, under color of state law, approved or ratified the unlawful, deliberate, malicious, reckless, and wanton conduct of Defendants, including John and Jane Does A to Z, defendants Ptl. Ellis, Det. Sample, and Officers Dennis and Gazo, as set forth above.

61. As a direct and proximate result of the acts and/or omissions of Defendant, City of Pleasantville, as set forth herein, Plaintiff suffered lost income and mental anguish in connection with the deprivation of his Constitutional right to be free from false arrest, malicious prosecution, and unreasonable searches and seizures as guaranteed by the Fourth and Fourteenth Amendments to the Constitution of the United States; Article I, Section VII of the New Jersey Constitution; and N.J.S.A. 10:6-2(c), also known as the New Jersey Civil Rights Act.

WHEREFORE, Plaintiff demands judgment against Defendant, City of Pleasantville, on this Count, together with compensatory damages, medical expenses, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

#### **FIFTH COUNT**

#### **RESPONDEAT SUPERIOR** (Against Defendant City of Pleasantville)

62. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

63. Defendant City of Pleasantville is liable for the actions of the individual defendants under the doctrine of *respondeat superior*.

**PENDENT STATE LAW CLAIMS**

**SIXTH COUNT**

**FALSE ARREST/FALSE IMPRISONMENT**

64. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

65. The aforementioned acts of Defendants in falsely arresting and/or falsely imprisoning Plaintiff were contrary to the common law and in violation of rights guaranteed by the Constitution of New Jersey.

66. As a direct and proximate cause of the aforementioned acts, Plaintiff was caused to sustain an extended loss of freedom and reputation, and suffered severe physical and emotional damages in connection with the deprivation of his constitutional rights.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory damages, attorney's fees, costs of suit, and such other relief as the court deems just and equitable.

**SEVENTH COUNT**

**MALICIOUS PROSECUTION**

67. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

68. The charges initiated against Plaintiff were without legal or factual justification and were not based upon probable cause. Defendants initiated the charges against Plaintiff with malice and

with absolute disregard for his rights and liberties. The charges against Plaintiff were ultimately dismissed.

69. The aforementioned acts of Defendants were contrary to the common law and in violation of rights guaranteed by the Constitution of New Jersey.

70. As a direct and proximate cause of the aforementioned acts, Plaintiff was caused to sustain an extended loss of freedom and reputation, and suffered severe physical and emotional damages in connection with the deprivation of his constitutional rights.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory damages, attorney's fees, costs of suit, and such other relief as the court deems just and equitable.

#### **EIGHTH COUNT**

##### **VIOLATION OF THE NEW JERSEY CIVIL RIGHTS ACT (NJCR)**

71. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

72. The false arrest, false imprisonment, malicious prosecution, unlawful seizure by Defendants, set forth in length above, deprived plaintiff of his rights secured by the Constitution of the United States and the Constitution of the State of New Jersey, in violation of N.J.S.A. 10:6-1, et. seq. ("The New Jersey Civil Rights Act").

73. As a direct and proximate cause of the aforementioned acts, Plaintiff was caused to sustain an extended loss of freedom and reputation, and suffered severe physical and emotional damages in connection with the deprivation of his constitutional rights.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory damages, attorney's fees, costs of suit, and such other relief as the court deems just and equitable.

**NINTH COUNT**

**NEGLIGENCE- COMMON LAW**

74. Plaintiff repeats each and every allegation contained in the above paragraphs as if set forth at length herein.

75. Defendants in furtherance of their employment, were negligent in searching, arresting, charging, and prosecuting Plaintiff, and were further negligent in failing to comply with standard, guidelines, and regulations set forth by the City of Pleasantville and Pleasantville Police Department.

76. The Defendant City of Pleasantville is charged with the responsibility of prescribing the powers of members of the Pleasantville Police Department for ensuring that all members of the Pleasantville Police Department are properly trained and comprehend the legal limits of their powers, and for adopting rules and regulations for the governing of Defendant Pleasantville Police Department.

77. At all times relevant to this action the defendant City of Pleasantville maintained a reckless and grossly inadequate set of procedures, standards, criteria, guidelines, training, disciplining and/or supervisory review of members of its force

78. Under the doctrine of *respondeat superior*, the City of Pleasantville is liable for its agents' negligent torts.

WHEREFORE, Plaintiff demands judgment against Defendants for compensatory damages, attorney's fees, costs of suit, and such other relief as the court deems just and equitable. Additionally, Plaintiff seeks punitive damages against defendants, excluding the City of Pleasantville, but including defendant police officers individually and not in their official capacities.

**DEMAND FOR TRIAL BY JURY**

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

**DESIGNATION OF TRIAL COUNSEL**

Please be advised that Reza Mazaheri, Esq. is hereby designated trial counsel for plaintiff in the above-captioned matter.

SETHI & MAZAHERI, LLC.  
Attorneys for Plaintiff

Dated: November 27, 2012

By: /s/ Reza Mazaheri, Esquire  
**REZA MAZAHERI, ESQUIRE**  
Email: mazaheri@sethimaz.com

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40 Exchange Place, Suite 2010  
New York, NY 10005  
(646) 405-9846

JAN 22 2019

ADMINISTRATION  
CITY OF PLEASANTVILLE

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

RECEIVED

JAN 22 2019

ADMINISTRATION  
CITY OF PLEASANTVILLE

## ORDER OF THE DOCUMENTS

1. COVER PAGE
2. FEDERAL CASE
3. AFFIDAVIT OF FACTS BY NEGATIVE AVERNMENT
4. DEPARTMENT OF STATE DOCUMENT
5. AFFIDAVIT OF OWNERSHIP
- 6 AFFIDAVIT OF DENIAL OF CITIZENSHIP
7. DENIAL OF RIGHTS UNDER COLOR OF LAW
8. THE RIGHT TO TRAVEL
9. LEGAL NOTICE AND DEMAND

NEW JERSEY FEDERAL COURT  
UNITED STATES DISTRICT COURT

Melvin family of Young  
In propria person

Petitioner

PLEASANTVILLE  
MUNICIPAL COURT  
ADMINISTRATIVE LAW JUDGE  
RICHARD T. FAUNTLEROY

Respondent

Crimes

1. Fraud
2. Kidnapping
3. Unlawful Arrest
4. Trespassing on private property , Extortion
5. Threat, duress, collusion
6. New Jersey State CONSTITUTION violations
7. United States Constitution violations
8. Racketeer Influenced and Corrupt organization Act
9. Conflict Of Interest

(Summons Numbers # E-18000152 ,E-1800053

On FEBRUARY 14 2018,, PLEASANTVILLE Police did state Melvin Young violate state statute 39:3-40 Driving while license are revoked or suspended-(Truth never licensed to be revoked or suspended).

