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<p>Y. M.</p> <p style="text-align: center;">Plaintiff</p> <p>v.</p> <p>CITY OF UNION CITY; UNION CITY POLICE DEPARTMENT; OFFICER ULISES TORRES, in his personal, individual and official capacities as a police officer for the Union City Police Department; CHIEF OF POLICE ANTHONY FACCHINI, in his personal, individual and official capacities; JOHN DOE SERGEANT, in his personal, individual and official capacities; JOHN DOE SUPERVISORS 1-5, in their personal, individual and official capacities; JOHN DOE TRAINING OFFICERS 1-3, in their personal, individual and official capacities; JOHN DOES 1-5 OFFICERS, in their personal, individual and official capacities (Fictitious Individuals); JOHN DOE INTERNAL AFFAIR DEFENDANTS 1-3; ABC ENTITIES A-Z (Fictitious Companies)</p> <p style="text-align: center;">Defendant (s)</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: HUDSON COUNTY</p> <p>DOCKET NO:</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">COMPLAINT, JURY DEMAND, DESIGNATION OF TRIAL COUNSEL and CERTIFICATION</p>
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COMPLAINT

The Plaintiff's identity has been concealed due to the allegations of sexual assault; as a result, Plaintiff will be identified by the initials, Y.M.

1. NOW COMES Plaintiff, Y.M. ("Plaintiff " or "Y.M."), by and through her undersigned counsel, Pagliara Law Group, P.A., hereby brings this Complaint against Defendants, Officer **ULISES**

TORRES (“Mr. Torres”), in his personal, individual and official capacities, **CITY OF UNION CITY** (“Union City”), the **UNION CITY POLICE DEPARTMENT** (“UCPD”) (collectively, “ Union Defendants”); **CHIEF OF POLICE ANTHONY FACCHINI**, in his personal, individual and official capacities; **JOHN DOE SERGEANT**, in his personal, individual and official capacities **JOHN DOE SUPERVISORS 1-5**, in their personal, individual and official capacities; **JOHN DOE TRAINING OFFICERS 1-3**, in their personal, individual and official capacities; **JOHN DOES 1-5 OFFICERS**, in their personal, individual and official capacities (Fictitious Individuals); **JOHN DOE INTERNAL AFFAIR DEFENDANTS**; **ABC ENTITIES A-Z** (Fictitious Companies) based upon the following allegations:

PARTIES

2. At all times relevant hereto, Plaintiff initially went to the police for help as a victim of domestic violence and subsequently the protector became the predator.
3. Plaintiff is a hispanic adult female residing in Union City, New Jersey and her full address is on file with her attorney to protect her as sexual assault victim.
4. At all times relevant, hereto, Defendant Ulises Torres, was a police officer employed by Defendant UCPD, which is controlled by Defendant Union City and the two collectively shall be known as the (“Union Defendants”).
5. At all times relevant hereto, Defendant Mr. Torres was a police officer employed by the Union Defendants. Mr. Torres was at all times relevant acting under color of law, in his uniform and on duty. Defendant Torres is being sued individually and in his official capacities as a Union City Police Officer.
6. At all times relevant, Defendant Torres acted within and/or outside the course and scope

of his employment to violate Plaintiff's rights.

7. At all times relevant herein, Defendant, City of Union City was and is a public entity organized and existing pursuant to the laws of the State of New Jersey and a public employer of the individual Defendants with a principal place of business located at 3715 Palisade Avenue, Union City, NJ 07087. The City of Union City engaged in the supervision, operation, management and control of the Union City Police Department, the law enforcement division of the City of Union City.

8. At all times relevant herein, Defendant Union City Police Department is located at 3715 Palisade Ave, Ground Floor, Union City, NJ 07087. The Union City Police Department is and was, at all times in the relevant time period, a division and/or department of the City of Union City entrusted with, among other things, enforcing federal, state and local laws and ordinances, and otherwise ensuring the safety of people and property within the jurisdictional limits of the City of Union City. They are engaged in the hiring, training and supervision of law enforcement officers in their employ.

9. At all times relevant herein, CHIEF OF POLICE ANTHONY FACCHINI, was the chief supervisory official of the UCPD, 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 crime scene investigations, internal affair investigations, discipline and overall conduct of police officers.

