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 Evelyn Aviles, individually,
 and as administrator of the
 Estate of Christopher Garcia &
 Jeffrey Garcia

<p>EVELYN AVILES, INDIVIDUALLY, AND AS ADMINISTRATOR OF THE ESTATE OF CHRISTOPHER GARCIA, & JEFFREY GARCIA,</p> <p>Plaintiffs,</p> <p>v.</p> <p>CITY OF HOBOKEN; HOBOKEN POLICE DEPARTMENT; HOBOKEN HOUSING AUTHORITY; JOHN DOES (1-10); ABC COMPANIES (1-10); XYZ GOVERNMENTAL ENTITIES (1-10),</p> <p>Defendants.</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION:CIVIL PART - HUDSON COUNTY</p> <p>DOCKET NO.:</p> <p>Civil Action</p> <p>COMPLAINT & JURY DEMAND</p>
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The above-captioned Plaintiffs, Evelyn Aviles, individually, and as administrator of the Estate of Christopher Garcia, and Jeffrey Garcia (hereinafter referred to collectively as “Plaintiffs”), hereby say:

INTRODUCTION

1. The current action arises out of a shooting and murder of Decedent, Christopher Garcia, upon real property at or about 501 Marshall Dr Hoboken, NJ 07030 (the “Subject Premises”), which, at all relevant times, is and was owned and controlled by the City of Hoboken and Hoboken Housing Authority, and which at all relevant times was patrolled and surveilled (or was

supposed to be patrolled and surveilled) by the Hoboken Police Department, which receives funding from the federal government to conduct such patrols at and about the Subject Premises.

2. On September 25, 2022, Mr. Garcia was shot first in the leg (at or about the Subject Premises) and then later in the chest by a patron of an illegal liquor stand that had been set up for months, continuously serving alcohol to the residents of the Subject Premises and adjacent affordable housing well into the night and early morning hours.
3. Mr. Garcia was taken to Jersey City Medical Center, where he was unable to be saved.
4. Despite the presence of the aforesaid illegal liquor stand, which for the several months preceding the shooting caused the local residents to congregate into the early morning hours and become inebriated in public, resulting in frequent physical fighting and similar mayhem, at no time did Defendants attempt to shut down or even in any way charge the proprietor of the illegal stand, which was routinely set up in plain view, giving Defendants actual and constructive knowledge of its existence.
5. The illegal liquor stand, serving unauthorized beverages outdoors and into the early morning hours, closely situated to all local public housing projects, created an unstable and highly dangerous situation, which eventually resulted in Mr. Garcia's death.

THE PARTIES

6. Plaintiff, Evelyn Aviles, of 770 Jackson Street, Hoboken, NJ 07030, was the mother of Decedent, Christopher Garcia, and she is also the administrator of the Estate of Christopher Garcia, which is also a named Plaintiff in this matter.
7. Plaintiff, Jeffrey Garcia, of 770 Jackson Street, Hoboken, NJ 07030, was Christopher Garcia's brother, and he was forced to watch his brother be brutally gunned down in acts of senseless violence.
8. Defendant, City of Hoboken, is a municipality of the State of New Jersey, with its seat of

government situated at 94 Washington Street, Hoboken, NJ 07030.

9. Defendant, Hoboken Police Department, is a branch of the Defendant City of Hoboken, with its principal headquarters situated at: 94 Washington Street, Hoboken, NJ 07030 and 106 Hudson Street, Hoboken, NJ 07030.
10. Defendant, Hoboken Housing Authority, is a governmental entity responsible for providing, maintaining and securing affordable public housing within the City of Hoboken, with its headquarters situated at: 400 Harrison Street, Hoboken, NJ 07030.
11. As Defendants are public entities, a Notice of Tort Claim was duly and timely served upon each entity, and the 6-month waiting period under the Tort Claims Act has expired.

STATEMENT OF FACTS RELEVANT TO ALL COUNTS

12. For the several months leading up to the shooting, a makeshift stand was routinely operated for the illegal sale of alcoholic beverages outdoors late into the night and into the early morning hours.
13. Said stand was commonly situated at or about the 501 Marshall Drive Basketball Court, and it catered to residents of the Hoboken Housing Authority, among others.
14. At the time of the September 25, 2022 shooting, which occurred around 3:00 am, the proprietors of the illegal stand had already sold large quantities of alcohol to dozens of residents and other individuals who had congregated upon the Hoboken Housing Authority property since the previous day's dusk, causing many of the aforesaid individuals to become visibly intoxicated.
15. Following a series of videotaped physical fighting amongst several of said congregants, which video footage taken by eyewitnesses, showing that the altercations had been initiated by Decedent's shooter, Decedent attempted to quell the shooter's aggression toward the others.
16. As the shooter engaged Decedent, Decedent punched the shooter in the face. At that point, the shooter ran to a vehicle, obtained a firearm and tracked down Decedent, who was in the process

of leaving the yard.