Summons was filed in PLEASANTVILLE Municipal Court based upon assumption of a mutual contract between the State of New Jersey, Incorporated, and myself, Melvin Young (mutual contact does not exist).

The respondent made there accusations in PLEASANTVILLE Municipal Court in a malicious attempt to deprive petitioner of my rights, liberty, and proceeded to extort funds from me under color of law, duress, coercion, and threat of imprisonment.

The State of New Jersey Incorporated is in violation of established law (1. The right to travel; the right to mode of conveyance; the right to locomotion are absolute rights and the police cannot make void the exercise of right, State vs. Armstead 60 s. 778, 779, and 781; 2. The use of the highways for purpose of travel and transportation is not a mere privilege, but a common and fundamental right of which the public and natural being cannot be deprived, Chicago Motor Coach vs. Chicago 37 Illinois 200, 169, N.E. 22 ALR, Lisare vs. Chicago 139 Illinois 46 28 HE 934, Boone vs. Clark 214 s.w. 607, 25 AM jur (1<sup>st</sup>.) Highway, Sec. 163 to Travel

- A. The right of a citizen to travel upon public highways and to transport ones property thereon either by carriage or automobile is not a mere privilege which a city may prohibit at will but a common right which he/she has under the right to life, liberty, and the pursuit of happiness; Thompson vs. Smith n154, S.E. 579
- B. State police power extends only to immediate threat to public safety, health, welfare etc. Michigan vs. Duke 266 U.S. Led. At 449
- C. The state is prohibited from violating substantive rights, Owen vs. City 445 US 662 (1980) and it cannot do by one power (police office) that which is for example prohibited expressly to any other such power US and UT vs. Daniels 22 P 159., Fairbanks vs. US 181 US 283, 294, 300;.
- D. Where rights secured by the constitution are involved there can be no rule making or legislation which would abrogate them- Miranda vs. Arizona 384 US 4336, 125:.
- E. The claim and exercise of a constitutional right can not be converted into a crime- Miller vs. Kansas 230 F2nd 48b, 487, 489.
- F. For a crime to exist there must be an injured party (delicit) there can be no sanction or penalty imposed on one because of this constitutional right – Sherer vs. Cullen 481. F. 945
- G. Want of jurisdiction may not be cured by consent of parties- industrial addiction association vs. C.I.R. 323. US 310, 313.
- H. There exists an inherently dangerous conflict of interest between the judges who work for Mullica Township Municipal Court Incorporated, prosecutors who work for Mullica Township Municipal Court Incorporated and police officers who work for Mullica Township Municipal Court Incorporated therefore respondent did not come with the doctrine of clean hands and are in want of personum jurisdiction .

The Clearfield doctrine is stare decisis upon its corporate rules unless it like any other corporation is “holder-in-due-course” of some contract or commercial agreement between it and the one on whom its demands for performance are made, and is willing to produce said document and to place the same into evidence before trying to enforce its demands. Governments descends to the level of a mere private citizen were private corporate commercial paper (federal reserve notes) and securities (checks) is concerned for purpose of suit such corporations and individuals are regarded as entirely separated from government see [Clearfield Trust company vs. United States, us 363-37/ (1942)

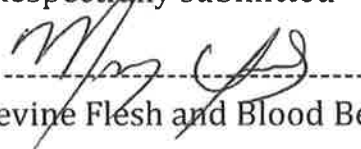
An exception to the rule of judicial jurisdiction and the Absence of jurisdiction. Were an act is done in clear absence of all jurisdiction and this is known to the judge there is no immunity see (Jonson vs. Mac coy.278 F.2nd 37,9<sup>th</sup> cir.1960)see also Kenny vs Fox F.2nd,Rhodes vs Houston 202 Fed supp.624)

Before a court can render a judgment it must have subject-matter jurisdiction and personal Jurisdiction , subject-matter jurisdiction is the power of the courts to entertain or adjudge the type of question involved in a case and not dependent upon the particular acts presented see ( Thrasher VS. United States Liab Ins Co., 19 NY 2<sup>nd</sup> 159 , 166 , 225 , N.E. 2d 503 , 506 , 278 N.Y. S. 2 D , 793, 798 (1967) ).

Either party can move to dismiss an action on the grounds that the court does not have subject matter jurisdiction CPLR 3211 ( a ) ( 2 ) th or the court can take note of the lack of competence jurisdiction on its own volition , under HUTCHINSON vs STATE ind.477 N.E. 2 d 850,854, Fed. Evid.201 , and Court lacks , personam jurisdiction , and there is a Diversity of Citizenship issue in this matter, and this is Truly a Property dispute.

Requesting that the Constitution be enforced and the law of rights be upheld.

Respectfully submitted

  
Devine Flesh and Blood Being

JURAT

SUBSCRIBED AND AFFIRMED; On this 16 day of January, 2019 AD  
Before me appeared Melvin K. Young known to me on the basis of  
Satisfactory evidence to be the man whose name is subscribed on this  
document .

