

LAW OFFICES OF MALLON & TRANGER

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Attorneys for Plaintiff, Dan Fox

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

DAN FOX, : Civil No.: TO BE ASSIGNED
 :
Plaintiff, : Civil Action
 :
v. :
 : **COMPLAINT AND JURY DEMAND**
OFFICER MICHAEL MICHALSKI; :
BAYSHORE COMMUNITY HOSPITAL; :
MERIDIAN HEALTH SYSTEMS, INC.; and :
JOHN DOE 1, :
 :
Defendants. :

Plaintiff, Dan Fox, by way of Complaint against the
Defendants, says:

JURISDICTION AND VENUE

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.
2. Venue is proper under 28 U.S.C. §1391 because Plaintiff resides in this District and the events giving rise to Plaintiff's claims occurred in this District.

PARTIES

3. Plaintiff, Dan Fox, is a resident of the Borough of Keyport in Monmouth County, New Jersey.
4. At all times relevant to the allegations of this Complaint, Defendant, Michael Michalski, was a police officer employed by Holmdel Township and acting in the course of his employment and/or under color of state law. He is sued in his official and individual capacity.
5. Defendant, Bayshore Community Hospital, is owned and/or operated by Defendant, Meridian Health Systems, Inc., and has its principal place of business at 727 North Beers Street in Holmdel Township, New Jersey.
6. Defendant, Meridian Health Systems, Inc., is a company that operates hospitals within the State of New Jersey, including Defendant, Bayshore Community Hospital, and has its principal place of business at Monmouth Shores Corporate Park, 1350 Campus Parkway in Neptune, New Jersey.
7. At all times relevant to the allegations of this Complaint, Defendant, John Doe 1, was a security guard who served as an agent, servant and/or employee of Defendants, Bayshore Community Hospital and/or Meridian Health Systems, Inc.

FACTS

8. On March 13, 2018, Plaintiff went to Bayshore Community Hospital to visit his mother, who had been admitted as a

patient.

9. Plaintiff's sister - Melissa Fox - requested hospital personnel provide her with a list of medications and the names of the doctors treating Plaintiff's mother. Hospital personnel refused to provide Ms. Fox with this information because Plaintiff had Power of Attorney. As a result, she was removed from the hospital.
10. Thereafter, Plaintiff went to his mother's hospital room to obtain this information. When he arrived, he noticed a portable camera in the room.
11. Present in the room were Bayshore Community Hospital's Patient Advocate, Joseph Monica, and a female hospital employee.
12. Plaintiff pulled out his phone to video record the portable camera.
13. The female hospital employee told Plaintiff he could not make any recordings in his mother's room. When Plaintiff replied that he could, Joseph Monica instructed her to get security.
14. The female hospital employee left and returned with Defendants, Officer Michael Michalski and John Doe 1, as well as another security guard.
15. Michalski told Plaintiff that he could not make any video recordings in his mother's room and that he was breaking

HIPAA laws. Plaintiff explained that he was not breaking any HIPAA law and did not want false accusations made against him.

16. Michalski proceeded to tell Plaintiff to step outside. When Plaintiff asked, "for what?" Michalski and John Doe 1 pulled Plaintiff from the chair he was sitting on and threw him to the ground. Michalski then picked Plaintiff up and escorted him from the room.
17. As Plaintiff and Michalski moved down the corridor, Michalski asked Plaintiff, "who do you think you are?" and stated that he could arrest Plaintiff.
18. When Plaintiff did not respond, Michalski grabbed Plaintiff's right arm, forcibly pulled it behind Plaintiff's back and slammed Plaintiff face-first against a wall.
19. As a result of the assault, battery and use of excessive force on his person, Plaintiff was compelled to seek treatment at Monmouth Medical Center.

CAUSES OF ACTION

COUNT I

42 U.S.C. §1983

EXCESSIVE FORCE

DEFENDANT, MICHAEL MICHALSKI

20. Plaintiff repeats the allegations of the previous paragraphs as if set forth at length herein.
21. The Fourth Amendment prohibits law enforcement from using excessive force.

22. Defendant Michael Michalski's actions, as outlined above, constitute the use of force that was excessive and objectively unreasonable under the circumstances.
23. As a direct and proximate cause of Defendant's actions, Plaintiff has sustained physical injury, emotional distress, and pain and suffering, and will continue to incur same for some time to come.

COUNT II
VIOLATION OF NEW JERSEY STATE CONSTITUTION
AND/OR NEW JERSEY CIVIL RIGHTS ACT
DEFENDANT, MICHAEL MICHALSKI

24. Plaintiff repeats the allegations of the previous paragraphs as if set forth at length herein.
25. This Court has supplemental jurisdiction to hear and adjudicate state law claims.
26. Defendant Michael Michalski's actions, as outlined above, have violated Plaintiff's civil rights under the New Jersey State Constitution and/or New Jersey Civil Rights Act.
27. As a direct and proximate cause of Defendant's actions, Plaintiff has sustained physical injury, emotional distress, and pain and suffering, and will continue to incur same for some time to come.

COUNT III
ASSAULT AND BATTERY
DEFENDANT, JOHN DOE 1

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

29. The actions of Defendant, John Doe 1, as outlined 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.
30. As a result, Plaintiff was put in such imminent apprehension, and thus assaulted by John Doe 1.
31. The assault of Plaintiff's person and actual, non-consensual contact by John Doe 1 constituted battery.
32. As a direct and proximate cause of Defendant's assault and battery of Plaintiff's person, Plaintiff has sustained physical injury, emotional distress, and pain and suffering, and will continue to incur same for some time to come.

**COUNT IV
RESPONDEAT SUPERIOR
DEFENDANT, BAYSHORE COMMUNITY HOSPITAL**

33. Plaintiff repeats the allegations of the previous paragraphs as if set forth at length herein.
34. A master-servant relationship exists between Defendants, Bayshore Community Hospital and John Doe 1.
35. Bayshore Community Hospital permitted John Doe 1 to act on its behalf.
36. John Doe 1 was acting as an agent, servant and/or employee of Bayshore Community Hospital at time of the incident and his intentional, reckless and/or negligent use of force was done for the purpose of serving Bayshore Community Hospital.

37. John Doe 1's intentional, reckless and/or negligent use of force was not unexpected by Bayshore Community Hospital.
38. John Doe 1's intentional, reckless and/or negligent use of force occurred within the scope of his employment with Bayshore Community Hospital.
39. As a direct and proximate cause, Plaintiff has sustained physical injury, emotional distress, and pain and suffering, and will continue to incur same for some time to come.

