

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MATTHEW SHAW,
Plaintiff

V.

SUMMONS IN A CIVIL CASE

TOWN OF MORRISTOWN, ET AL.,
Defendant

CASE NUMBER: 2:14-CV-01425-KM-MCA

TO: *(Name and address of Defendant):*

Town of Morristown
200 South St.
Morristown, NJ 07960

RECEIVED

MAR 20 2014

**TOWN OF MORRISTOWN
TOWN CLERK'S OFFICE**

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States Agency, or an office or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Shelley Stangler, Esq.
155 Morris Avenue
Springfield, NJ 07083

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

WILLIAM T. WALSH

CLERK

LEROY DUNBAR

(By) DEPUTY CLERK



ISSUED ON 2014-03-07 11:02:01.0, Clerk
USDC NJD

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	
NAME OF SERVER (PRINT)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
☐ Served personally upon the defendant. Place where served: _____ _____ ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. ☐ Name of person with whom the summons and complaint were left: _____ ☐ Returned unexecuted: _____ _____ ☐ Other (specify) : _____ _____ _____		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL
DECLARATION OF SERVER		
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.		
Executed on	_____	_____
	Date	Signature of Server

		Address of Server

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SHELLEY L. STANGLER, P.C.
NJ ID No.: 023191987
155 MORRIS AVENUE, 2ND FLOOR
SPRINGFIELD, NJ 07081
PHONE (973) 379-2500 FAX (973) 379-0031
ATTORNEYS FOR PLAINTIFF

MATTHEW SHAW,

Plaintiff,

vs.

TOWN OF MORRISTOWN,
MORRISTOWN POLICE DEPARTMENT,
TOWN OF BOONTON, BOONTON
TOWNSHIP, BOONTON POLICE
DEPARTMENT, CHIEF OF POLICE
PETER DEMNITZ, in his personal,
individual and official capacities, FORMER
CHIEF OF POLICE MICHAEL W.
BELTRAM, in his personal, individual and
official capacities, CHIEF OF POLICE
PAUL C. FORTUNATO, in his personal,
individual and official capacities, POLICE
OFFICER ANTHONY LIMANDRI (#55),
in his personal, individual and official
capacities, POLICE OFFICER MICHAEL
GULLA (#52), in his personal, individual
and official capacities, POLICE OFFICER
KEVIN KUNZIG, in his personal,
individual and official capacities, JOHN
DOES 1-5, in their personal, individual and
official capacities, and ABC ENTITIES 1-5,

Defendants.

CIVIL ACTION NO:

COMPLAINT AND JURY DEMAND

Plaintiff, MATTHEW SHAW ("Plaintiff"), by way of Complaint against defendants,
TOWN OF MORRISTOWN, MORRISTOWN POLICE DEPARTMENT, TOWN OF
BOONTON, TOWNSHIP OF BOONTON, BOONTON POLICE DEPARTMENT, CHIEF

OF POLICE PETER DEMNITZ, in his personal, individual and official capacities, **FORMER CHIEF OF POLICE MICHAEL W. BELTRAM**, in his personal, individual and official capacities, **CHIEF OF POLICE PAUL C. FORTUNATO**, in his personal, individual and official capacities, **POLICE OFFICER ANTHONY LIMANDRI (#55)**, in his personal, individual and official capacities, **POLICE OFFICER MICHAEL GULLA (#52)**, in his personal, individual and official capacities, **POLICE OFFICER KEVIN KUNZIG**, in his personal, individual and official capacities, **JOHN DOES 1-5**, in their personal, individual and official capacities, and **ABC ENTITIES 1-5**, alleges as follows:

PARTIES

1. At all relevant times herein plaintiff, **MATTHEW SHAW ("SHAW")** was a domiciliary and resident of Astoria, Queens County, State of New York and is currently a resident of Long Island City, State of New York.

2. At all relevant times herein defendant, **TOWN OF MORRISTOWN** (hereinafter, "**MORRISTOWN**") was and is a public entity organized and existing pursuant to the laws of the State of New Jersey, with a place of business at 200 South Street, Morristown, Morris County, NJ, 07963.

3. At all relevant times herein defendant **THE MORRISTOWN POLICE DEPARTMENT** (hereinafter, the "**MORRISTOWN PD**") was and is a public entity and/or an agency or division of a public entity, organized and existing pursuant to the laws of the State of New Jersey, with a place of business at 200 South Street, Morristown, Morris County, NJ, 07963, engaged in the hiring, training and supervision of law enforcement officers.

4. At all relevant times herein defendant, **TOWN OF BOONTON** (hereinafter, "**BOONTON**") was and is a public entity organized and existing pursuant to the laws of the State of New Jersey, with a place of business at 100 Washington Street, Boonton, NJ, 07005.

5. At all relevant times herein defendant, **TOWNSHIP OF BOONTON** (hereinafter, "**BOONTON TOWNSHIP**") was and is a public entity organized and existing pursuant to the laws of the State of New Jersey, with a place of business at 155 Powerville Road, Boonton, NJ 07005.

6. At all relevant times herein defendant **THE BOONTON POLICE DEPARTMENT** (hereinafter, the "**BOONTON PD**") was and is a public entity and/or an agency or division of a public entity, organized and existing pursuant to the laws of the State of New Jersey, with a place of business at 100 Washington Street, Boonton, NJ, 07005 or 155 Powerville Road, Boonton, NJ 07005 and engaged in the hiring, training and supervision of law enforcement officers.