WITNESS MY HAND AND OFFICIAL SEAL



NOTARY PUBLIC

PENNY L. IRELAND  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires June 24, 2020

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE**

**JAMES L. THOMPSON,**

**Plaintiff**

**-vs-**

**CITY OF PLEASANTVILLE,  
GIRARD TELL, (OFFICER  
PLEASANTVILLE POLICE DEPARTMENT),  
RYAN VAN SYKLE, (OFFICER  
PLEASANTVILLE POLICE DEPARTMENT),  
AND MICHAEL MABKHOUTI (OFFICER  
PLEASANTVILLE POLICE DEPARTMENT),  
Defendants, BEING SUED  
(In Their Individual Capacities)**

**FIRST AMENDED COMPLAINT**

**Complaint for Violation of Civil  
Rights**

Case No. 19~18729

Jury Trial: ☒ Yes ☐ No

**NOTICE**

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting

*not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in *forma pauperis*.

**I. THE PARTIES TO THIS COMPLAINT**

**A. THE PLAINTIFF(S):**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

|                    |                                                                                      |
|--------------------|--------------------------------------------------------------------------------------|
| Name               | JAMES L. THOMPSON                                                                    |
| Street Address     | 22 East Redwood Avenue                                                               |
| City and County    | Pleasantville (Atlantic County)                                                      |
| State and Zip Code | New Jersey 08232                                                                     |
| Telephone Number   |  |
| E-mail Address     |                                                                                      |

**B. THE DEFENDANT(S):**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

|                    |                          |
|--------------------|--------------------------|
| Name               | City of Pleasantville    |
| Job or Title       | Municipality             |
|                    | (if known)               |
| Street Address     | 18 North First Street    |
| City and County    | Pleasantville (Atlantic) |
| State and Zip Code | New Jersey, 08232        |
| Telephone Number   | (609) 484-3600           |

E-mail Address \_\_\_\_\_  
(if known)

☐ Individual capacity ☐ Official capacity

Defendant No. 2

Name Girard Tell  
Job or Title Pleasantville Police Officer  
\_\_\_\_\_  
(if known)

Street Address 18 North First Street

City and County Pleasantville (Atlantic)

State and Zip Code New Jersey, 08232

Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_  
(if known)

☐ Individual capacity ☐ Official capacity

Defendant No. 3

Name Ryan Van Syckle  
Job or Title Pleasantville Police Officer  
\_\_\_\_\_  
(if known)

Street Address 18 North First Street

City and County Pleasantville (Atlantic)

State and Zip Code New Jersey, 08232

Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_  
(if known)

☐ Individual capacity ☐ Official capacity

Defendant No. 4

Name Michael Mabkhouti  
Job or Title Pleasantville Police Officer  
\_\_\_\_\_  
(if known)

Street Address 18 North First Street

City and County      Pleasantville (Atlantic)

State and Zip Code      New Jersey, 08232

Telephone Number      \_\_\_\_\_

E-mail Address  
(if known)      \_\_\_\_\_



Individual capacity

Official capacity

## II. BASIS FOR JURISDICTION:

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):



Federal officials (a *Bivens* claim)



State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

The defendants have infringed upon plaintiff’s JAMES L. THOMPSON,  
Constitutional rights under the Fourth Amendment to be free from unreasonable search and seizures, Due Process of Law both procedurally and substantively and retaliation from public servants for exercising their right to file formal complaints

or grievances. In addition certain named defendants have interfered with plaintiff's access to the courts and ability to appeal adverse determinations by abandoning their record keeping responsibility.

### **III. STATEMENT OF CLAIMS:**

1. The wrongful actions of all named defendant's violated plaintiff's constitutional right under the Fourth Amendment of the United States Constitution.
2. The wrongful actions of all named defendant's violated plaintiff's constitutional right under the Fourteenth Amendment to Due Process of Law.
3. The wrongful actions of all named defendant's denied plaintiff his constitutional right to substantive due process of law by their wrongful charging. The wrongful actions of all named defendant's violated plaintiff's constitutional right to remain free absent due process of law.
4. Plaintiff's right to be free from discrimination were violated by all named defendants.
5. Defendant City of Pleasantville is liable under Respondeat Superior.

**A. WHERE DID THE EVENTS GIVING RISE TO YOUR CLAIM(S) OCCUR?**

Pleasantville, State of New Jersey.

**B. WHAT DATE AND APPROXIMATE TIME DID THE EVENTS GIVING RISE TO YOUR CLAIM(S) OCCUR?**

Commencing October 5<sup>th</sup>, 2017 for plaintiff JAMES L. THOMPSON.

**C. FACTUAL BASIS UNDERLYING CLAIMS:**

The city of Pleasantville, New Jersey has instituted policies and procedures through the Pleasantville Police Department that result in discrimination of citizens and visitors through the Pleasantville Police Department.

In particular, plaintiff James L. Thompson and numerous other African-American citizens of the city of Pleasantville filed complaints with the city of Pleasantville Mayor's Office asking that Mayor Jesse L. Tweedle intervene and stop discriminatory motor vehicle stops by the Pleasantville Police Department. Specifically, complaints were filed with the City Solicitor and Mayors Office regarding racial profiling by Pleasantville "Street Crimes" Officers Tell and VanSyckle. Statistically African-American motorists are stopped at a rate exceeding five times the rate of White motorists in the city of Pleasantville, New Jersey.<sup>1</sup> Even more alarming is the fact that African-American motorists are five times more likely to have their vehicles searched during routine motor vehicle stops than are non-African-American citizens. Most of these searches are warrantless searches that begin with a pretextual stop and escalate to a search based on "suspicion".

The city of Pleasantville has failed to respond to the many complaints filed by African-American citizens who have suffered illegal searches. The city has adopted a policy and practice of allowing the subdivision Police Department to

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<sup>1</sup> See: Municipal statistical data on motor vehicle stops.

carryout the practice of racial profiling and discrimination against African-American citizens. The city of Pleasantville has adopted this policy and/or practice in violation of plaintiff's constitutional right to be free from discrimination.