COUNT V
RESPONDEAT SUPERIOR
DEFENDANT, MERIDIAN HEALTH SYSTEMS, INC.

40. Plaintiff repeats the allegations of the previous paragraphs as if set forth at length herein.
41. A master-servant relationship exists between Defendants, Meridian Health Systems, Inc. and John Doe 1.
42. Meridian Health Systems, Inc. permitted John Doe 1 to act on its behalf.
43. John Doe 1 was acting as an agent, servant and/or employee of Meridian Health Systems, Inc. at time of the incident and his intentional, reckless and/or negligent use of force was done for the purpose of serving Meridian Health Systems, Inc.
44. John Doe 1's intentional, reckless and/or negligent use of force was not unexpected by Meridian Health Systems, Inc.
45. John Doe 1's intentional, reckless and/or negligent use of

force occurred within the scope of his employment with Meridian Health Systems, Inc.

46. As a direct and proximate cause, Plaintiff has sustained physical injury, emotional distress, and pain and suffering, and will continue to incur same for some time to come.

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 the 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 Thomas J. Mallon, Esq., as trial counsel in this matter.

s/ Thomas J. Mallon
THOMAS J. MALLON

Dated: April 13, 2018

LAW OFFICES OF MALLON & TRANGER

86 Court Street
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Attorneys for Plaintiff, Dan Fox

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

DAN FOX, : Civil No. 18-6703 (BRM/TJB)
 :
Plaintiff, : Civil Action
 :
v. :
 :
 : **FIRST AMENDED COMPLAINT**
OFFICER MICHAEL MICHALSKI; :
BAYSHORE COMMUNITY HOSPITAL; :
MERIDIAN HEALTH SYSTEMS, INC.; and :
DANIEL ANZIVINO, :
 :
Defendants. :

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PARTIES

3. Plaintiff, Dan Fox, is a resident of the Borough of Keyport in Monmouth County, New Jersey.
4. At all times relevant to the allegations of this Complaint, Defendant, Michael Michalski, was a police officer employed by Holmdel Township and acting in the course of his employment and/or under color of state law. He is sued in his individual capacity.
5. Defendant, Bayshore Community Hospital, is owned and/or operated by Defendant, Meridian Health Systems, Inc., and has its principal place of business at 727 North Beers Street in Holmdel Township, New Jersey.
6. Defendant, Meridian Health Systems, Inc., is a company that operates hospitals within the State of New Jersey, including Defendant, Bayshore Community Hospital, and has its principal place of business at Monmouth Shores Corporate Park, 1350 Campus Parkway in Neptune, New Jersey.
7. At all times relevant to the allegations of this Complaint, Defendant, Daniel Anzivino, was a security guard who served as an agent, servant and/or employee of Defendants, Bayshore Community Hospital and/or Meridian Health Systems, Inc.

FACTS

8. On March 13, 2018, Plaintiff went to Bayshore Community Hospital to visit his mother, who had been admitted as a

patient.

9. Plaintiff's sister - Melissa Fox - requested hospital personnel provide her with a list of medications and the names of the doctors treating Plaintiff's mother. Hospital personnel refused to provide Ms. Fox with this information because Plaintiff had Power of Attorney. As a result, she was removed from the hospital.
10. Thereafter, Plaintiff went to his mother's hospital room to obtain this information. When he arrived, he noticed a portable camera in the room.
11. Present in the room were Bayshore Community Hospital's Patient Advocate, Joseph Monica, and a female hospital employee.
12. Plaintiff pulled out his phone to video record the portable camera.
13. The female hospital employee told Plaintiff he could not make any recordings in his mother's room. When Plaintiff replied that he could, Joseph Monica instructed her to get security.
14. The female hospital employee left and returned with Defendants, Officer Michael Michalski and Daniel Anzivino, as well as another security guard.
15. Michalski told Plaintiff that he could not make any video recordings in his mother's room and that he was breaking

HIPAA laws. Plaintiff explained that he was not breaking any HIPAA law and did not want false accusations made against him.

16. Michalski proceeded to tell Plaintiff to step outside. When Plaintiff asked, "for what?" Michalski and Daniel Anzivino pulled Plaintiff from the chair he was sitting on and threw him to the ground. Michalski then picked Plaintiff up and escorted him from the room.
17. As Plaintiff and Michalski moved down the corridor, Michalski asked Plaintiff, "who do you think you are?" and stated that he could arrest Plaintiff.
18. When Plaintiff did not respond, Michalski grabbed Plaintiff's right arm, forcibly pulled it behind Plaintiff's back and slammed Plaintiff face-first against a wall.
19. As a result of the assault, battery and use of excessive force on his person, Plaintiff was compelled to seek treatment at Monmouth Medical Center.

CAUSES OF ACTION

COUNT I

42 U.S.C. §1983

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22. Defendant Michael Michalski's actions, as outlined above, constitute the use of force that was excessive and objectively unreasonable under the circumstances.
23. As a direct and proximate cause of Defendant's actions, Plaintiff has sustained physical injury, emotional distress, and pain and suffering, and will continue to incur same for some time to come.

COUNT II
VIOLATION OF NEW JERSEY STATE CONSTITUTION
AND/OR NEW JERSEY CIVIL RIGHTS ACT
DEFENDANT, MICHAEL MICHALSKI

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25. This Court has supplemental jurisdiction to hear and adjudicate state law claims.
26. Defendant Michael Michalski's actions, as outlined above, violated Plaintiff's civil rights under the New Jersey State Constitution and/or New Jersey Civil Rights Act.
27. As a direct and proximate cause of Defendant's actions, Plaintiff has sustained physical injury, emotional distress, and pain and suffering, and will continue to incur same for some time to come.

COUNT III
ASSAULT AND BATTERY
DEFENDANT, DANIEL ANZIVINO

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

29. The actions of Defendant, Daniel Anzivino, as outlined 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.
30. As a result, Plaintiff was put in such imminent apprehension, and thus assaulted by Defendant.
31. The assault of Plaintiff's person and actual, non-consensual contact by Defendant constituted battery.
32. As a direct and proximate cause of Defendant's assault and battery of Plaintiff's person, Plaintiff has sustained physical injury, emotional distress, and pain and suffering, and will continue to incur same for some time to come.