7. Defendants, **MORRISTOWN, MORRISTOWN PD, BOONTON, BOONTON TOWNSHIP** and **BOONTON PD** are hereafter collectively referred to as the "**PUBLIC ENTITY DEFENDANTS**".

8. At all relevant times herein defendant **CHIEF OF POLICE PETER DEMNITZ** (hereinafter "**CHIEF DEMNITZ**") was the Chief of the defendant **MORRISTOWN PD**, acting in his official, personal and individual capacities and was responsible for supervision and oversight of the Department, including the development, promulgation, and implementation of policies, procedures and standards for the police department and more specifically policies, procedures and standards relating to the use of force, arrest procedures, rendering of medical care to suspects, internal affairs investigations, discipline and overall conduct of police officers.

9. At all relevant times herein defendant **FORMER CHIEF OF POLICE MICHAEL W. BELTRAM** (hereinafter "**CHIEF BELTRAM**") or **CHIEF OF POLICE PAUL C. FORTUNATO** (hereinafter "**CHIEF FORTUNATO**") were the chief supervisory official of the defendant **BOONTON PD**, acting in their official, personal and individual capacities was responsible for supervision and oversight of the Department, including the development, promulgation, and implementation of policies, procedures and standards for the police department and more specifically policies, procedures and standards relating to the use of force, arrest procedures, rendering of medical care to suspects, internal affairs investigations, discipline and overall conduct of police officers.

10. Defendants **CHIEF DEMNITZ**, **CHIEF BELTRAM** and **CHIEF FORTUNATO** are referred to collectively herein as the "**SUPERVISORY DEFENDANTS**."

11. At all relevant times herein defendant, **OFFICER ANTHONY LIMANDRI** (#55) ("**OFFICER LIMANDRI**") was a police officer employed by the defendant **BOONTON PD**, and an employee of defendant **BOONTON** or **BOONTON TOWNSHIP**, acting in his official, personal and individual capacities as a police officer under color of law.

12. At all relevant times herein defendant **OFFICER MICHAEL GULLA** (#52) ("**OFFICER GULLA**") was a police officer employed by the defendant **BOONTON PD**, and an employee of defendant **BOONTON** or **BOONTON TOWNSHIP**, acting in his official, personal and individual capacities as a police officer under color of law.

13. At all relevant times herein defendant **OFFICER KEVIN KUNZIG** was a police officer employed by the defendant **MORRISTOWN PD**, and an employee of defendant **MORRISTOWN**, acting in his official, personal and individual capacities as a police officer under color of law.

14. Together, defendants **OFFICER LIMANDRI, OFFICER GULLA, and OFFICER KUNZIG** are herein referred to as the "**POLICE OFFICERS.**"

15. At all relevant times herein defendants **JOHN DOES 1-5**, were as yet unidentified individuals who were duly appointed police officers, detectives, employees, agents, and/or supervisors of the **PUBLIC ENTITY** defendants acting in their official, personal and individual capacities.

16. At all relevant times herein defendants **ABC ENTITIES 1-10** are as yet unknown and unidentified municipal, county or state officials, supervisors, agents, officers, employees, entities or subdivisions of entities.

JURISDICTION AND VENUE

17. This Court has jurisdiction pursuant to Title 28 of the United States Code, Sections 1331, 1332, 1343 (2), 1343 (3), 1343 (4), and Title 42 of the United States Code, Section 1983, as well as pendent jurisdiction to adjudicate plaintiffs' causes of action on the state and common law claims.

18. Venue is properly laid in the United States District Court of the District of New Jersey pursuant to Title 28 United States Code Section 1391 (b) in that all of the acts complained of herein occurred in the district and that the defendants are citizens of, reside in or are public entities of the State of New Jersey and domiciled within this district.

19. The matter in controversy herein involves, exclusive of interest, an amount in excess of \$75,000.

NATURE OF ACTION

20. On March 10, 2012 at approximately 6:45 p.m. in Morristown, NJ, the **POLICE OFFICERS** and **JOHN DOES 1-5** used excessive force against **SHAW** causing him to sustain

serious and permanent injuries and thereafter delayed providing **SHAW** with medical treatment, causing him further injury.

21. Specifically, the use of excessive force, wrongful arrest and delay in providing medical treatment occurred at the Tashmoo Bar, Dehart Street, Morristown, New Jersey.

22. Thereafter, the **POLICE OFFICERS** and **JOHN DOES 1-5**, falsely arrested and maliciously prosecuted **SHAW** by arresting and filing a complaint against **SHAW** without probable cause or justification. Following a trial, the complaint was dismissed and the matter terminated in favor of **SHAW**.

23. Plaintiff was subject to unlawful abuse of process and authority without justification or cause.

24. The **POLICE OFFICERS** and **JOHN DOES 1-5** were poorly trained and evidenced a reckless disregard and indifference to the likelihood of severe injury in their handling of the arrest of **SHAW** and in their failure to properly control the situation and effectuate a proper arrest.

25. The **PUBLIC ENTITY** Defendants and the **SUPERVISORY DEFENDANTS** failed to properly train and supervise defendant **POLICE OFFICERS** and **JOHN DOES 1-5** in the proper use of force and rendering of medical treatment, among other failures to maintain, implement and enforce proper police procedures and protocols.

26. Plaintiff **SHAW** was caused to suffer severe and permanent injuries as the result of the assault and unlawful use of force by the defendants, **POLICE OFFICERS** and **JOHN DOES 1-5**.