On October 5<sup>th</sup>, 2017, plaintiff James L. Thompson encountered defendants Tell Van Syckle and Mabkhouti while traveling in the city of Pleasantville, New Jersey. The plaintiff was driving on Lake Place and approached the intersection of Lake Place and First Street. Plaintiff came to a complete stop and put on his turn signal to indicate that he was turning left onto First Street. Officers Tell, Van Syckle and Mabhouti were traveling southbound on First Street. The officers had the right of way while plaintiff was at a stop sign. In spite of the fact that the officers had the right of way, and no stop sign they stopped at the intersection and signaled for plaintiff to proceed in front of them. It was at that very moment that the defendants had decided that they were going to pull plaintiff's vehicle over and search the vehicle without probable cause. These defendants have exhibited a pattern of racial profiling and discrimination in motor vehicle stops in the city of Pleasantville during the last two (2) years. These defendants have acted without regard to the civil and constitutional rights of African-American citizens traveling through the city of Pleasantville, New Jersey.

It was at the point where defendants directed plaintiff to pull in front of them that they agreed upon a general scheme that they were going to effectuate a pretextual stop and search plaintiff's vehicle. The sole reason for defendants' reason for stopping plaintiff was premised on his race as an African American male. The defendants proceeded to follow closely behind plaintiff as he traveled down First Street. When

plaintiff signaled that he was turning right onto the next cross street, the officers also turned right and followed plaintiff. At this point the officers had followed plaintiff for approximately fifteen blocks. Plaintiff then signaled that he was turning north bound onto New Road (Route 9). The officers continued to follow plaintiff onto New Road. The Plaintiff, an owner of multiple properties in Pleasantville and Atlantic City, New Jersey was traveling to Billows Electrical Supply Company located on the corner of New Road and Woodland Avenues in the city of Pleasantville, New Jersey. Plaintiff intended to purchase electrical wiring and light fixtures to install in properties he was renovating. As plaintiff approached the intersection of New Road and Woodland Avenues, he signaled that he was turning left onto Woodland Avenue in order to enter the parking lot of Billows Electrical Supply Company. Plaintiff had activated his turn signal a little more than 100 feet before the turn. The driver of an opposing vehicle traveling southbound on New Road came to a stop and waved for plaintiff to make his turn in front of him. Plaintiff made his turn and proceeded to the Billows parking lot. The defendants sped through the intersection, turning behind plaintiff and activated their emergency lights. Plaintiff was already in the process of stopping to park in the Billows parking lot. Officers Mabkhouti and Tell approached plaintiff's vehicle from both the drivers and passenger side. When asked why he was being stopped defendant Tell ignored the inquiry and asked plaintiff did he have any drugs or weapons in the vehicle. Defendant Mabkhouti then stated, "you cut that car off when you turned". (I then explained to Officer Mabkhouti that the opposing driver had stopped and waved me through the intersection in front of him.) Officers Tell and Mabkhouti were joined by Officer VanSyckle. At this point Officer Van Syckle asked plaintiff for his driver's license,

registration and insurance card. Plaintiff produced his driver's license and the rental agreement for the vehicle. Plaintiff's Pennsylvania driver's license came back clear, yet defendant VanSyckle felt compelled to run an old expired New Jersey drivers license. All three officers then ordered plaintiff out of his vehicle. Plaintiff again inquired why he was being ordered out of his vehicle when it was clear that he had not violated any traffic laws. Plaintiff was then told that a K-9 dog would come and sniff the vehicle for contraband. Plaintiff was made to stand outside his vehicle for more than thirty (30) minutes before a K-9 dog was brought to the scene of the vehicle stop. The K-9 dog was walked around plaintiff's vehicle several times before all three defendants announced that they were going to search plaintiff's vehicle without a search warrant or probable cause. The Officers located a licensed firearm secured in the trunk compartment of the vehicle, as well as contraband. Plaintiff was arrested and charged with possession of the licensed weapon and the contraband that was located. The Honorable Judge Rauh of the Superior Court of New Jersey (Atlantic County) suppressed the evidence seized on the ground that the search was illegal in violation of plaintiff's fourth amendment rights.

Defendant Mabkhouti was being trained by Officers Tell and Van Syckle for deployment in the "Street Crimes Unit". Defendants Tell and Van Syckle routinely stop and search vehicles with African American occupants. Officers Tell, VanSyckle, and Mabkhouti target African Americans driving in the city of Pleasantville for vehicle stops and unlawful searches. These defendants racially profile African American drivers for stops and warrantless searches. The plaintiff is aware of at least a dozen stops of African Americans by these named defendants during the period he was subjected to racial profiling.

Once plaintiff's criminal case proceeded in the Superior Court of New Jersey the case was dismissed with prejudice after the court conducted a suppression of evidence hearing. The Honorable John R. Rauh, J.S.C. concluded in a written opinion that the defendants had violated plaintiff's Fourth Amendment rights under the United States Constitution and New Jersey State Constitution. Judge Rauh determined that the officers lacked reasonable suspicion that a motor vehicle violation occurred. Clearly the stop was pretextual and the subsequent search illegal.

#### **IV. Injuries**

Plaintiff JAMES L. THOMPSON suffered the loss of his freedom without due process of law.

Plaintiff JAMES L. THOMPSON suffered emotional distress as a result of his wrongful imprisonment.

Plaintiff JAMES L. THOMPSON suffered economic loss as the result of defendant's unconstitutional conduct.

Plaintiff JAMES L. THOMPSON suffered long-term financial calamity as a result of defendant's wrongful conduct.

Plaintiff JAMES L. THOMPSON suffered personal embarrassment and loss of good reputation as a result of defendant's wrongful actions.

**V. RELIEF:**

**Punitive**

Plaintiff's seeks a monetary award in the amount of \$750,000.00 from defendant Girard

Tell to deter future violations;

Plaintiff seeks a monetary award in the amount of \$750,000.00 from defendant Ryan

VanSyckle to deter future violations;

Plaintiff's seeks a monetary award in the amount of \$750,000.000 from defendant

Michael Mabkhouti.

Plaintiff JAMES L. THOMPSON seeks a compensatory award of \$250,000.00 for the  
loss of income resulting from his wrongful arrest.

Such other relief that the Court deems just and proper.

## VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: November 4, 2019

Signature of Plaintiff:

A handwritten signature in cursive script that reads "James L. Thompson". The signature is written in black ink and is positioned above a horizontal line.