**COUNT IV
RESPONDEAT SUPERIOR
DEFENDANT, BAYSHORE COMMUNITY HOSPITAL**

33. Plaintiff repeats the allegations of the previous paragraphs as if set forth at length herein.
34. A master-servant relationship exists between Defendants, Bayshore Community Hospital and Daniel Anzivino.
35. Bayshore Community Hospital permitted Daniel Anzivino to act on its behalf.
36. Daniel Anzivino was acting as an agent, servant and/or employee of Bayshore Community Hospital at time of the incident and his intentional, reckless and/or negligent use of force was done for the purpose of serving Bayshore

Community Hospital.

37. Daniel Anzivino's intentional, reckless and/or negligent use of force was not unexpected by Bayshore Community Hospital.
38. Daniel Anzivino's intentional, reckless and/or negligent use of force occurred within the scope of his employment with Bayshore Community Hospital.
39. As a direct and proximate cause, Plaintiff has sustained physical injury, emotional distress, and pain and suffering, and will continue to incur same for some time to come.

COUNT V
RESPONDEAT SUPERIOR
DEFENDANT, MERIDIAN HEALTH SYSTEMS, INC.

40. Plaintiff repeats the allegations of the previous paragraphs as if set forth at length herein.
41. A master-servant relationship exists between Defendants, Meridian Health Systems, Inc. and Daniel Anzivino.
42. Meridian Health Systems, Inc. permitted Daniel Anzivino to act on its behalf.
43. Daniel Anzivino was acting as an agent, servant and/or employee of Meridian Health Systems, Inc. at time of the incident and his intentional, reckless and/or negligent use of force was done for the purpose of serving Meridian Health Systems, Inc.
44. Daniel Anzivino's intentional, reckless and/or negligent use of force was not unexpected by Meridian Health Systems, Inc.

45. Daniel Anzivino's intentional, reckless and/or negligent use of force occurred within the scope of his employment with Meridian Health Systems, Inc.
46. As a direct and proximate cause, Plaintiff has sustained physical injury, emotional distress, and pain and suffering, and will continue to incur same for some time to come.

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 the 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 Thomas J. Mallon, Esq., as trial counsel in this matter.

s/ Thomas J. Mallon
THOMAS J. MALLON

Dated: August 01, 2018

FOX ROTHSCHILD LLP

Matthew S. Adams, Esq. [00141-2008]
Marissa Koblitz Kingman, Esq. [11054-2014]
49 Market Street
Morristown, New Jersey 07960
(973) 992-4800
Attorneys for Plaintiff

THOMAS W. TRAMAGLINI,

Plaintiff,

vs.

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

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MONMOUTH COUNTY

Docket No.:

Civil Action

COMPLAINT

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

INTRODUCTION

1. This lawsuit arises out of the unlawful taking and subsequent unlawful leaking by law enforcement personnel of a photograph that was taken of Plaintiff by one or more officers, agents, and/or employees of the Holmdel Township Police Department during the early morning

hours of May 1, 2018 with the intent to harm and damage Plaintiff under circumstances where the referenced officers, agents, and/or employees had no legal right to do so.

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

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

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

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

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

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

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

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

JURISDICTION AND VENUE

10. Defendants worked and violated the law in Holmdel Township, New Jersey. In so doing, Defendants purposefully availed themselves to jurisdiction in the State of New Jersey.

11. Venue is appropriate in the Superior Court of New Jersey, Monmouth County Vicinage, pursuant to R. 4:3-2, in that Monmouth County is where a substantial portion of the facts giving rise to the causes of action set forth in this Complaint arose.

12. This action was timely filed in New Jersey state court pursuant to 28 U.S.C. 1367(d) and relevant New Jersey case law following the Order of the Honorable Anne E. Thompson, Federal District Court Judge, dated September 9, 2019, in the federal civil action captioned *Thomas W. Tramaglini v. Patrolman Jonathan C. Martin, et als.*, Civil Action No. 3:19-CV-11915-AET-DEA (the “Prior Federal Civil Action”).

PARTIES

13. Plaintiff is, and was at all times relevant hereto, a resident of the State of New Jersey. Prior to being forced out of public education due to the unlawful actions and omissions of the Defendants outlined herein, Plaintiff had achieved the highest levels of education and training for educators, was employed at all levels of public education for over twenty years, and was most recently employed as the Superintendent of the Kenilworth, New Jersey public schools. In New Jersey, the Superintendent of a public school district is the chief executive officer of that district, responsible for oversight of all day-to-day operations of the school district, and is the executive responsible for the implementation of educational programs, spending and budgetary matters, and

district facilities. The superintendent hires, supervises, and manages the faculty, staff, and principals of the school district.

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

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

16. Holmdel is a duly designated municipality organized pursuant to the laws of the State of New Jersey, with its Town Hall located at 4 Crawfords Corner Rd., Holmdel, New Jersey, 07733. Holmdel is authorized by New Jersey law to maintain a police department that acts as its agent and an agent of the State of New Jersey in the area of law enforcement, and for which the

municipality is ultimately responsible. Holmdel assumes the risks incidental to the maintenance of a police department and the employment of police officers, including, but not limit to, ensuring that its police officers act in accordance with New Jersey law, that the municipality's police department enacts rules and regulations that conform to New Jersey law, and that its police officers are properly trained. Holmdel was, at all times relevant hereto, the employer of Patrolman Martin, Chief Mioduszewski, L.E.O. John/ Jane Does 1-10, and one or more of Non-L.E.O John/Jane Does 1-10.

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

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

participated with the remaining Defendants in connection with the unlawful actions and omissions set forth herein.

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

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

NOTICE OF TORT CLAIM

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

FACTS COMMON TO ALL COUNTS

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

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

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

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

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

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

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

B. The Unlawfully Taken Booking Photograph

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

F. The Injuries Sustained By Plaintiff

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

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

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

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

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

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

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

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

53. Each of the Defendants' conduct in connection with the events on or about May 1, 2018 and the infliction of Plaintiff's injuries, as set forth herein, was recklessly or negligently inflicted in breach of the legal duties owed to Plaintiff under New Jersey law.

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

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

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

57. Each of the Defendants' actions proximately caused Plaintiff's emotional distress.

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

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

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

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

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

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

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

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

63. Each of the Defendants intended to perform the acts set forth in this Complaint and specifically intended to cause Plaintiff harm.

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

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

66. As a direct and proximate cause of each of the Defendants' intentional act, Plaintiff suffered damages.

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

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

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

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

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

COUNT THREE

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

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

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

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

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

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

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

76. The injuries sustained by Plaintiff were reasonably foreseeable as a result of the nature of the employment of Martin and Defendants L.E.O. John/Jane Does 1-10.