27. Plaintiff **SHAW** institutes this action for compensatory and punitive damages arising out of the unlawful actions and conduct of defendants, the **POLICE OFFICERS** the

SUPERVISORY DEFENDANTS, JOHN DOES 1-5, and ABC ENTITIES 1-5, who, acting under color of state and federal law and under authority, custom and usage of the **PUBLIC ENTITY DEFENDANTS** violated the civil rights of Plaintiff protected by and secured under the provisions of the First, Fourth, Eighth and Fourteenth Amendments to the United States Constitution and under the laws of the United States, particularly under the Civil Rights Act, Title 42 of the United States Code, § 1983, *et seq.*

28. Plaintiff also institutes this action pursuant to the common law and statutory laws of the State of New Jersey for damages arising by reason of assault, battery, pain and suffering, negligence, failure to timely render medical treatment, malicious prosecution, failure to properly hire, train and supervise, failure to intervene, abuse of authority, failure to intervene and failure to protect, among other acts of negligence and misconduct.

29. Plaintiff also seeks relief for violation of his constitutional rights under the New Jersey Civil Rights Act, 10 N.J.S.A. 6-1, *et seq.*

NOTICES OF CLAIMS

30. On May 24, 2012, Plaintiff served Notice of Claims for damages in the form prescribed by New Jersey Statutes, Title 59:8-4, and signed by Plaintiff's representative upon the **PUBLIC ENTITY DEFENDANTS** within the statutorily prescribed period.

31. More than six (6) months have elapsed since service of Plaintiff's Notices of Claim and the claims remain unresolved.

32. This action is commenced within two (2) years from the date of the occurrence.

33. The cause of action for malicious prosecution accrued on December 20, 2013 when all charges were terminated by way of acquittal after trial.

34. A Notice of Claim regarding malicious prosecution has been filed and served upon the same entities and persons within ninety (90) days of the accrual of the malicious prosecution claim.

35. In the interest of Judiciary efficiency and to avoid piecemeal litigation the plaintiff requests that the six month period prescribed by New Jersey Statute title 59:8-8 as a waiting period be waived and that the matter proceed with regard to all claims.

36. The **PUBLIC ENTITY DEFENDANTS** have had ample opportunity and time to fully investigate and attempt a resolution of the claims.

FACTUAL ALLEGATIONS

37. At about 6:00 p.m. on March 10, 2012, **SHAW** was a patron of the Tashmoo Bar, 8 Dehart Street in Morristown, New Jersey, 07960 ("the Bar").

38. While patronizing the Bar, a fight broke out amongst patrons. Patrons, including **SHAW**, were then escorted out of the Bar.

39. After being escorted out of the Bar, **SHAW** asked the **POLICE OFFICERS** and **JOHN DOES 1-5** to return to obtain his jacket, which he had left behind in the Bar.

40. Without cause or justification the defendant **POLICE OFFICERS** and/or defendant **JOHN DOES 1-5** violently and with excessive force grabbed **SHAW**'s left arm and forced him to the ground with great force, smashing his face against the pavement and severely injuring his left shoulder.

41. **SHAW** temporarily blacked out from the force of his head hitting the pavement. When he regained consciousness, he was sitting in a police van in handcuffs, in excruciating pain emanating from his left shoulder and head.

42. Realizing he had sustained serious injuries, **SHAW** repeatedly asked the **POLICE OFFICERS** and/or defendant **JOHN DOES 1-5** to take him to the hospital. The **POLICE OFFICERS** and/or defendant **JOHN DOES 1-5**, however, refused, screaming "shut up" and "you don't want me to come back there."

43. The **POLICE OFFICERS** and/or **JOHN DOES 1-5** then took **SHAW** to the Morristown Police Station at 200 South Street, Morristown, New Jersey, where he remained in handcuffs while in custody.

44. While at the Morristown Police Station located at 200 South Street, Morristown, New Jersey, **SHAW** repeated his request for medical treatment. In response, the **POLICE OFFICERS** and/or **JOHN DOES 1-5** told **SHAW**, "shut up and we'll take you when we take you."

45. **SHAW** was finally taken to Morristown Memorial Hospital, where he was diagnosed with a left shoulder dislocation of the left humeral head with probable Hill-Sachs deformity and associated fracture fragment and neuropraxia requiring closed reduction under sedation, abrasions to his face, and other injuries.

46. As a direct and proximate result of the aforesaid occurrence and use of excessive force **SHAW** suffered severe, painful and permanent injuries to his body, including but not limited to a fracture of the left shoulder, torn left tendon, nerve damage, ulnar demyelination of the left elbow requiring two (2) surgeries and other medical care and treatment.

47. On March 10, 2012, **OFFICER KUNZIG**, acting under color of State law, swore out Complaint No. S-2012-000170 against **SHAW** for violating *N.J.S.A. 2C:33-2A(2)*, disorderly persons.

48. Upon information and belief other charges may have been filed as well.

49. There was no probable cause to support the arrest of **SHAW** and/or the filing of charges against **SHAW**.

50. The arrest of **SHAW** deprived him of his liberty and other protectable rights while Defendant **POLICE OFFICERS** were engaged in official conduct, under color of State law.

51. The filing of the charges was actuated by malice on the part of **OFFICER KUNZIG** and the **MORRISTOWN PD**, acting under color of state law.

52. The matter captioned State v. Shaw was tried on Friday, December 20, 2013 at 11:00 a.m. at the Morristown Municipal Court, and all charges against **SHAW** were dismissed upon acquittal.