Printed Name of Plaintiff

The name "JAMES L. THOMPSON" is printed in a serif font, with the first letters of each word being capitalized. It is positioned below a horizontal line.

|                                                                 |   |                                      |
|-----------------------------------------------------------------|---|--------------------------------------|
| <b>STATE OF NEW JERSEY , ENS LEGIS</b>                          | ) | <b>IN MARITIME/ ADMIRALTY</b>        |
| <b>(MUNICIPAL COURT OF PLEASANTVILLE)</b>                       | ) |                                      |
| <b>VS</b>                                                       | ) | <b>(Summons Numbers # E-18152,</b>   |
|                                                                 | ) | <b>E-18153,</b>                      |
| <b>( MELVIN KAMAR YOUNG ), ENS LEGIS</b>                        | ) |                                      |
| <b>(A NON-EXISTING LEGALLY FICTIOUS,</b>                        | ) |                                      |
| <b>STRAWMAN / DUMMY CORPORATION</b>                             | ) |                                      |
| <b>Transmitting Utility, and ARTIFICIAL PERSON)</b>             | ) |                                      |
| <b>As the accused / defendant</b>                               | ) |                                      |
| <b>MELVIN family of YOUNG</b>                                   | ) |                                      |
| <b>In Propria Persona, Sui Juris,</b>                           | ) |                                      |
| <b>(Secured Party Creditor Beneficiary and Natural Person )</b> | ) | <b>AFFIDAVIT OF FACTS</b>            |
|                                                                 | ) | <b>BY SPECIFIC NEGATIVE AVERMENT</b> |
| <b>As injured Third Party, Intervener and</b>                   | ) | <b>AND DENIAL OF CORPORATE</b>       |
|                                                                 | ) | <b>EXISTENCE</b>                     |
|                                                                 | ) |                                      |
|                                                                 | ) |                                      |
| <b>Counter Plaintiff</b>                                        | ) |                                      |
| <b>VS</b>                                                       | ) |                                      |
| <b>STATE OF NEW JERSEY, ENS LEGIS</b>                           | ) |                                      |
| <b>"(MUNICIPAL COURT CITY OF PLEASANTVILLE</b>                  | ) |                                      |
| <b>As Counter Defendant</b>                                     | ) |                                      |

A verified plain statement of facts:  
NOTICE OF AGENT IS NOTICE TO PRINCIPAL; NOTICE TO PRINCIPAL IS NOTICE TO AGENT

I, Melvin family of Young, In Propria Persona, Sui Juris, a natural common law man hereinafter "Affiant", being of legal age, sound mind, and clean conscious, have first hand knowledge of the facts contained herein and am competent to state the following matters, that they are to the best of my knowledge true, correct and complete, presented in good faith, and not intended to mislead.

1. There is **no evidence** that Affiant is a UNITED STATES OF AMERICA INCORPORATED citizen, subject, Member, Officer, Trustee, Worker, Employee, Employer, vessel or " person" or any ens legis artificial entity , procedural phantom, legal fiction or juristic personality.
2. Affiant has seen **no evidence** that affiant is not foreign to and without the UNITED STATES OF AMERICA IN-CORPORATED INTER-NATIONALITY, and believes that no such evidence exists.

1. There is **no evidence** that Affiant is a UNITED STATES OF AMERICA INCORPORATED citizen, subject, Member, Officer, Trustee, Worker, Employee, Employer, vessel or "person" or any ens legis artificial entity, procedural phantom, legal fiction or juristic personality.
2. Affiant has seen **no evidence** that Affiant is not foreign to and without the UNITED STATES OF AMERICA IN-CORPORATED INTER-NATIONALITY, and believes that no such evidence exists.
3. There is **no evidence** that Affiant has or is visiting, passing through, residing in, or is situated within the UNITED STATES OF AMERICA INCORPORATED INTERNATIONAL jurisdiction, nor has the ability to visit, reside in, pass through, or be situated within the UNITED STATES OF AMERICA INCORPORATED and INTERNATIONAL jurisdiction.
4. Affiant has seen **no evidence** that any party that would order, re-present or persuade Affiant to falsely present himself as a UNITED STATES OF AMERICA INCORPORATED/INTERNATIONAL citizen, vessel or person directly or by deception, device, misnomer, mistaken identity, warrant or indictment, real or imagined, will not be engaging in Enticement to Slavery, Perjury of Oath, assault on a Foreign Official and a violation of the Convention de La Haye du 5 October 1961 ("Hague Convention"), and believes that **no such evidence exists**.
5. As an official of a sovereign foreign jurisdiction, Affiant denies having ever knowingly sworn allegiance to or volunteered to submit to the UNITED STATES OF AMERICA INCORPORATED, its agents or political subdivisions, or any jurisdiction foreign to Affiant (i.e. common law, natural law, divine law, and the American Constitutional Laws).
6. There is no evidence that Affiant has at any time knowingly, willingly and intentionally sworn allegiance to or volunteered to submit by statute, contract or other device to the UNITED STATES OF AMERICA, its agents and political subdivision(s), or any jurisdiction foreign to Affiant.  
**For purposes of this affidavit and attached process**, if in any, the terms "UNITED STATES OF AMERICA" "STATE OF NEW JERSEY" " ATLANTIC COUNTY "or any derivation thereof refers to the corporation, and all agents, employees, subdivisions and representatives thereof, without any implied submission to the UNITED STATES OF AMERICA , "STATE OF NEW JERSEY" " ATLANTIC COUNTY" or such private CORPORATE STATUTES, CODES, REGULATIONS, ACTS, ORDINANCES and RULES.
7. **Affiant denies that** the use of a notary public, Federal Reserve Promissory Notes, or any other public facilities, when alternatives are generally unavailable, comprises Affiant's submission to any political jurisdiction contrary to his Declaration of Political Status, the creation of an adhesion contract expressly or tacitly with the UNITED STATES OF AMERICA or any other party real or imagined, or an appearance before any body or tribunal, administrative or judicial, real or imagined. RIGHTS, REMEDIES, JURISDICTION.
8. Affiant has seen **no evidence** of a defect in the definition of the UNITED STATES OF AMERICA as a corporation, and believes that no such evidence exists.