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

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

COUNT FOUR
(Defamation against all Defendants)

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

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

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

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

81. The false attribution of criminality constitutes negligence per se pursuant to New Jersey law.

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

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

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

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

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

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

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

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

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

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

COUNT SIX
(Intrusion of Seclusion against all Defendants)

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

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

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

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

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

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

Such other relief as the Court deems just and equitable.

COUNT SEVEN
(New Jersey Civil Rights Act Claim, N.J.S.A. 10:6-1 et seq.)

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

92. Plaintiff has been deprived of his substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of this State, or Plaintiff's exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with or attempted to be interfered with, by threats, intimidation or coercion by Defendants acting under color of law.

93. Specifically, as set forth above, New Jersey law confers a substantive right to privacy upon Plaintiff.

94. Incorporated within that right to privacy is the right to be free from the unlawful taking and unlawful dissemination of a Mug Shot like the one at issue here.

95. This right to privacy and to be free from the unlawful taking and unlawful dissemination of a Mug Shot like the one at issue here was clearly intended to benefit individuals

like Plaintiff, and is specific and unambiguous, therefore the Court's enforcement of the right is not so vague and amorphous that its enforcement would strain judicial competence.

96. New Jersey law confers a right to privacy upon Plaintiff that is unambiguously binding upon the Defendants, New Jersey state actors.

97. The actions of Defendants, as referenced in herein are a violation of Plaintiff's rights as protected under the New Jersey Civil Rights Act ("NJCRRA"), N.J.S.A.10:6-1 et seq., to wit, Plaintiff's right to privacy and to be free from the unlawful taking and unlawful dissemination of a Mug Shot like the one at issue here.

98. The substantive New Jersey state law privacy right at issue in this cause of action was expressly excluded from the analysis of the Federal District Court in the Prior Federal Action.

99. As a direct and proximate result of Defendants' actions, Plaintiff was caused and continues to suffer damages, including but not limited to loss of wages, loss of employment employment benefits, retirement benefits, pain and suffering in the form of mental anguish and other economic and non-economic damages.

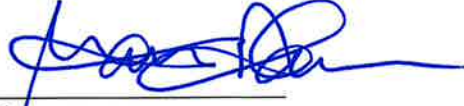
WHEREFORE, Plaintiff demands judgment in his favor and against the Defendants, and that the Court provide the following relief:

- e) Compensatory damages, incidental damages and consequential damages
- f) Punitive damages;
- g) Costs, interest and attorneys' fees
- h) Pre and post judgment interest; and
- i) Such other relief as the Court deems just and equitable.

FOX ROTHSCHILD LLP

Attorneys for Plaintiff

Dated: October 2, 2019

By: 

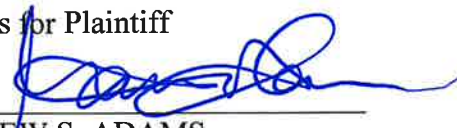
Matthew S. Adams

Marissa Koblitiz Kingman

DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE that, pursuant to R. 4:25-4, Plaintiff hereby designates
Matthew S. Adams, Esq. as trial counsel.

FOX ROTHSCHILD LLP
Attorneys for Plaintiff

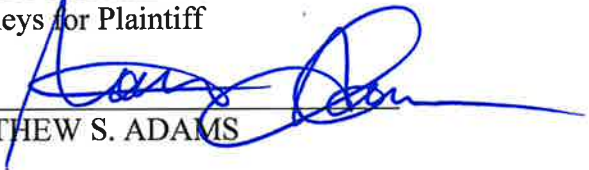


MATTHEW S. ADAMS

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury of all triable issues.

FOX ROTHSCHILD LLP
Attorneys for Plaintiff



MATTHEW S. ADAMS

Dated: 10/2/2019

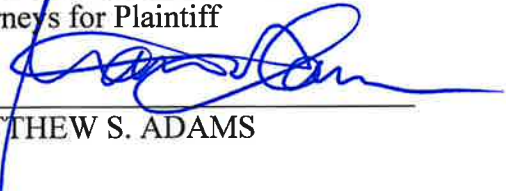
CERTIFICATION

Pursuant to Rule 4:5-1, as made applicable to this Court, Plaintiff hereby certifies that a related matter is pending before the New Jersey Federal District Court, captioned *Thomas W. Tramaglino v. Patrolman Jonathan C. Martin, et als.*, Civil Action No. 3:19-CV-11915-AET-DEA.

I further certify that no interpreter will be required for trial, nor any accommodation for disability.

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.

FOX ROTHSCHILD LLP
Attorneys for Plaintiff



MATTHEW S. ADAMS

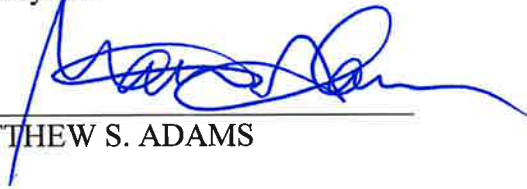
Dated:

10/2/2019

CERTIFICATION PURSUANT TO R. 1:38-7(c)(2)

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

FOX ROTHSCHILD LLP
Attorneys for Plaintiff



MATTHEW S. ADAMS

Dated: 10/2/2019

EXHIBIT A

NOTICE OF TORT CLAIM

CLAIMANT INFORMATION

Name: Dr. Thomas Tramaglini, Ed. D. Telephone: REDACTED
Address: REDACTED Date of Birth: 1/21/1976
SSN: REDACTED

ATTORNEY INFORMATION (If applicable)

Name: Matthew S. Adams, Esq. Telephone: 973-994-7573
Address: 49 Market Street TeleFAX: 973-992-9125
Morristown New Jersey 07960 File No.: _____

Send Notices to: _____ Claimant ☒ Attorney

GENERAL INSTRUCTIONS: Pursuant to the provisions of the New Jersey Tort Claims Act, this Notice of Tort Claim form has been adopted as the official form for the filing of claims against this Municipality.

The questions are to be answered to the extent of all information available to the Claimant or to his or her attorneys, agents, servants, and employees, under oath. The fully completed Claim Form and the documents requested shall be returned to the Municipality and to:

**Ms. Karen Berenato
Qual-Lynx
100 Decadon Drive
Egg Harbor Township, NJ 08234**

NOTE CAREFULLY: Your claim will not be considered filed as required by the New Jersey Tort Claims Act until this completed form has been filed with the Municipality. Failure to provide the information requested, including such responses as "To Be Provided" or "Under Investigation" will result in the claim being treated as not being properly filed.