10. At all times relevant herein, JOHN DOE SERGEANT, was a police officer employed by the UCPD/ City of Union City. As an employee the John Doe Sergeant acted individually and personally as well as in his official capacity as police officer under color of law as he knew or

should have known about the whereabouts of Mr. Torres.

11. At all times relevant herein, JOHN DOE SUPERVISORS 1-5 were responsible for implementing the policies, procedures and standards for the UCPD and, acting in their official, personal and individual capacities, ensuring that, on a day-to-day basis, all UCPD police officers complied with all policies, procedures and standards relating to the whereabouts and locations of the police officers, crime scene investigations, facilitating internal affairs investigations and disciplining or removing Union City Police Officers charged and found guilty of misconduct and to ensure the officers do not engage in sexual assault.

12. At all times relevant herein, JOHN DOE TRAINING OFFICERS 1-3 (“ TRAINING OFFICER DEFENDANTS”), were additionally, the persons responsible for training all UCPD officers while acting in their official, personal, and individual capacities, were responsible for training, crime scene investigations, and ensuring that all UCPD police officers understood and complied with the same and proper protocol when at a citizens home effectuating police services and how to act professionally and not cross the line to sexually assault a citizen.

13. At all times relevant herein, JOHN DOES 1-5 OFFICERS, in their personal, individual and official capacities were Police Officers who may have knew or should have known about Mr. Torres going to Plaintiff’s home for routine police business that could have been completed at the precinct and may have had conversations with Mr. Torres related to such.

14. At all time relevant herein, ABC Entities A-Z (Fictitious Entities) are yet unknown and identified municipal, county or state officials, supervisors, agents, officers, directors, employees, agents, entities or subdivisions of entities.

JURISDICTION AND VENUE

15. The amount in controversy satisfies the Court's jurisdictional requirements.

16. The State of New Jersey has subject matter and personal jurisdiction over this controversy and has the ability to hear Federal claims as well.

17. Plaintiff resided in New Jersey at all times relevant hereto.

18. Defendants UCPD and City of Union City are agencies within the State of New Jersey. Defendants. Defendant Torres is/was an agent of Defendants Union City and/or UCPD and resides/or resided in the State of New Jersey.

19. Venue is proper in this Court as the facts related to the incident occurred in the same county.

FACTS COMMON TO ALL COUNTS

20. On information and belief, defendants lack or failed to enforce policies and procedures on discrimination and training or supervision to prevent Mr. Torres from creating a hostile public accommodations environment on the basis of sex.

21. On information and belief, defendants failed to prominently display and or enforce a anti-sexual harassment policy.

22. Upon information and belief, Defendants perpetuated a culture of indifference to a known and pervasive culture of sex discrimination and sexual harassment.

23. Plaintiff is a hispanic woman and was vulnerable the day of the incident as she was recently a domestic violence victim some days before this incident.

24. Defendant Mr. Torres at all times relevant was a police officer with the UCPD acting in his

official capacity while on duty and groomed Plaintiff using manipulation and trust-building that a perpetrator will use to create an atmosphere where they can sexually exploit a victim, ie-offering her money for bills, offering to lie on the police report to help her via text.

25. Defendant, Mr. Torres made a planned and premeditated sexual assault/battery, using sophisticated strategies to groom the Plaintiff and to isolate her physically, when she was already vulnerable from her past domestic violence incident.

26. Defendant UCPD had constructive notice when another police officer unnamed at this time knew that Officer Torres was going to Plaintiff's home that night and could have prevented this from occurring. Plaintiff told another officer that she thought Officer Torres was creepy and strange while she was at the station prior to January 24, 2023 for a domestic violence complaint.

27. Plaintiff accidentally backed into another vehicle while she was at the station for the domestic violence complaint. When Officer Torres told another police officer that he was going to Plaintiff's house that night to personally gather Plaintiff's registration/insurance card. The other unnamed officer responded to him: You didn't have to go to your house that night for anything that he could get the information out of the system. No one ever reported this deviation from protocol to a up the chain of command to a supervisor..

28. On or around January 24, 2023 Officer Torres went to Plaintiff's home while on duty and in uniform around 11:30 pm and intentionally turned off his bodycam.