9. There is **no evidence** that Affiant waives, has waived, or intends to waive any rights, remedies or defenses including, without limitation, the defense of want for in rem and in personam.

10. There is **no evidence** that Affiant is liable on any Government statutes or codes, including, without limitation, UNITED STATES OF AMERICA Codes and statutes and codes of any of Respondents' political subdivisions.

#### **IN PERSONAM**

11. **There is no evidence** that a fictional corporation can secure in personam jurisdiction regarding Affiant, a living man, without a voluntary election to submit.

12. **Affiant denies** that Affiants' use of private letters rogatory, notices and affidavits comprises an appearance or submission to any jurisdiction foreign to Affiant.

13. **There is no evidence** that Affiants' use of private letters rogatory, notices and affidavits comprises an appearance or submission to any jurisdiction foreign to Affiant.

14. **There is no evidence** that distress, restraint, injury, incarceration or distraint of any type pursuant to an assumption of in personam jurisdiction where none exists does not comprise a theft within the special maritime jurisdiction, assault, battery, fraud, perjury of oath, insurrection, plunder, kidnapping, assault on a foreign official, and other high crimes against mankind.

15. **There is no evidence** that Affiant, Affiant's property and/or interests are subject to the jurisdiction of any of Respondents' officers or agents.

#### **IN REM**

16. **There is no evidence** that the UNITED STATES OF AMERICA has not stipulated that legal fiction (Melvin Young),(Young Melvin),(MELVIN YOUNG),(YOUNG MELVIN)(Trademark and Copy written CORPORATE LEGALLY FICTION NAME) or any orthographic variations thereof is an artificial juristic personality created by the UNITED STATES OF AMERICA INCORPORATED/INTERNATIONAL and therefore inherently **without the ability to appear before any court.**

17. **As the law does not permit impossibilities, Affiant denies** having authority or ability to produce legal fiction (Melvin Young),(Young Melvin),(MELVIN YOUNG),(YOUNG MELVIN) or any orthographic variations thereof for an appearance before any UNITED STATES OF AMERICA INC. tribunal.

18. **There is no evidence** that Affiant possesses authority or ability to produce legal fiction (Melvin Young),(Young Melvin),(MELVIN YOUNG),(YOUNG MELVIN) or any orthographic variations thereof for an appearance before any UNITED STATES OF AMERICA INC. tribunal.

19. Absent a vessel subject to seizure, **Affiant denies the existence of a Court in vacuo other than mala fide on a mare clausum.**

20. **Affiant has seen no evidence** that in the absence of a vessel subject to seizure, a Court in Admiralty can exist, and believes that no such evidence exists.

21. Legal fiction (Melvin Young),(Young Melvin),(MELVIN YOUNG),(YOUNG MELVIN) or any orthographic variations thereof lacking sentience, is unable to self-execute a contract with Respondents, and **no such contracts exist.**

22. **Affiant denies having received full disclosure** of the benefits and liabilities associated with the creation of legal fiction (Melvin Young),(Young Melvin),(MELVIN YOUNG),(YOUNG MELVIN) or any orthographic variations thereof.
23. **There is no evidence** that the UNITED STATES OF AMERICA provided to Affiant full disclosure of the benefits and liabilities associated with the creation of legal fiction (Melvin Young),(Young Melvin),(MELVIN YOUNG),(YOUNG MELVIN) or any orthographic variations thereof
24. **In the absence of such disclosure, there is no evidence** that the UNITED STATES OF AMERICA was not and does not necessarily remain the trustee and liable party for all actions and liabilities attributed to legal fiction (Melvin Young),(Young Melvin),(MELVIN YOUNG),(YOUNG MELVIN) or any orthographic variations thereof as an operation of law.
25. **There is no evidence** that failure to rebut this Affidavit point-by-point or exhibit a power of attorney authorizing Respondents to verify or disqualify Affiant's Declaration of Political Status within three (3) days (in accordance with the "Truth and Lending Act") of this date will not comprise Respondents' confession to enticement to slavery.
26. In the event Respondents jointly or severally impair Affiant or Affiant's interests, freedom or Claim against legal fiction (Melvin Young),(Young Melvin),(MELVIN YOUNG),(YOUNG MELVIN) or any orthographic variations thereof, **there is no evidence** that failure to rebut this Affidavit point-by-point or exhibit a power of attorney within three (3) days of this date authorizing Respondents to verify or disqualify Affiant's Declaration of Political Status will not comprise Respondents' confession to theft within the special maritime jurisdiction, assault, battery, fraud, perjury of oath, insurrection, plunder, kidnapping, embezzlement, treason, extortion, assault on a foreign official, and other high crimes against mankind.

#### **FOREIGN RELATIONS**

27. Affiant has **seen no evidence** that the UNITED STATES OF AMERICA, a corporate body politic, has a circumscribed geographic boundary, which has been published and registered for public notice.
28. **Affiant denies being an enemy** of the UNITED STATES OF AMERICA, at war with the UNITED STATES OF AMERICA, engaging in insurrection against the UNITED STATES OF AMERICA, or belligerent to the UNITED STATES OF AMERICA
29. **There is no evidence** that Affiant is an enemy of the UNITED STATES OF AMERICA, at war with the UNITED STATES OF AMERICA, engaging in insurrection against the UNITED STATES OF AMERICA, or belligerent to the UNITED STATES OF AMERICA.
30. **Affiant denies liability** to or for any Government statutes or codes, including, without limitation, statutes and codes of any of Respondents' political subdivisions.
31. **Affiant has seen no evidence** that MELVIN YOUNG or YOUNG MELVIN or any orthographic variations thereof a fictional corporate entity for profit and gain, exists, and believes that no such evidence exists.
32. **Affiant has seen no evidence** of the existence of the Offer, and believes that no such

evidence exists. OFFERS AND CLAIMS.