Timely Notices of Claim must be filed within 90 days after the incident giving rise to the claim.

This form is designed as a general form for use with respect to all claims. Some of the questions may not be applicable to your particular claim. For example, if your claim does not arise out of an automobile accident, questions regarding road conditions might not be applicable. In that event, please indicate "Not Applicable".

If you are unable to answer any question because of a lack of information available to you, specify the reason the information is not available to you. If a question asks that you identify a document, it will be sufficient to furnish true and legible copies. Where a question asks that you "identify all persons," provide the name, address and telephone number of the person.

If you need more space to provide a full answer, attach supplementary pages, identifying the continuation of the answer with the number of the applicable question.

DEFINITIONS:

"*Claimant*" shall refer to the person or persons on whose behalf the Notice of Claim has been filed with the (*Name of Township*).

"*Documents*" shall refer to any written, photographic or electronic representation, and any copy thereof, including, but not limited to, computer tapes and/or disks, videotapes and other material relating to the subject matter of the claim.

"*Person*" shall include in its meaning a partnership, joint venture, corporation, association, trust or any other kind of entity, as well as a natural person.

"*Public Entity*" shall refer to the (*Name of Township*) along with any agent, official or employee of the (*Name of Township*) against whom a claim is asserted by the Claimant.

NOTE that the questions are divided into sections relating to the claimant, the claim, property damage, personal injury and the basis for the claim against the public entity or a public employee.

If the claim involves only property damage, then the portion on personal injuries need not be answered. Just enter as the answer to Question 17 "No personal injuries claimed."

If the claim involves no property damage, then the portion on property damage need not be answered. Just enter as the answer to Question 16 "No property damage claimed."

INFORMATION ON THE CLAIMANT

1. Provide the following information with respect to the Claimant:

- a. Any other name by which the Claimant has been known.

N/A

- b. Address at the time of the incident giving rise to the claim.

REDACTED

- c. Marital Status [at the time of the incident and current]

Single

- d. Identify each person residing with the claimant and the relation, if any, of the person to the Claimant.

N/A

2. Provide all addresses of the Claimant for the last 10 years, the dates of the residence, the persons residing at the addresses at the same time as the Claimant resided at the address and the relation, if any, of the person to the Claimant.

REDACTED

REDACTED

INFORMATION ON ALL CLAIMS

3. Provide the exact date, time and place of the incident forming the basis of the claim and the weather conditions prevailing at the time.

On May 1, 2018, inside the Holmdel Township Police Department, Dr. Tramaglini was unlawfully photographed and thereafter the photograph was publicly disseminated.

4. Provide the Claimant's complete version of the events that form the basis of the claim.

On May 1, 2018, officers and or agents of the Holmdel Township Police Department unlawfully took Dr. Tramaglini's photograph and distributed and disseminated the "mug shot" to third parties, including the media, with the intent to harm Dr. Tramaglini. The Holmdel Township Police Department was not authorized to photograph Dr. Tramaglini by operation of New Jersey law. See: N.J.S.A. 53:1-15; State v. Conners, 129 N.J. Super. 476, 481 (App. Div. 1974); State v. Kenison, 248 N.J. Super. 189, 209 (Law. Div. 1990), aff'd sub nom. State v. Kenison, 248 N.J. Super. 126 (App. Div. 1991); & Oberg v. Dep't of Law & Public Safety, 41 N.J. Super. 256, (J. & D.R.Ct. 1956).

5. List any and all individuals who were witnesses to or who have knowledge of the facts of the incident which gave rise to the claim. Provide the full name and address of each individual.

The exact Holmdel Township Police Department officers and support staff working on or about May 1, 2018 are currently unknown, but include Patrolman Jonathan C. Martin. Dr. Tramaglini reserves his rights with respect to other individuals to be identified in the future.

6. Identify all public entities or public employees [by name and position] alleged to have caused the injury or property damage and specify as to each public entity or employee the exact nature of the act or omission alleged to have caused the injury or property damage.

Holmdel Township Police Department, 4 Crawfords Corner Road, Holmdel, New Jersey, 07733.

Holmdel Township Patrolman Jonathan C. Martin.

Dr. Tramaglini reserves his rights with respect to other individuals to be identified in the future.

7. If you claim that the injury or property damage was caused by a dangerous condition of property under the control of the public entity, specify the nature of the alleged dangerous condition and the manner in which you claim the condition caused the injury.

N/A

8. If you allege a dangerous condition of public property, state the specific basis on which you claim that the public entity was responsible for the condition and the specific basis and date on which you claim that the public entity was given notice of the alleged dangerous condition. Statements such as "should have known" and "common knowledge" are insufficient.

N/A

9. If you or any other party or witness consumed any alcoholic beverages, drugs or medications within twelve (12) hours before the incident forming the basis of the Claim, identify the person consuming the same and for each person (a) what was consumed (b) the quantity thereof (c) where consumed (d) the names and addresses of all persons present.

N/A

10. If you have received any money or thing of value for your injuries or damages from any person, firm or corporation, state the amounts received, the dates, names and addresses of the payors. Specifically list any policies of insurance, including policy number and claim number, from which benefits have been paid to you or to any person on your behalf, including doctors, hospitals or any person repairing damage to property.

None at this time.

11. If any photographs, sketches, charts or maps were made with respect to anything which is the subject matter of the claim, state the date thereof, the names and addresses of the persons making the same and of the persons who have present possession thereof. Attach copies of any photographs, sketches, charts or maps.

See attached Exhibit A, Holmdel Township Police Department Arrest Report containing the unlawfully captured mug shot.

12. If you or any of the parties to this action or any of the witnesses made any statements or admissions, set forth what was said; by whom said; date and place where said; and in whose presence, giving names and addresses of any persons having knowledge thereof

See Response to Question 11, above. This official document from the Holmdel Township Police Department represents an admission to the act of unlawfully photographing Dr. Tramaglino.

13. State the total amount of your claim and the basis on which you calculate the amount claimed.

The amount claimed is estimated to be in excess of \$1 million, which includes, but is not limited to, the reasonable financial loss of income, harm to reputation, emotional distress, invasion of privacy, and intrusion on seclusion.

14. Provide copies of all documents, memoranda, correspondence, reports [including police reports], etc. which discuss, mention or pertain to the subject matter of this claim.

See attached Exhibits A-B.