29. Officer Torres showed up unannounced outside Plaintiff's apartment building instead of asking her to bring her registration/insurance card to the police station.

30. Officer Torres was there waiting in his police vehicle when Plaintiff arrived home and invited

himself in. Plaintiff felt intimidated and powerless, especially since a police officer just showed up at Plaintiff's house waiting for her to arrive at such a late time.

31. Officer Torres first asked to see pictures of Plaintiff on her phone and quickly asked if she had had a breast reduction.

32. Officer Torres then went to the bathroom and looked out the door and signaled Plaintiff to come into the bathroom with him, of which she did not agree to.

33. Upon coming out of the bathroom, Officer Torres then sexually assaulted and grabbed Plaintiff and tried to kiss her, pulled her shirt up as he proceeded to pull her right breast out of her bra and he attempted to suck her nipple. This all happened with Officer Torres having a complete disregard to Plaintiff's three year old daughter witnessing everything that occurred.

34. Plaintiff then pushed him away and pulled her shirt down to make it clear to him that there was no consent.

35. Plaintiff was not able to find her vehicle registration/insurance card the night Officer Torres came to her house.

36. The next day, Officer Torres reminded her to send it to him via whatsapp text. He also offered to fabricate a police report and make Plaintiff's ex boyfriend 100% liable for property damage to another vehicle and said that he would lie and put Plaintiff's ex boyfriend as the driver even though he was not. Plaintiff did not agree with this. Officer Torres then stated he would put that it was Plaintiff's ex boyfriend as being at fault.

37. Plaintiff was a victim to a domestic incident and was in a frail and vulnerable position and Officer Torres took advantage of this as an opportunity.

38. He then asked if her ex boyfriend returned home and stated remember he can't return to your home. Plaintiff then responded: **“No he’s still in jail”**

39. Officer Torres then stated via whatsapp message :

“Alright, remember he can’t return. and Don’t forget about me”

“Send me a lil selfie”

“Hey financially r u gonna be okay alone”

40. Then Defendant Mr. Torres then stated: **“Hmmm let me see how I can help”**

41. He then said he would see if he could send Plaintiff money and help her out without Plaintiff ever asking for help as he knew she was vulnerable and alone.

42. Defendant Torres’s conduct was entirely unsolicited.

43. Pursuant to Attorney General Law Enforcement Directive No. 2022-14, every state, county, and local law enforcement agency in New Jersey is required to submit to the Attorney General and publish on the agency’s public website all the complaints, findings and discipline of a police officer. In the January 1, 2023 to December 31, 2023 Hudson County Union City PD, Officer Ulises Torres was disciplined without pay for 30 day suspension. He was charged with conduct unbecoming a Public employee, Neglect of Duty/Other sufficient cause where it describes he completed a call for service and after doing so he responded back to the Plaintiff’s residence. Once there, Officer Torres engaged in inappropriate touching with the victim. **(Exhibit 1)**.

44. Upon information and belief he was given an option to resign after his 30 day suspension of which he is no longer employed as an officer with Union City Police Department. Plaintiff was disgusted that he still wouldn't take no for an answer.

45. Upon information and belief another officer who it is believed to be Mr. Torres’s boss

asked Plaintiff out on a date approximately 9 months after.

46. Plaintiff is now bringing suit for damages resulting from the sexual assault/battery by Defendants.

FIRST COUNT
VIOLATION OF PLAINTIFF'S FOURTEENTH AMENDMENT RIGHTS
(42 U.S.C. section 1983)
BY DEFENDANTS MR. TORRES, UCPD and UNION CITY

47. Plaintiff repeats and reiterates all of the allegations contained in all of the preceding paragraphs as if set forth at length herein.

48. Defendant Mr. Torres acted under color of law because he acquired access to Plaintiff's home while on duty in uniform conducting official police duties

49. Defendant Mr. Torres further acted under color of law when he demanded Plaintiff's registration and insurance information while at her home regarding property damage to another vehicle instead of having her come to the police precinct.

50. Defendant Mr. Torres. further acted under color of law when he pointed to his status as a police officer and stated he was going to use his power and influence to lie on a governmental incident in exchange inferring favors would be reciprocated.