53. **SHAW** incurred legal fees with the firm of Hanlon, Dunn and Robertson in connection with defending the Municipal Court matter.

54. The escalation of the events leading to the use of excessive force on **SHAW** and failure to render timely medical aid to Plaintiff was an abuse of process, an abuse of police power and authority, violative of proper police procedure, and constituted the use of unnecessary and unjustified force in trying to effectuate an arrest.

55. The escalation of the events as described and the failure to effectuate a proper arrest is a direct and proximate result of the failure to properly hire, train and supervise officers and constitutes reckless and deliberate indifference to the serious likelihood of harm, which in fact occurred.

56. The use of force used was far in excess of that necessary to effectuate the arrest.

57. The arrest and prosecution were without probable cause.

58. Despite the lack of probable cause for any arrest, defendants maliciously and with deliberate indifference and without cause deprived plaintiff of his liberty and the rights,

privileges and immunities granted to him under the United States Constitution by the use of excess force in making a false arrest, filing false charges, causing false imprisonment, and a malicious prosecution.

59. The conduct of the defendant officers constituted an abuse of process which deprived plaintiff of his liberty and the rights, privileges and immunities granted to him under the United States and New Jersey Constitutions.

60. At all relevant times herein, defendant **POLICE OFFICERS**, the **SUPERVISORY DEFENDANTS** and **JOHN DOES 1-5** were acting under color of state law and within the scope of their authority as employees, agents and/or officers of the **PUBLIC ENTITY DEFENDANTS**.

61. At all relevant times herein, the **PUBLIC ENTITY DEFENDANTS**, **THE SUPERVISORY DEFENDANTS**, **POLICE OFFICERS**, and **JOHN DOES 1-5**, their agents, servants and/or employees acted under color of law, under the color of the constitution, statutes, laws, charter, ordinances, rules, regulations, customs, usages and practices of the said police departments, academy, agencies and entities.

62. At all relevant times herein the **PUBLIC ENTITY DEFENDANTS**, **SUPERVISORY DEFENDANTS**, **JOHN DOES 1-5** and **ABC ENTITIES 1-5** ratified and maintained a practice, official or unofficial custom and/or policy of failing to train, discipline and/or supervise defendants including but not limited to **THE POLICE OFFICERS** and **JOHN DOES 1-5**, in conformity with clearly established constitutional principles which govern their conduct, including proscriptions against the use of excessive force in effectuating a police stop and/or pursuit, arrest and seizure of unarmed persons.

63. At all relevant times herein, **MORRISTOWN** and **ABC ENTITIES 1-5** were responsible for the conduct of the **CHIEF DEMNITZ, OFFICER KUNZIG** and **JOHN DOES 1-5**, as well as instruction, supervision and implementation of proper law enforcement procedures and oversight over the **MORRISTOWN PD**.

64. At all relevant times herein, **BOONTON** or **BOONTON TOWNSHIP** and **ABC ENTITIES 1-5** were responsible for the conduct of the **FORMER CHIEF BELTRAM** or **CHIEF FORTUNATO**, and **OFFICER LIMANDRI, OFFICER GULLA** and **JOHN DOES 1-5**, as well as instruction, supervision and implementation of proper law enforcement procedures and oversight over the **BOONTON PD**.

65. At all relevant times herein, each and every Defendant acted with deliberate and conscious indifference to **SHAW's** constitutional rights which violations arose out of a pattern of custom, policy and practice by and of defendants in allowing the use of excessive force, permitting and condoning the use of excessive force, in failing to implement and enforce police procedures and protocols as well as the failure to properly hire, train and supervise police officers in the proper conduct of their duties and in the use of force, making a lawful arrest, failing to render medical aid, and failing to properly discipline officers as to permit, allow and acquiesces in the unlawful use of force.

COUNT I

(42 U.S.C. 1983)

66. Plaintiff repeats and realleges each and every allegation contained in the above paragraphs and incorporates same by reference.

67. At all relevant times herein, the **MORRISTOWN PD, CHIEF DEMNITZ, OFFICER KUNZIG, JOHN DOES 1-5** and **ABC ENTITIES 1-5**, were acting under color of

law under the state and federal Constitution, statutes, laws charters, ordinances, rules, regulations customs, usages and practices of the subject governmental departments, agencies and entities and within the scope of their authority as supervisors, employees and/or officers of Defendant **MORRISTOWN**.

68. At all relevant times herein, the **BOONTON PD, FORMER CHIEF BELTRAM** or **CHIEF FORTUNATO, OFFICER LIMANDRI, OFFICER GULLA, JOHN DOES 1-5** and **ABC ENTITIES 1-5**, were acting under color of law under the state and federal Constitution, statutes, laws charters, ordinances, rules, regulations customs, usages and practices of the subject governmental departments, agencies and entities and within the scope of their authority as supervisors, employees and/or officers of Defendant **BOONTON** or **BOONTON TOWNSHIP**.

69. At all relevant times herein the aforementioned defendants acted jointly and in concert with each other, and conspired and agreed between and amongst themselves to allow **SHAW** to be placed in a position of imminent danger and harm by failing to implement and/or follow proper procedure and protocols in making a lawful arrest and failing to render medical aid.