15. Provide the names and addresses of all persons or entities against whom claims have been made for injuries or damages arising out of the incident forming the basis of this claim and give the basis for the claim against each.

None at this time.

PROPERTY DAMAGE CLAIMS

16. If your claim is for property damage, attach a description of the property damage and an estimate of the costs of repair. If your claim does not involve any claim for property damage, enter "None".

Unknown at this time.

If your claim is for property damage only, initial here and proceed directly to page 15 and sign the Certification.

Initials

PERSONAL INJURY CLAIMS

17. Was any complaint made to the public entity or to any official or employee of the public entity. State the time and place of the complaint and the person or persons to whom the complaint was made.

The Holmdel Township Municipal Prosecutor was advised of the unlawfully taken mug shot, as were certain members of the Holmdel Township Police Department.

18. Describe in detail the nature, extent and duration of any and all injuries.

The injury began on May 1, 2018, and continues to date. Claimant has been injured in numerous ways, including, but is not limited to, the reasonable financial loss of income, harm to reputation, emotional distress, invasion of privacy, and intrusion on seclusion.

19. Describe in detail any injury or condition claimed to be permanent.

See Response to Question 18.

20. If confined to any hospitals, state name and address of each and the dates of admission and discharge. Include all hospital admissions prior to and subsequent to the alleged injury and give the reason for each admission.

N/A

21. If x-rays were taken, state (a) the address of the place where each was taken (b) the name and address of the person who took them (c) the date when each was taken (d) what each disclosed (e) where and in whose possession they now are. Include all x-rays, whether prior to or subsequent to the alleged injury forming the basis of the claim.

N/A

22. If treated by doctors, including psychiatrists or psychologists, state (a) the name and present address of each doctor (b) the dates and places where treatments were received (c) the nature of the treatment (d) the date of last treatment or, if treatments are continuing, the schedule of continuing treatments. Provide true copies of all written reports rendered to you or about you by any doctors whom you propose to have testify on your behalf.

After the execution of a confidentiality stipulation and order, details surrounding medical treatment, as relevant or appropriate, will be provided at a future date.

23. If you have any physical impairment which you allege is caused by the injury forming the basis of your claim and which is affecting your ordinary movements, hearing or sight, state in detail the nature and extent of the impairment and what corrective appliances, support or device you use to overcome or alleviate the impairment.

See Response to Question 18.

24. If you claim that a previous injury has been aggravated or exacerbated, describe the injury and give the name and present address of each doctor who treated you for the condition, the period during which treatment was received and the cause of the previous injury. Specifically list any impairment, including use of eyeglasses, hearing aid or similar device, which existed at the time of the injury forming the basis of the claim.

See Response to Question 18.

25. If any treatments, operation or other form of surgery in the future has been recommended to alleviate any injury or condition resulting from the incident which forms the basis of the claim, state in detail (a) the nature and extent of the treatment, operation or surgery (b) the purpose thereof and the results anticipated or expected (c) the name and address of the doctor who recommended the treatments, operation or surgery (d) the name and address of the doctor who will administer or perform the same (e) the estimated medical expenses to be incurred (f) the estimated length of time of treatments, operation or surgery, period of hospitalization and period of convalescence (g) all other losses or expenditures anticipated as a result of the treatments, operation or surgery (h) whether it is your intention to undergo the treatments, operation or surgery and the approximate date.

None at this time. Dr. Tramaglini reserves the right to supplement this response as necessary or appropriate in the future.

26. Itemize any and all expenses incurred for hospitals, doctors, nurses, x-rays, medicines, care and appliances and indicate which expenses were paid by any coverage.

To be determined.

27. If employed at the time of the alleged injury forming the basis of the claim state (a) the name and address of the employer (b) position held and the nature of the work performed (c) average weekly wages for the year prior to the injury (d) period of time lost from employment, giving dates (e) amount of wages lost, if any. List any sources of income continuation or replacement, including, but not limited to, worker's compensation, disability income, social security and income continuation insurance.

Dr. Tramaglino worked as the Superintendent of Schools for the Kenilworth Board of Education. Dr. Tramaglino earned approximately \$147,500 per year, and was eligible to earn a bonus. The complete impact of the unlawfully taken photograph is unknown at this time. The address for Dr. Tramaglino's employer was:

Kenilworth Board of Education
426 Boulevard
Kenilworth, New Jersey 07033

Dr. Tramaglino also worked as a part time lecturer for the Department of Educational Theory, Policy and Administration, Graduate School of Education, Rutgers, The State University of New Jersey. Dr. Tramaglino earned approximately \$5,658 per semester. The complete impact of the unlawfully taken photograph is unknown at this time. The address for Dr. Tramaglino's employer was:

Rutgers, The State University of New Jersey
10 Seminary Place
New Brunswick, New Jersey 08901

28. If other loss of income, profit or earnings is claimed, state (a) total amount of the loss (b) give a complete detailed computation of the loss (c) the nature and dates of loss.

To be determined.

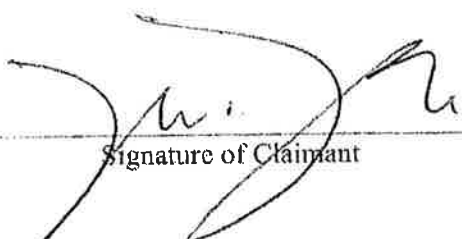
29. If you are claiming lost wages state (a) the date that the employment began (b) the name and address of the employer (c) the position held and the nature of the work performed (d) the average weekly wages. Attach copies of pay stubs or other complete payroll record for all wages received during the past year.

Dr. Tramaglino has been employed as the Superintendent of Schools for the Kenilworth Board of Education from February 2016 to September 2018. Dr. Tramaglino was employed by the Department of Educational Theory, Policy and Administration, Graduate School of Education, Rutgers, The State University of New Jersey from September 2008 to December 2017. See also Response to Question 27.

DOCUMENT REQUEST: Produce all documents identified in your answers to the above questions.

CERTIFICATION

I hereby certify that the information provided is the truth and is the full and complete response to the questions, to the best of my knowledge.