51. The Fourteenth Amendment to the United States Constitution guarantees that government officials will not subject persons to violence, including sexual assault, except as authorized by law.

52. No provision of law authorized the vile sexual assault inflicted on Plaintiff by Defendant Torres

53. The Fourteenth Amendment to the United States Constitution further guarantees that persons are entitled to equal protection of the laws with respect to factors such as sex and gender.

54. Plaintiff was targeted by Defendant Mr. Torres for unconstitutional use of force, intimidation, status to wit sexual assault, based on her sex and/or gender.

55. Defendant Torres is being sued under his personal, individual and official capacities as a police officer for the Union City Police

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

SECOND COUNT

**FAILURE TO TRAIN AND SUPERVISE IN VIOLATION OF
PLAINTIFF'S FOURTEENTH AMENDMENT. RIGHTS**

(42 U.S.C. 1983 & Monell, 436 U.S. 658 (1978))

**BY UNION CITY, UCPD, CHIEF OF POLICE ANTHONY FACCHINI, JOHN DOE SERGEANT, JOHN
DOE SUPERVISORS 1-5, JOHN DOE TRAINING OFFICERS 1-3.**

56. Plaintiff repeats and reiterates all of the allegations contained in all of the preceding paragraphs as if set forth at length herein.

57. The Defendants were aware of the risks associated with having an officer go to a citizens home when they had constructive notice that he was acting strange.

58. Plaintiff informed another police officer that she thought the Defendant Torres was creepy

and she felt weird that he was coming to her house to see her automobile insurance and registration documents.

59. Another officer told Defendant Torres not to go to Plaintiff's home that she could just come into the station.

60. Defendants knew or should have known because another officer had knowledge of such.

61. Defendant Torres did not listen to his fellow coworker and went to Plaintiff's home with a motive in mind to become sexual with her.

62. Based on information and belief, the Defendants had a policy of not training municipal police officers regarding the proper execution of their duties related to needing documents pertaining to a case and no rules or policies about going to a citizens home

63. Based on information and belief, Defendants had a pattern, custom or policy of not supervising police officers or tracking where the police officers are and if they are a civilian's home while on duty.

64. Furthermore, upon information and belief there seems to be a custom that each officer protects the officer when they have knowledge of a possible incident.

65. Plaintiff's belief is informed by the fact that no officer or official of the Defendants ever checked on the whereabouts of Mr. Torres and why he was at a civilian's home while on duty.

66. The Union Defendants, and particularly their agents, fictitious defendants, and/or the Chief of Defendant UCPD, were the final municipal policy-makers with respect to the aforementioned policies.

67. The policy-making actions of the Defendants created a clear risk that officers would abuse their statutory authority to go to citizens homes and not be accounted for while they are on duty.

68. The Defendants' failure to train and supervise as described above created a grave and foreseeable risk that officers would abuse their authority to engage in sexual encounters with citizens.

69. Plaintiff avers that this failure constitutes deliberate indifference to the rights of citizens to be free from sexual assault/battery in ones home especially when another officer knew and did not report it.

70. Plaintiff further avers that the gravity of the risks and importance of the rights involved in the Defendants' failures are sufficiently obvious to warrant relief on the incident described herein without more.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

THIRD COUNT
SEX/GENDER DISCRIMINATION IN PROVISION OF PUBLIC ACCOMMODATION
(N.J.S.A. 10:5-12 & *Thomas*. 386 N.J. Super. 582 (App.Div. 2006))
BY ALL DEFENDANTS

71. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

72. All Defendants participated in the administration of police services within the boundaries of Union City.

73. Under New Jersey decisional law, police services constitute public accommodations for the purposes of NJLAD.

74. All Defendants were bound to provide police services without regard for Plaintiff's sex and/or gender.

75. The Plaintiff suffered a pattern and practice of discriminatory actions based on her female sex while she was a citizen and while the Defendants effectuated police services.

76. Defendants are vicariously, strictly, and/or directly liable to Plaintiff pursuant to the NJLAD, et seq., in that the affirmative acts of harassment, sexual gender based discrimination/assault committed by Defendant Torres.