70. At all relevant times herein the defendants, their agents, servants and/or employees acted with deliberate and conscious indifference to **SHAW's** constitutional rights which violations arose out of a pattern or custom or policy and practice by each of the defendants, in allowing permitting and condoning the violation of procedures and protocol, and the use of excess force, maintaining inadequate policies and protocols for use of force and the handling of a lawful arrest, failing to intervene, failing to render medical aid, as well as the failure to properly hire, train and supervise the **PUBLIC ENTITY DEFENDANTS' employees, THE POLICE**

OFFICERS, and **JOHN DOES 1-5** in the proper conduct of their duties, among other acts and omissions.

71. At all relevant times herein the defendants individually as well as by their agents, servants and/or employees, by reason of their acts, omissions and deliberate and conscious indifference to the rights of **SHAW**, deprived **SHAW** of his rights, privileges and immunities secured by the Constitution and laws of the United States, and are liable to Plaintiff pursuant to Title 42 Section 1983 of the United States Code.

72. The **PUBLIC ENTITY DEFENDANTS**, their agents, servants and/or employees allowed, condoned and permitted an improper and poorly handled arrest, with deliberate indifference failed to prevent it, failed to intervene, failed to render medical aid, failed to supervise, failed to monitor, failed to properly hire, train and supervise, misused their power, and condoned and ratified the use of excessive and unnecessary force, among other violations of the First, Fourth, Eighth and Fourteenth Amendments of the United States Constitution.

73. The defendants, their agents, servants and/or employees deprived **SHAW** of his rights, privileges, and immunities secured by the Constitution and laws of the United States including violation of his First and Fourteenth Amendment right of due process and equal protection.

74. The defendants, their agents, servants and/or employees deprived **SHAW** of his rights, privileges, and immunities secured by the Constitution and laws of the United States including violation of his Fourth Amendment right to be free of unreasonable search and seizure.

75. The defendants, their agents, servants and/or employees deprived **SHAW** of his rights, privileges, and immunities secured by the Constitution and laws of the United States including violation of his Eighth Amendment right to be free of cruel and unusual punishment.

76. At all relevant times herein the aforescribed acts were committed under color of law within the authority and scope of employment of the agents, servants, and employees of the **PUBLIC ENTITY DEFENDANTS**.

77. The **PUBLIC ENTITY DEFENDANTS** acted pursuant to official or unofficial policy and/or custom and to deprive plaintiff's decedent of his constitutional rights.

78. The **PUBLIC ENTITY DEFENDANTS** acted pursuant to official or unofficial policy and/or custom and to deprive plaintiff's decedent of his liberty and other protectable interests by false arrest and maliciously prosecuting **SHAW** without probable cause and with malice.

79. By reason of the foregoing, defendants violated the civil rights of **SHAW**.

80. By reason of the foregoing, and as a direct and proximate result of defendant's negligence and constitutional violations, **SHAW** was caused to suffer severe, painful and permanent personal injuries, emotional anguish and great physical pain.

81. By reason of the foregoing **SHAW** has suffered pecuniary losses and has been compelled to expend and incur various sums of money for medical expenses.

82. **WHEREFORE** plaintiff, **MATTHEW SHAW**, demands judgment against defendants, **TOWN OF MORRISTOWN, MORRISTOWN POLICE DEPARTMENT, TOWN OF BOONTON, BOONTON TOWNSHIP, BOONTON POLICE DEPARTMENT, CHIEF PETER DEMNITZ, FORMER POLICE CHIEF MICHAEL BELTRAM, CHIEF PAUL FORTUNATO OFFICER ANTHONY LIMANDRI (#55), OFFICER MICHAEL GULLA (#52), OFFICER KEVIN KUNZIG, JOHN DOES 1-5, and ABC ENTITIES 1-5,** (as yet unknown and unidentified police officers, supervisors, governmental entities) jointly and

severally for compensatory and punitive damages, medical and legal bills, together with interest, costs of suit and attorneys fees and such other and further relief as the Court deems just.

COUNT II

(NEW JERSEY CIVIL RIGHTS ACT)

83. Plaintiff repeats and realleges each and every allegation contained in the above paragraphs and incorporates same by reference.

84. The **PUBLIC ENTITY DEFENDANTS**, through their agents, servants and employees including the **SUPERVISORY DEFENDANTS, POLICE OFFICERS** and **JOHN DOES 1-5**, by their deliberate indifference to the civil rights of Plaintiff as previously detailed, deprived Plaintiff **SHAW** of his rights, privileges and immunities secured under the New Jersey State Constitution.

85. The **PUBLIC ENTITY DEFENDANTS**, through their agents, servants and employees including the **SUPERVISORY DEFENDANTS, POLICE OFFICERS** and **JOHN DOES 1-5**, acted pursuant to official or unofficial policy and/or custom and to deprive plaintiff's decedent of his constitutional rights under Title 10 of the New Jersey Statutes, known as the New Jersey Civil Rights Act.

86. By reason of the foregoing, defendants violated the civil rights of **SHAW**.

87. By reason of the foregoing, and as a direct and proximate result of defendants' negligence and constitutional violations, Plaintiff **SHAW** sustained serious, painful, severe and permanent personal injuries, emotional anguish, pecuniary losses, and other damages.