Signature of Claimant

Dated: 7/14/2018

EXHIBIT A



Holmdel Township Police Department Arrest Report

Page: 1
05/04/2018

Arrest #: 18-8978-AR
Call #: 18-8978

Date/Time Reported: 05/01/2018 @ 0550
Arrest Date/Time: 05/01/2018 @ 0550
Booking Date/Time: 05/01/2018 @ 0550

Court: Holmdel Municipal Court
Court Date: 05/07/2018 @ 0900
Reporting Officer: Patrolman Jonathan Martin
Booking Officer: Patrolman Jonathan Martin
Approving Officer: Sergeant Theodore Sigismond



Signature: _____

Signature: _____

#	DEFENDANT(S)	SEX	RACE	AGE	SSN	PHONE
1	TRAMAGLINI, THOMAS REDACTED	M	W	42		

Military Active Duty: N
HEIGHT: 601 WEIGHT: 140 HAIR: BROWN EYES: BROWN
BODY: NOT AVAIL. COMPLEXION: NOT AVAIL.
DOB: PLACE OF BIRTH: NORTH TERRYTOWN, NY
LICENSE NUMBER: ETHNICITY: NOT HISPANIC

[CONTACT INFORMATION]

Home Phone

(Primary)

REDACTED

[APPEARANCE]

GENERAL APPEARANCE: ORDERLY

GLASSES WORN: NO

TATTOOS: TAT ARM(CHINESE WRITING)

[FAMILY/EMPLOYMENT INFORMATION]

MARITAL STATUS: SINGLE

EMPLOYER/SCHOOL: KENILWORTH SCHOOL DISTRICT
KENILWORTH NJ 07033

OCCUPATION: superintendent

**Holmdel Township Police Department
Arrest Report**

Page: 2
05/04/2018

**Arrest #: 18-8978-AR
Call #: 18-8978**

#	DEFENDANT(S)	SEX	RACE	AGE	SSN	PHONE	
[RIGHTS/BOOKING CHECKS]							
RIGHTS ADVISED BY: Patrolman Jonathan C Martin PHONE USED: N ARRESTEE SECURED: N FINGERPRINTED: N PHOTOGRAPHED: Y SUICIDE CHECK: Performed PERSONS: State&Federal NCIC VEHICLE CHECK: Not Performed INJURY OR ILLNESS: N DATE/TIME: 05/01/2018 @ 0625							
#	OFFENSE(S)	ATTEMPTED	TYPE				
LOCATION TYPE: School/College/University Zone: GOLDSMITH DEVELOPMENT HOLMDEL HIGH SCHOOL 36 CRAWFORDS CORNER RD HOLMDEL NJ 07733							
1	PUBLIC URINATION/DEFECATION 3 21.24 OCCURRED: 05/01/2018 0550 SUSPECTED OF USING: Not Applicable	N	Ordinance				
2	LITTERING 3 10 OCCURRED: 05/01/2018 0550 SUSPECTED OF USING: Not Applicable	N	Ordinance				
3	LEWDNESS 2C:14 4 OCCURRED: 05/01/2018 0550 SUSPECTED OF USING: Not Applicable	N	Non Indictable				
#	PERSON(S)	PERSON TYPE	SEX	RACE	AGE	SSN	PHONE
1	FALLON, SHANE CRAWFORDS CORNER RD HOLMDEL NJ 07733 DOB: NOT AVAIL EMPLOYER: HOLMDEL TWP SCHOOLS A.D. CONTACT INFORMATION: Home Phone (Primary)	REPORTING PARTY	M	W	00	NOT AVAIL	
REDACTED							
#	OTHER PROPERTIES	PROPERTY #	STATUS				
1	SURVEILLANCE DVD LABELED 18-8978 QUANTITY: 2 SERIAL #: NOT AVAIL DATE: 05/04/2018 OWNER: TRAMAGLINI, THOMAS	18-201-PR VALUE: \$0.00	(Not NIBRS Reportable)				

EXHIBIT B

COURT I.D. PREFIX COMPLAINT NUMBER

1318

014654

Municipal Court Of Holmdel
4 Crawford's Corner Road
Holmdel, New Jersey 07733The State of New Jersey
vs.

Defendant's Name: First		Initial		Last	
Thomas		W.		Tranaglia	
Address REDACTED					
State	Zip Code	Telephone			
US	REDACTED	REDACTED			
Birth Date	Mo.	Day	Yr.	Sex	Restrictions
01	21	76	M	18	6-0
Driver's License # REDACTED					
2				Exp. Date 03/6/21	

STATE OF NEW JERSEY
COUNTY OF

MONMOUTH

}ss:

Complaining Witness: J. S. Martin
 of Holmdel Twp (Name) 81
 (Identify Dept./Agency Represented) (Badge No.)
 Residing at 4 Crawford's Corner Road
 by certification or an oath, says that to the best of his/her knowledge or information and belief,
 the named defendant on or about the 5 1 18 5:45A
 In HOLMDEL 1318 County of MONMOUTH N.J.
 did commit the following offense:

Public Intoxication

In violation of (one charge only)

(Statute, Regulation or Ordinance Number)

LOCATION OF OFFENSE	C	O	D	E	Describe Location
					Holmdel High School

OATH: Subscribed and sworn to before me
this ____ day of ____, yr. ____.

CERTIFICATION: 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.

OR

(Signature of Complaining Witness)

(Signature of Person Administering Oath)

(Signature of Complaining Witness)

PROBABLE CAUSE DETERMINATION FOR ISSUANCE OF PROCESS:

COURT USE ONLY

LAW/CODE ENFORCEMENT USE ONLY

Probable cause is found for the issuance of this Complaint-Summons.

Yes

No

(Signature of Judicial Officer)

Yes

No

(Signature of Judge)

☒ The complaining witness is a law enforcement officer or a code enforcement officer with territorial and subject matter jurisdiction and a judicial probable cause determination is not required prior to the issuance of this Complaint-Summons.

YOU ARE HEREBY SUMMONED TO APPEAR

BEFORE THIS COURT TO ANSWER THIS COMPLAINT. IF YOU FAIL TO APPEAR ON THE DATE AND AT THE TIME STATED, A WARRANT MAY BE ISSUED FOR YOUR ARREST.

NOTICE TO APPEAR

☒ COURT APPEARANCE REQUIRED	COURT DATE	Month	Day	Year	Time
		5	7	18	9:00 AM
(Date Summons Issued)					
(Signature of Person Issuing Summons)					

COMPLAINT-SUMMONS

SP (September, 2003)

COURT I.D. PREFIX COMPLAINT NUMBER

1318

014655

Municipal Court Of Holmdel
4 Crawford's Corner Road
Holmdel, New Jersey 07733The State of New Jersey
vs.