77. Subsequent to the incident, upon information and belief, the boss of Defendant Torres, to be named later, actually asked Plaintiff out on a date .

78. The New Jersey Law Against Discrimination ("NJLAD") prohibits discrimination on the basis of sex. As a female the Plaintiff is a member of a protected class under the NJLAD.

79. The complained of conduct was severe or pervasive enough to make a reasonable woman believe that the conditions of police services were altered, and the environment was hostile or abusive.

80. The complained of conduct was severe or pervasive enough to make a reasonable woman

believe that the conditions of the public accommodation were altered, and the public accommodation was hostile or abusive.

81. The conduct was caused, in part, by the conduct of Defendant Torres and UCPD and the City of Union City and all other Defendants.

82. Defendants UCPD and the City of Union City knew or should have known of the discriminatory, harassing conduct of Defendant Torres.

83. Defendants UCPD, the City of Union City and other named Defendants had control Defendant Torres and the other unnamed parties to the discrimination and harassment.

84. This willful discriminatory and harassing conduct of Defendant UCPD and the City of Union City, including and supervisory personnel entitles Plaintiff to punitive damages

85. Defendants discriminated against Plaintiff on the basis of sex/gender by sexually assaulting Plaintiff, as described above instead of providing sex/gender neutral police services.

86. Defendant Mr. Torres discriminated against Plaintiff on the basis of sex/gender by aiding and/or abetting Union Defendants in the aforementioned sexual assault of Plaintiff. Specifically, Defendant Mr. Torres knew he should not have used his position and power and offer to lie on an official police report for favorable sexual treatment.

87. As a sworn law enforcement officer, other unnamed officers that had knowledge knew or should have known that it was inappropriate and contrary to law for Defendant Torres to show up to Plaintiff's home at such late hours for the registration/insurance information could have been looked up in the system or Plaintiff should have been instructed to bring the documents to the precinct.

88. John Doe Defendants willfully failed to report the conduct of Defendant Torres to any supervisor which in effect allowed Defendant Torres to go through with his plan.

89. The Defendants discriminated against Plaintiff on the basis of sex/gender by failing to train police officers, including specifically the individual Defendants, allowing a police officer to not be accounted for his location of which enabled him with the means to sexually assault/harass/discriminate and commit the battery upon the Plaintiff.

90. The actions and/or omissions of the Defendants created the conditions for Defendant Torres to sexually assault/harass and discriminate against Plaintiff.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

FOURTH COUNT
ASSAULT
BY DEFENDANT TORRES, UCPD and UNION CITY

91. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

92. Plaintiff was subject to the intentional tort of assault that was harmful or offensive and was the cause of her emotional distress.

93. Defendant's actions were committed with actual malice or accompanied by a wanton and willful disregard of Plaintiff, who foreseeably would be harmed by those acts.

94. Defendants' actions and conduct constitute assault under New Jersey common law and Defendant is liable in tort to Plaintiff.

95. Defendant Mr. Torres acted with the intent to cause a harmful or offensive contact with the Plaintiff.

96. Defendant Mr. Torres is being sued in his personal, individual and official capacities as a police officer for the Union City Police.

97. Plaintiff was put in immediate apprehension and fear of harmful and offensive contact with Defendant as a result of the actions.

98. As a result of the assault Plaintiff suffered and/or continues to suffer imminent apprehension of bodily injury, emotional distress, economic loss, and other damages.

99. Defendants are liable in damages to Plaintiff for all injuries proximately caused by their actions which put Plaintiff in immediate apprehension and fear of harmful and offensive physical contact.

100. Defendants UCPD and UNION CITY are vicariously liable under respondeat superior as discussed further in Count 12.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished

with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

FIFTH COUNT
BATTERY
BY ALL DEFENDANTS
BY DEFENDANT TORRES, UCPD and UNION CITY

101. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

102. Plaintiff also brings this cause of action under respondeat superior against Defendants City of Union City and UCPD as discussed in Count 12.

103. The Plaintiff was subject to the intentional tort of Battery by Defendants.

104. Defendant Mr. Torres intentionally touched the Plaintiff without Plaintiff's consent and over Plaintiff's objections.