17. The shooter shot Decedent in the leg and then in the chest.
18. Decedent was pronounced dead at Jersey City Medical Center.
19. Decedent's brother, Plaintiff, Jeffrey Garcia, was present and was forced to witness his brother's fatal shooting.

COUNT I (SURVIVORSHIP)

20. Plaintiffs repeat and reallege the foregoing paragraphs as if said Paragraphs were set forth herein at length.
21. At all relevant times, the City of Hoboken and the Hoboken Housing Authority failed to maintain and control real property in their ownership and possession, allowing a dangerous condition to arise – the open and obvious illegal sale of alcohol at a large makeshift stand upon said entities' real property, causing the inebriation of dozens of residents and other congregants upon said real property, lasting long into the early morning hours, and resulting in the death of Christopher Garcia.
22. Moreover, the Hoboken Police Department, which receives federal assistance to patrol and surveil the public housing projects at or about 501 Marshal Drive, failed to terminate the illegal and ongoing sale of alcohol, which was open and obvious, and which had been occurring at the same location over a large concession stand or months prior to the shooting.
23. As a result of Defendants' carelessness, negligence and recklessness, in allowing this illegal liquor stand to remain open and serving illegal alcohol into the early morning hours, a highly inebriated patron of the liquor stand shot Decedent to death after engaging in several physical altercations with Decedent, shooting Decedent first in the leg and then in the chest.
24. As a result of Defendants' aforesaid acts and omissions, Decedent experienced severe pain and suffering from the onset of the physical altercation, up to the time of his shooting and his

resulting death.

WHEREFORE Plaintiff seek judgment against Defendants for all damages allowable by law, including, but not limited to, general, compensatory and punitive damages, in addition to counsel fees and costs.

COUNT II (WRONGFUL DEATH)

25. Plaintiffs repeat and reallege the foregoing paragraphs as if said Paragraphs were set forth herein at length.
26. As a result of Defendants' aforesaid acts and omissions, resulting in Decedent's death, Plaintiffs lost the pecuniary value of Decedent's financial support, love, affection, guidance, wisdom and companionship.
27. Indeed, at and around the time of his death, Decedent was offering financial support to his mother, Plaintiff, Evelyn Aviles.
28. Moreover, Decedent was engaged in furthering his own promising apparel business.
29. Decedent is now of course precluding from pursuing such endeavors as a result of his Death, which was caused through Defendants carelessness, negligence and recklessness as set forth at length above.

WHEREFORE Plaintiff seek judgment against Defendants for all damages allowable by law, including, but not limited to, general, compensatory and punitive damages, in addition to counsel fees and costs.

COUNT III (NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS)

30. Plaintiffs repeat and reallege the foregoing paragraphs as if said Paragraphs were set forth herein at length.
31. Plaintiff, Jeffrey Garcia, was present when his brother was shot.
32. Jeffrey Garcia directly witnessed the shooting and heard the gunshots.

33. Jeffrey Garcia observed his brother fall to the ground in agony.
34. Finally, upon the arrival of the authorities at long last, Jeffrey Garcia witnessed the futile efforts of the emergency medical personnel to preserve his brother's life.
35. As a result of Defendants carelessness, negligence and recklessness, Plaintiff, Jeffrey Garcia, has suffered considerable damages in the form of, among other things, the physical manifestations of pain and suffering of being a witness to such horrific events.

WHEREFORE Plaintiff seek judgment against Defendants for all damages allowable by law, including, but not limited to, general, compensatory and punitive damages, in

LAW OFFICE OF ERIC J. WARNER, LLC

By: /s/Eric J. Warner
Eric J. Warner, Esq.

Dated: June 22, 2023

CERTIFICATION PURSUANT TO R. 4:5-1

Pursuant to R. 4:5-1, I certify that, to the best of my knowledge and belief, the above action, including all claims against all parties, is not the subject of any other action pending, in any court or of a pending arbitration proceeding and none is contemplated; further that there are no other parties who should be joined in said action unless the third driver involved wishes to file suit against Defendants.

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Eric J. Warner, Esq.

Dated: June 22, 2023

JURY DEMAND

Plaintiffs hereby request six jurors at trial.

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Eric J. Warner, Esq.

Dated: June 22, 2023

DESIGNATION OF TRIAL COUNSEL

Eric J. Warner, Esq. shall serve as trial counsel in this matter.

LAW OFFICE OF ERIC J. WARNER, LLC

By: /s/Eric J. Warner
Eric J. Warner, Esq.

Dated: June 22, 2023