80. **WHEREFORE**, Plaintiff **MATTHEW SHAW**, demands judgment against defendants, **TOWN OF MORRISTOWN, MORRISTOWN POLICE DEPARTMENT**,

TOWN OF BOONTON, BOONTON TOWNSHIP, BOONTON POLICE DEPARTMENT, CHIEF PETER DEMNITZ, FORMER POLICE CHIEF MICHAEL BELTRAM, CHIEF PAUL FORTUNATO OFFICER ANTHONY LIMANDRI (#55), OFFICER MICHAEL GULLA (#52), OFFICER KEVIN KUNZIG, JOHN DOES 1-5, and ABC ENTITIES 1-5, (as yet unknown and unidentified police officers, supervisors, governmental entities) jointly and severally for compensatory damages, medical and legal bills, together with interest, costs of suit and attorneys fees and such other and further relief as the Court deems just.

COUNT III
(NEGLIGENCE)

81. Plaintiff repeats and realleges each and every allegation contained in the above paragraphs and incorporates same by reference.

82. At all relevant times herein defendants were under a duty to act reasonably in the performance of their duties as police officers and supervisors in the handling of the subject police arrest, filing of charges, and rendering of medical care to suspects under the control and in custody of, apprehended by, and/or injured by the **PUBLIC ENTITY DEFENDANTS** and any of their agents or employees.

83. At all relevant times herein defendants were under a duty to act reasonably in following and maintaining proper protocol, procedures, policy, rules and guidelines enacted and propounded with respect to their duties.

84. Defendants were negligent in their failure to properly hire, retain, train and supervise officers with respect to the handling of the subject police arrest and in their use of force, failure to intervene, failure to render medical aid, arresting and filing of charges without probable cause,

and failure to properly implement, enact, enforce, follow and maintain proper protocol, procedures, policies, rules and guidelines and were otherwise negligent under the circumstances.

85. Defendants were negligent and careless in failing to properly discipline police officers despite knowledge of their failure to take proper action in effectuating arrests, the use of excessive force, failure to intervene, failure to render medical aid, arresting and filing of charges without probable cause, and in particular to avoid and prevent the acts complained of herein.

86. Defendants, at all relevant time, had a duty to act to render medical aid to **SHAW**, and had the ability to do so.

87. Defendants were negligent in their failure to properly hire, retain, train and supervise officers and supervisors with respect to the supervision, handling and safeguarding of suspects; in their failure to properly implement, enact, enforce, follow and maintain proper protocol, procedures, policies, rules and guidelines; in their failure to properly manage and supervise the actions of their agents and employees in a reasonable manner so as to reasonably safeguard the health and well-being of suspects, and were negligent in the failure to provide adequate medical attention and treatment to **SHAW**.

88. The personal injuries and damages suffered by plaintiff **SHAW** were caused solely as a result of the negligence and carelessness of the defendants.

89. The acts and omissions of the defendants, each and every one of them constituting negligence included the failure to have proper policies and procedures in place for the handling of police arrests, use of force; the failure to intervene and/or prevent the subject occurrence, finding of probable cause, and failure to properly hire, train and supervise staff; and the failure to prevent the subject occurrence among other acts of negligence.

90. By reason of the foregoing, and as a direct and proximate result of defendant's negligence, **SHAW** sustained serious, painful, severe and permanent injuries, nervous shock, mental anguish, pecuniary losses and other damages.

91. **WHEREFORE**, Plaintiff **MATTHEW SHAW**, demands judgment against defendants, **TOWN OF MORRISTOWN, MORRISTOWN POLICE DEPARTMENT, TOWN OF BOONTON, BOONTON TOWNSHIP, BOONTON POLICE DEPARTMENT, CHIEF PETER DEMNITZ, FORMER POLICE CHIEF MICHAEL BELTRAM, CHIEF PAUL FORTUNATO OFFICER ANTHONY LIMANDRI (#55), OFFICER MICHAEL GULLA (#52), OFFICER KEVIN KUNZIG, JOHN DOES 1-5, and ABC ENTITIES 1-5**, (as yet unknown and unidentified police officers, supervisors, governmental entities) jointly and severally for compensatory and punitive damages, medical and legal bills, together with interest, costs of suit and attorneys fees and such other and further relief as the Court deems just.

COUNT IV

(MALICIOUS PROSECUTION)

95. Plaintiff repeats and realleges each and every allegation contained in the above paragraphs and incorporates same by reference.

96. Defendants **MORRISTOWN POLICE DEPARTMENT, CHIEF DEMNITZ** and **OFFICER KUNZIG**, acting under color of state law, upon information and belief filed criminal charges against **SHAW** including disorderly conduct.

97. Defendants **MORRISTOWN, MORRISTOWN POLICE DEPARTMENT, CHIEF DEMNITZ** and **OFFICER KUNZIG** did not have probable cause or any reasonable ground of suspicion supported by circumstances sufficient to warrant an ordinarily prudent police officer in believing that **SHAW** was guilty of violating any criminal code or statute.

98. The arrest and filing of criminal charges against **SHAW** was actuated by malice.

99. The Court dismissed all charges against **SHAW**, resulting in a disposition of the matter favorable to **SHAW** which also was dispositive of his innocence.

100. By reason of the foregoing **SHAW** was caused to suffer loss of liberty, severe embarrassment, emotional anguish, and other damages.

101. **WHEREFORE**, Plaintiff **MATTHEW SHAW**, demands judgment against defendants, **TOWN OF MORRISTOWN, MORRISTOWN POLICE DEPARTMENT, CHIEF DEMNITZ, OFFICER KUNZIG, JOHN DOES 1-5, or by ABC ENTITIES 1-5**, (as yet unknown and unidentified police officers, supervisors, governmental entities) jointly and severally for compensatory damages, medical and legal bills, together with interest, costs of suit and attorneys fees and such other and further relief as the Court deems just.