Defendant's Name: First		Initial		Last	
Thomas W.		Tranaglia			
Address REDACTED					
State	Zip Code	Telephone			
US	REDACTED	REDACTED			
Birth Date	Mo.	Day	Yr.	Sex	Restrictions
1	21	76	M	18	6-0
Driver's License # REDACTED					
2				Exp. Date 03/6/21	

STATE OF NEW JERSEY
COUNTY OF

MONMOUTH

}ss:

Complaining Witness: J. S. Martin
 of Holmdel Twp (Name) 81
 (Identify Dept./Agency Represented) (Badge No.)
 Residing at 4 Crawford's Corner Road
 by certification or an oath, says that to the best of his/her knowledge or information and belief,
 the named defendant on or about the 5 1 18 5:45A
 In HOLMDEL 1318 County of MONMOUTH N.J.
 did commit the following offense:

L. 3-10-3

In violation of (one charge only)

(Statute, Regulation or Ordinance Number)

LOCATION OF OFFENSE	C	O	D	E	Describe Location
					Holmdel High School

OATH: Subscribed and sworn to before me
this ____ day of ____, yr. ____.

CERTIFICATION: 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.

OR

(Signature of Complaining Witness)

(Signature of Person Administering Oath)

(Signature of Complaining Witness)

PROBABLE CAUSE DETERMINATION FOR ISSUANCE OF PROCESS:

COURT USE ONLY

LAW/CODE ENFORCEMENT USE ONLY

Probable cause is found for the issuance of this Complaint-Summons.

Yes

No

(Signature of Judicial Officer)

Yes

No

(Signature of Judge)

☒ The complaining witness is a law enforcement officer or a code enforcement officer with territorial and subject matter jurisdiction and a judicial probable cause determination is not required prior to the issuance of this Complaint-Summons.

YOU ARE HEREBY SUMMONED TO APPEAR

BEFORE THIS COURT TO ANSWER THIS COMPLAINT. IF YOU FAIL TO APPEAR ON THE DATE AND AT THE TIME STATED, A WARRANT MAY BE ISSUED FOR YOUR ARREST.

NOTICE TO APPEAR

☒ COURT APPEARANCE REQUIRED	COURT DATE	Month	Day	Year	Time
		5	7	18	9:00 AM
(Date Summons Issued)					
(Signature of Person Issuing Summons)					

COMPLAINT-SUMMONS

SP (September, 2003)

COURT I.D. PREFIX	COMPLAINT NUMBER
1318	014656

Municipal Court Of Holmdel
4 Crawford's Corner Road
Holmdel, New Jersey 07733

The State of New Jersey									
vs.									
Defendant's Name: First			Initial		Last				
Thomas			T		Tramaglini				
Address: REDACTED									
State	Zip Code	Telephone		REDACTED					
NJ	REDACTED	REDACTED		REDACTED					
Birth Date	Mo	Day	Yr	Sex	Eyes	Height	Restrictions		
01	21	76	M	BRO	6'01"				
Driver's License: REDACTED									
2									
					State	Exp. Date			
					NJ	6/21			

STATE OF NEW JERSEY } ss:
COUNTY OF MONMOUTH

Complaining Witness: PH. J. Martin
(Name)

of Holmdel Twp
(Identify Dept./Agency Represented)

Residing at 4 Crawford's Corner Road
(Address)

by certification or an oath, says that to the best of his/her knowledge or information and belief
the named defendant on or about the 5 1 2018 5:45A
Month Day Year Time

in HOLMDEL 1318 County of MONMOUTH N.J.
did commit the following offense:

COMPLAINT

Lewdness
VIOLATION OF OFFENSE

In violation of (one charge only)

2C:14-4

(Title, Regulation or Ordinance Number)

LOCATION OF OFFENSE	C	O	D	E	Describe Location
					Holmdel High School

COMPLAINT

OATH: Subscribed and sworn to before me
this _____ day of _____, yr. _____.

CERTIFICATION: 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.

QR

(Signature of Complaining Witness)

(Signature of Person Administering Oath)

(Date)

(Signature of Complaining Witness)

PROBABLE CAUSE DETERMINATION FOR ISSUANCE OF PROCESS:

Probable cause is found for the issuance of this Complaint-Summons.

Yes

No

(Signature of Judicial Officer)

Yes

No

(Signature of Judge)

The complaining witness is a law enforcement officer or a code enforcement officer with territorial and subject matter jurisdiction and a judicial probable cause determination is not required prior to the issuance of this Complaint-Summons.

YOU ARE HEREBY SUMMONED TO APPEAR

BEFORE THIS COURT TO ANSWER THIS COMPLAINT. IF YOU FAIL TO APPEAR ON THE DATE AND AT THE TIME STATED, A WARRANT MAY BE ISSUED FOR YOUR ARREST.

NOTICE TO APPEAR

☒ COURT APPEARANCE REQUIRED	COURT DATE	Month	Day	Year	Time	AM	PM
	5	7	18		9:00		
(Date Summons Issued)		(Signature of Person Issuing Summons)					

COMPLAINT-SUMMONS

17 (September, 2009)



Holmdel Township Police Department

4 Crawford Corner Road
Holmdel, New Jersey 07733

TRENTON
NJ 0865
02 MAY '18
PM 3 L



U.S. POSTAGE & PAYMENT SERVICES

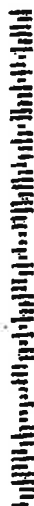


ZIP 07733 \$ 000.47⁰
02 1W
0001401804 MAY 02 2018

Thomas Tramaglini

REDACTED

07747-185430



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

THOMAS W. TRAMAGLINI,

Plaintiff,

vs.

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

Defendants.

Civil Action No. _____

COMPLAINT

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

INTRODUCTION

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

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

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

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

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

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

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

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

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

JURISDICTION

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

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

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

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

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

PARTIES

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

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

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

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

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

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

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

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

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

NOTICE OF TORT CLAIM

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

FACTS COMMON TO ALL COUNTS

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

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

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

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

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

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

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

B. The Unlawfully Taken Booking Photograph

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

F. The Injuries Sustained By Plaintiff

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

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

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

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

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

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

COUNT ONE

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

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

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

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

56. Plaintiff is a citizen of the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COUNT TWO

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

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

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

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

80. Plaintiff is a citizen of the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COUNT FIVE

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

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

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

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

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

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

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

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

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

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

COUNT SIX
(Defamation against all Defendants)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COUNT EIGHT
(Intrusion of Seclusion against all Defendants)

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

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

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

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

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

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

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Dated: April 30, 2019

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EXHIBIT A