33. **There is no evidence** that the information or indictment in Case No. E-102772 ,E-102773("Offer") does not comprise an offer to create/expand funds under public policy and a negotiable instrument upon acceptance.
34. **There is no evidence that the Offer** and Affiant's acceptance thereof do not comprise a Settlement Agreement ("Agreement") between the presenter and acceptor.
35. **There is no evidence** that the Agreement will not prevent waste of public funds, and that dishonor of same would not comprise a willful waste of public resources.

#### **DEFAULT STIPULATIONS**

36. **There is no evidence** that notary certification of Respondents' default did not comprise Respondents' stipulation that no facts are in dispute and no controversy exists in the above-noted matter.
37. **There is no evidence** that upon notary certification of Respondents' default, Respondent is not estopped as an operation of law from any and all further judicial or administrative actions in this matter against Affiant's property, collateral, interests and/or freedom.
38. **There is no evidence** that upon notary certification of Respondents' default, Respondents did not waive in perpetuity all rights, remedies and defenses in and at law, equity, commerce and admiralty regarding the above-referenced matter and consequential actions which may be brought to cure Respondents' commercial dishonors and/or actions undertaken outside the opposite bond/oath of office, such waiver of rights to include, without limitation, waiver of the right to argue, raise a controversy or initiate litigation or arbitration in any venue or jurisdiction foreign or domestic against Affiant or Affiant's interests, property or freedom.
39. **There is no evidence** that notary certification of Respondents' default did not comprise Respondents' agreement to the filing of such consequential actions, judicial or administrative, as Affiant may deem necessary to purge Respondents' liabilities.
40. **There is no evidence** that notary certification of Respondents' default does not comprise as an operation of law Respondents' stipulation jointly and severally to the facts and confessions listed on all notices and Schedules annexed hereto.

#### **DENIAL OF ASSUMPTIONS**

41. **Affiant denies the existence of any contracts, express or implied, between Affiant and Respondent or any other party**, real or pretended, in this matter. **There is no evidence of the existence of any such agreements** express or implied.
42. **Affiant denies that Affiant and legal fiction MELVIN YOUNG** , or any orthographic variations thereof are co-business partners. **There is no evidence** that Affiant and legal fiction (Melvin Young),(Young Melvin),(MELVIN YOUNG), (YOUNG MELVIN) or any orthographic variations thereof are co-business partners.
43. **Affiant denies being a surety for legal fiction MELVIN YOUNG,YOUNG MELVIN** or any orthographic variations thereof. **There is no evidence** that Affiant is a surety for legal fiction, (Melvin Young),(Young Melvin),(MELVIN YOUNG),(YOUNG MELVIN) or any orthographic variations thereof.

44. **Affiant denies serving as trustee for any foreign situs or constructive trust**, in particular for legal fiction (Melvin Young),(Young Melvin),(MELVIN YOUNG), (YOUNG MELVIN) or any orthographic variations thereof. There is no evidence that Affiant serves as trustee in any foreign situs or constructive trust.
45. **Affiant denies being, acting as, or being capable of** being a "citizen," "resident," "individual," "resident individual," "nonresident individual," "part-year resident individual," "part-year resident trust," "resident estate," resident trust," "nonresident estate," "nonresident trust," "person," or "qualified taxpayer" of or relative to the UNITED STATES OF AMERICA, US, the STATE OF NEW JERSEY ATLANTIC COUNTY or any corporate jurisdiction or Government entity or political subdivision. **There is no evidence** that Affiant is capable of being any of the aforementioned legal fiction entities.
46. **Affiant denies engaging in the conduct of a trade or business in** the UNITED STATES OF AMERICA, US, STATE OF NEW JERSEY, ATLANTIC COUNTY or any Government entity or political subdivision. **There is no evidence** that Affiant engages in the conduct of a trade or business in any of the aforementioned locations.
47. **There is no evidence** that Affiant is a UNITED STATES OF AMERICA vessel either documented or undocumented.
48. **Affiant denies involvement with Federal Reserve** Promissory Notes, interstate banking, or any benefit or privilege involving the discharge of debt under public policy.
- 49 **There is no evidence** that Affiant is involved with Federal Reserve Promissory Notes, interstate banking, or any benefit or privilege involving the discharge of debt under public policy.
- 50 **Affiant denies the right of any party to impair Affiant's private contracts**. There is no evidence of the right of any party to impair Affiant's private contracts without such party confessing to Enticement to Slavery and Theft within the Special Maritime Jurisdiction.
51. **There is no evidence contravening** the maxim of law that silence comprises agreement in commerce, equity, admiralty, Lex Mercatoria and public policy.
52. **There is no evidence contravening** the maxim of law that an affidavit stands as truth in commerce, equity, admiralty, Lex Mercatoria and public policy **unless rebutted point-by-point by an Affidavit which is sworn to the same degree of commercial risk**.
53. **There is no evidence** that an answer indicating "NA," "not applicable," "inapposite" or similar dishonors, or failure to answer any point herein would not be unresponsive and comprise stipulation to all facts in this affidavit pursuant to the maxim that silence comprises agreement.
- 54 **There is no evidence** that failure to respond to this Verified Affidavit of Facts point-by-point will not comprise Respondents' confession affirmed to all terms and statements herein.
55. **All words herein are as Affiant defines them**. The contents of all boxes herein are included in their entirety by reference. No text within the said boxes shall be excluded by convention or otherwise. As a free, sovereign, living, flesh-and-blood inhabitant on the land in undiminished capacity and full standing in law, the Undersigned executes and

provides herewith to Respondent the following affidavit that Respondent must execute, in red or blue ink and notarized, and return to the Undersigned within three (3) days or be in default thereof: a. **Affidavit of Specific Negative Averment**; In order to satisfy the rules of bona fide commerce and be of any force, effect, and credibility, any communication of any kind received by the Undersigned re this matter by Respondent and any other party, hereinafter jointly and severally referenced as "Offeror," must be executed under affidavit certified and sworn true, correct, and complete with full personal and commercial responsibility for the truth, accuracy, relevance, and verifiability of everything Offeror alleges, with the following documents attached in support of said affidavit: b. **Copy of Offeror's insurance policy and bond of office**, proving the existence of Offeror's commercial liability and the extents thereof and providing all details required to identify the underwriter of the bond and all criteria needed to file a claim against said bond. c. **Duly executed Bill of Peace**, bearing original signature in red or blue ink and notarized, contractually agreeing the Offeror is not committing an act of war by acting in any manner against the Undersigned re Offer. d. **Proof that all relevant corporate entities** enumerated in the Undersigned's Affidavit of Specific Negative Averment **exists, are solvent, and possess capacity to sue and be sued**. e. **Proof of Offeror's bona fide authority** and bonding to act as a third-part debt collector re this matter.