COUNT V

(ASSAULT AND BATTERY)

102. Plaintiff repeats and realleges each and every allegation contained in the above paragraphs and incorporates same by reference.

103. On March 10, 2012 **OFFICERS LIMANDRI, GULLA and/or KUNZIG**, without cause or justification or consent, did place plaintiff's decedent **SHAW** in fear of imminent physical harm, intentionally assaulted him, and then threatening to further assault him after they had broken his arm and inflicted other physical harm on him.

104. As a direct and proximate result of the assault and battery, **SHAW** was caused to be placed in fear of physical harm.

105. The aforescribed damages and injuries were caused solely and wholly by the intentional and willful assault and battery of the defendants.

106. As a direct and proximate result of the assault and battery as aforescribed, **SHAW** was caused to suffer severe, painful and permanent personal injuries, sustained severe nervous shock, mental anguish and great physical and emotional pain.

107. By reason of the foregoing plaintiff has been damaged.

108. **WHEREFORE**, Plaintiff **MATTHEW SHAW**, demands judgment against defendants, **TOWN OF MORRISTOWN, MORRISTOWN POLICE DEPARTMENT, TOWN OF BOONTON, BOONTON TOWNSHIP, BOONTON POLICE DEPARTMENT, CHIEF PETER DEMNITZ, FORMER POLICE CHIEF MICHAEL BELTRAM, CHIEF PAUL FORTUNATO OFFICER ANTHONY LIMANDRI (#55), OFFICER MICHAEL GULLA (#52), OFFICER KEVIN KUNZIG, JOHN DOES 1-5, and ABC ENTITIES 1-5**, (as yet unknown and unidentified police officers, supervisors, governmental entities) jointly and severally for compensatory and punitive damages, medical and legal bills, together with interest, costs of suit and attorneys fees and such other and further relief as the Court deems just.

COUNT VI

(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

109. Plaintiff repeats and realleges each and every allegation contained in the above paragraphs and incorporates same by reference.

110. Defendants collectively and individually, by their agents, servants and their employees and each of them individually engaged in actions which were intended to, and which did, inflict severe emotional trauma upon Plaintiff.

111. By reason of throwing **SHAW** onto the sidewalk, breaking his arm and causing other physical damage; threatening to cause further physical harm by yelling "you don't want me to come back there"; and then in response to his request for medical aid yelling, "shut up and

we'll take you when we take you," as well as other actions of defendants, plaintiff was subjected to intentional infliction of emotional distress.

112. The emotional distress was severe and outrageous.

113. The emotional distress was of such character that no reasonable person could be expected to endure it.

114. As a direct and proximate result of defendant's actions, **SHAW** was caused to suffer emotional distress and damage, was prevented from engaging in his usual activities, and suffered other losses, all to his damage.

115. By reason of the foregoing Plaintiff was damaged.

116. **WHEREFORE**, Plaintiff **MATTHEW SHAW**, demands judgment against defendants, **TOWN OF MORRISTOWN, MORRISTOWN POLICE DEPARTMENT, TOWN OF BOONTON, BOONTON TOWNSHIP, BOONTON POLICE DEPARTMENT, CHIEF PETER DEMNITZ, FORMER POLICE CHIEF MICHAEL BELTRAM, CHIEF PAUL FORTUNATO OFFICER ANTHONY LIMANDRI (#55), OFFICER MICHAEL GULLA (#52), OFFICER KEVIN KUNZIG, JOHN DOES 1-5, and ABC ENTITIES 1-5**, (as yet unknown and unidentified police officers, supervisors, governmental entities) jointly and severally for compensatory damages, medical and legal bills, together with interest, costs of suit and attorneys fees and such other and further relief as the Court deems just.

COUNT VII

(CIVIL CONSPIRACY)

117. Plaintiff repeats and realleges each and every allegation contained in the above paragraphs and incorporates same by reference.

118. Defendants, each and every one of them, did conspire, act in concert together, and agree among themselves, to cause injury and damage to and commit unlawful acts against **SHAW**, namely: abuse their authority and abuse process against Plaintiff, and to injure, damage, intentionally cause emotional distress to **SHAW**.

119. Each of the Defendants understood the objectives of the conspiracy scheme and accepted them, and agreed, implicitly or explicitly, to each do his part to further them.

120. The conspiracy included knowledge and agreement to cause the **PUBLIC ENTITY** defendants, the **SUPERVISORY DEFENDANTS**, and the **POLICE OFFICER** defendants, **JOHN DOES 1-5**, and **ABC ENTITIES 1-5**, to accost, assault, commit battery upon, arrest and file charges against **SHAW** absent probable cause, cause emotional distress to, and fail to provide medical aid to Plaintiff, without cause.

121. By reason of the foregoing, and as a direct and proximate result of the conspiracy of, and the actions of the Defendants, Plaintiff suffered damages.

122. By reason of the foregoing, and as a direct and proximate result of the conspiracy of and actions of the Defendants, Plaintiff has suffered emotional distress, anguish and loss of reputation.