f. **Proof that the undefined and unproved all-capital-letter being/entity/person/corporation /whatever, i.e. Trade Name, exists** and Offeror holds bona fide claim thereon **superior to claim of the Undersigned**. Failure by Offeror to comply with each and every demand set forth above establishes **on the record Offeror's confession and consent of judgment that Offeror is:**

g. **Acting without commercial liability** and thereby in an **ultra vires** manner in private, unlimited-liability capacity and can be sued accordingly.

h. Committing **treason** and engaging in war against the Undersigned, the United States of America and the people, relieving the Undersigned of all obligations to transact any commercial business with Offeror, a Self-proclaimed enemy, in accordance with the criteria set forth.

i. **Acting in private capacity** outside of all bona fide corporate authority.

j. **Acting without authority** and bonding and therefore in an **ultra vires, private capacity, and can be sued or prosecuted accordingly**.

k. **Acting against Trade Name**, i.e. an other wise non-existent and unproved being/entity/person/corporation/whatever, on **which neither Offeror nor Offeror's Agency holds bona fide and verifiable claim superior** to established claim of the Undersigned.

If not rebutted within 10

DAYS by lawful evidence to the contrary, this affidavit is at law evidence that **the court has not joined the true party of interest and a default exists**. Failure to present evidence to the contrary of the Affiants testimony, will be evidence that all parties stipulate to the facts herein as true, correct and complete. **Aggrieved Defendant objects to the martial law war powers summary judgment of this court** and lack of due process and **I reserve all my rights under the common law and I do not voluntarily waive any rights**. Wherefore Affiant moves the court to dismiss With Prejudice all

executed under affidavit certified and sworn true, correct, and complete with full personal and commercial responsibility for the truth, accuracy, relevance, and verifiability of everything Offeror alleges, with the following documents attached in support of said affidavit: b. **Copy of Offeror's insurance policy and bond of office**, proving the existence of Offeror's commercial liability and the extents thereof and providing all details required to identify the underwriter of the bond and all criteria needed to file a claim against said bond. c. **Duly executed Bill of Peace**,

bearing original signature in red or blue ink and notarized, contractually agreeing the Offeror is not committing an act of war by acting in any manner against the Undersigned re Offer. d. **Proof that all relevant corporate entities** enumerated in the Undersigned's Affidavit of Specific Negative Averment **exists, are solvent, and possess capacity to sue and be sued**. e. **Proof of Offeror's bona fide authority** and bonding to act as a third-part debt collector re this matter.

f. **Proof that the undefined and unproved all-capital-letter being/entity/person/corporation /whatever, i.e. Trade Name, exists** and Offeror holds bona fide claim thereon **superior to claim of the Undersigned**. Failure by Offeror to comply with each and every demand set forth above establishes **on the record Offeror's confession and consent of judgment that Offeror is:**

g. **Acting without commercial liability** and thereby in an **ultra vires** manner in private, unlimited-liability capacity and can be sued accordingly.

h. **Committing treason** and engaging in war against the Undersigned, the United States of America and the people, relieving the Undersigned of all obligations to transact any commercial business with Offeror, a Self-proclaimed enemy, in accordance with the criteria set forth.

i. **Acting in private capacity** outside of all bona fide corporate authority.

j. **Acting without authority** and bonding and therefore in an **ultra vires, private capacity, and can be sued or prosecuted accordingly**.

k. **Acting against Trade Name**, i.e. an other wise non-existent and unproved being/entity/person/corporation/whatever, on which **neither Offeror nor Offeror's Agency holds bona fide and verifiable claim superior** to established claim of the Undersigned.

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DAYS by lawful evidence to the contrary, this affidavit is at law evidence that **the court has not joined the true party of interest and a default exists**. Failure to present evidence to the contrary of the Affiants testimony, will be evidence that all parties stipulate to the facts herein as true, correct and complete. **Aggrieved Defendant objects to the martial law war powers summary judgment of this court** and lack of due process and **I reserve all my rights under the common law and I do not voluntarily waive any rights**. Wherefore Affiant moves the court to dismiss With Prejudice all allegations for lack of jurisdiction, consent, and contract, in the matter before the court.

**COMMERCIAL AFFIDAVIT OATH AND VERIFICATION**

"I, (MELVIN): of the (YOUNG) family, In Propria Persona, Sui Juris, a natural common law man, on my own unlimited commercial liability, certify that I have read the above affidavit of facts by specific negative averment and denial of corporate existence and do know that the facts contained therein are to the best of my knowledge true, correct and complete, not misleading, the truth, the whole truth and nothing but the truth." Signed this      day of      2018.

L.S. M. Young  
(MELVIN): of the (YOUNG) family, In Propria Persona  
Sui Juris Autograph: by Special Limited Appearance,  
In Rerum Natura, All Rights Exclusively Reserved.  
Without Prejudice UCC 1-207 & 1-308.  
Real party in interest under injury.

Use of a Notary or Commissioner of Affidavits is for attestation and verification purposes only and does not constitute a change in status or entrance or acceptance of foreign jurisdiction.

**JURAT/ACKNOWLEDGMENT**

For verification purposes only On this 7 day and date of 1  
A.D. 2019, Principal did personally appear before me,  
is known to be the natural man operating in the requisite capacity for signature described  
herein, who executed the foregoing, acknowledged the contents thereof; and executed the  
same as his/her free will act and deed.

Subscribed and agreed to before the undersigned; Witnessed by my hand and official seal,

Audrey Hart  
Notary name PRINTED

Audrey Hart  
Notary Signature Seal/Stamp