123. By reason of the foregoing, Plaintiff has been damaged.

124. **WHEREFORE**, Plaintiff **MATTHEW SHAW**, demands judgment against defendants, **TOWN OF MORRISTOWN, MORRISTOWN POLICE DEPARTMENT, TOWN OF BOONTON, BOONTON TOWNSHIP, BOONTON POLICE DEPARTMENT, CHIEF PETER DEMNITZ, FORMER POLICE CHIEF MICHAEL BELTRAM, CHIEF**

PAUL FORTUNATO OFFICER ANTHONY LIMANDRI (#55), OFFICER MICHAEL GULLA (#52), OFFICER KEVIN KUNZIG, JOHN DOES 1-5, and ABC ENTITIES 1-5, (as yet unknown and unidentified police officers, supervisors, governmental entities) jointly and severally for compensatory and punitive damages, medical and legal bills, together with interest, costs of suit and attorneys fees and such other and further relief as the Court deems just.

COUNT VIII

(ABUSE OF PROCESS/AUTHORITY)

125. Plaintiff repeats and realleges each and every allegation contained in the above paragraphs and incorporate same by reference.

126. The actions of defendants constitute an abuse of process and authority.

127. By reason of the foregoing, and as a direct and proximate result of the abuse of process and authority and the actions of, the Defendants, Plaintiff suffered damages.

128. By reason of the foregoing, and as a direct and proximate result of the conspiracy of and actions of the Defendant, Plaintiff has suffered emotional distress, anguish and loss of reputation.

129. By reason of the foregoing, Plaintiff has been damaged.

130. **WHEREFORE**, Plaintiff **MATTHEW SHAW**, demands judgment against defendants, **TOWN OF MORRISTOWN, MORRISTOWN POLICE DEPARTMENT, TOWN OF BOONTON, BOONTON TOWNSHIP, BOONTON POLICE DEPARTMENT, CHIEF PETER DEMNITZ, FORMER POLICE CHIEF MICHAEL BELTRAM, CHIEF PAUL FORTUNATO OFFICER ANTHONY LIMANDRI (#55), OFFICER MICHAEL GULLA (#52), OFFICER KEVIN KUNZIG, JOHN DOES 1-5, and ABC ENTITIES 1-5,** (as yet unknown and unidentified police officers, supervisors, governmental entities) jointly and

severally for compensatory and punitive damages, medical and legal bills, together with interest, costs of suit and attorneys fees and such other and further relief as the Court deems just.

COUNT IX
(FALSE ARREST)

131. Plaintiff repeats and realleges each and every allegation contained in the above paragraphs and incorporate same by reference.

132. Plaintiff was falsely imprisoned and arrested by **OFFICER ANTHONY LIMANDRI (#55), OFFICER MICHAEL GULLA (#52)** and **OFFICER KEVIN KUNZIG**, acting as police officers, agents, servants and employees of the defendants **TOWN OF MORRISTOWN, BOONTON** or **BOONTON TOWNSHIP** and **ABC ENTITIES 1-5** under the supervision of **CHIEF DEMNITZ, FORMER POLICE CHIEF MICHAEL BELTRAM** and **CHIEF FORTUNATO**.

133. The defendant police officers were acting within the scope of their employment and/or agency at the time of the aforementioned false imprisonment and arrest.

134. As a result of the aforesaid false arrest and false imprisonment plaintiff **SHAW** was caused to suffer severe emotional distress, humiliation, embarrassment, ridicule and scorn along with a violation of his civil rights, liberty and freedom.

135. The aforescribed false arrest and false imprisonment were wanton, reckless, malicious acts, intentional and without probable cause.

136. As a direct and proximate result of the false arrest and false imprisonment plaintiff has been damaged.

137. WHEREFORE, Plaintiff MATTHEW SHAW, demands judgment against defendants, TOWN OF MORRISTOWN, MORRISTOWN POLICE DEPARTMENT, TOWN OF BOONTON, BOONTON TOWNSHIP, BOONTON POLICE DEPARTMENT, CHIEF PETER DEMNITZ, FORMER POLICE CHIEF MICHAEL BELTRAM, CHIEF PAUL FORTUNATO OFFICER ANTHONY LIMANDRI (#55), OFFICER MICHAEL GULLA (#52), OFFICER KEVIN KUNZIG, JOHN DOES 1-5, and ABC ENTITIES 1-5, (as yet unknown and unidentified police officers, supervisors, governmental entities) jointly and severally for compensatory and punitive damages, medical and legal bills, together with interest, costs of suit and attorneys fees and such other and further relief as the Court deems just.

SHELLEY L. STANGLER, P.C.
Attorneys for Plaintiff

BY:


SHELLEY L. STANGLER, ESQ.

Dated: March 3, 2014

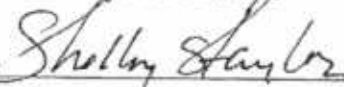
DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of all issues so triable.

SHELLEY L. STANGLER, P.C.
Attorneys for Plaintiff

Dated: March 3, 2014

BY:



SHELLEY L. STANGLER, ESQ.

DESIGNATION OF TRIAL COUNSEL

SHELLEY L. STANGLER, ESQ. is hereby designated as trial counsel on behalf of the plaintiff in the within matter.

SHELLEY L. STANGLER, P.C.
Attorneys for Plaintiff

Dated: March 3, 2014

BY:


SHELLEY L. STANGLER, ESQ.

CERTIFICATION

1. The firm of SHELLEY L. STANGLER, P.C. has been retained to represent Plaintiff, MATTHEW SHAW, in connection with the within matter. I am an attorney assigned to the case.

2. The matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, and no other action or arbitration proceeding is contemplated by plaintiff.

3. There are no other parties who should be joined in this action.

4. 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.

Date: March 3, 2014


SHELLEY L. STANGLER, ESQ.