105. Defendant Mr. Torres's actions were committed with actual malice or accompanied by a wanton and willful disregard of Plaintiff, who foreseeably might be harmed by those acts.

106. Defendant Mr. Torres's actions and conduct constitute Battery under New Jersey common law and Defendant is liable in tort to the Plaintiff under his official capacity and individual capacity.

107. Defendant Mr. Torres's conduct caused harmful physical contact with Plaintiff, who suffered physical pain and impairment to her body as a result of Defendant Mr. Torres's actions.

108. Defendant Mr. Torres's conduct caused offensive physical contact with Plaintiff, who suffered an affront to her personal dignity and suffering PTSD as a result of Defendant Mr. Torres's actions.

109. Defendant Mr. Torres is liable in damages to Plaintiff for all injuries proximately caused by his nonconsensual touching of the Plaintiff.

110. As a result of Defendant Mr. Torres's conduct, Plaintiff has suffered and/or continues to suffer injury, emotional distress, economic loss, and other damages.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

SIXTH COUNT
SEXUAL BATTERY
BY DEFENDANT TORRES, UCPD and UNION CITY

111. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

112. Plaintiff also brings this cause of action under respondeat superior against Defendants City of Union City and UCPD as discussed in Count 12.

113. Defendant Mr. Torres inflicted unpermitted harmful and offensive bodily sexual conduct upon Plaintiff within Union City, while working as an agent, servant, and employee of Union City/UCPD.

114. Plaintiff did not consent to any of the harmful/offensive bodily contact.

115. As set forth herein, Mr. Torres engaged in illegal "sexual contact" against Plaintiff, as that

term is defined in N.J.S.A. 2A:61B-1(a)(2).

116. At all material times, Mr. Torres's conduct towards Plaintiff was willful, wanton, intentional, and malicious, and constituted evil-minded acts accompanied by a wanton and willful disregard of Plaintiff's rights, interests, and welfare.

117. At all material times, Mr. Torres's conduct towards Plaintiff was seriously harmful to the public—which has a compelling interest in ensuring that citizens in the community are protected from sexual predators and other dangerous instrumentalities—as well as Plaintiff.

118. Mr. Torres's conduct towards Plaintiff gives rise to punitive damages. Defendant Mr. Torres is being sued in his personal, individual and official capacities as a police officer for the Union City Police.

119. As a direct and proximate result of the foregoing, Plaintiff sustained PTSD, emotional, and psychological injuries, along with severe emotional distress and mental and physical pain and suffering.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

SEVENTH COUNT
FALSE IMPRISONMENT
BY DEFENDANT TORRES, UCPD and UNION CITY

120. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

121. Plaintiff also brings this cause of action under respondeat superior against Defendants City of Union City and UCPD as discussed in Count 12.

122. Defendant Mr. Torres is being sued in his personal, individual and official capacities as a police officer for the Union City Police.

123. Plaintiff felt that she could not leave her home as Defendant Torres in his messages exerted control and power and saw how far he could go regarding lying on official police reports that she felt that her liberties were confined while he was at her home.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

EIGHTH COUNT
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
BY DEFENDANT TORRES, UCPD and UNION CITY

124. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

125. Plaintiff also brings this cause of action under respondeat superior against Defendants City of Union City and UCPD as discussed in Count 12.

126. Defendant Mr. Torres is being sued in his personal, individual and official capacities as a police officer for the Union City Police.

127. At all times relevant, Defendants conduct was outrageous and extreme so as to go beyond all possible bounds of human decency and was so atrocious to be intolerable in a civilized community.

128. At all times relevant, Defendants intentionally and/or recklessly engaged in conduct to cause Plaintiff severe emotional distress. The incident occurred in front of Plaintiff's three year old daughter. Plaintiff was a victim of sexual assault/abuse in the past from a family member and this has caused her to recently be diagnosed with PTSD as a result.

129. As a proximate cause and reasonably foreseeable result of the forgoing, Plaintiff was caused to sustain and will continue to sustain PTSD, severe emotional distress, alarm, humiliation, psychological harm, embarrassment, and anxiety.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

NINTH COUNT
NEGLIGENT SUPERVISION
BY UNION CITY, UCPD CHIEF OF POLICE ANTHONY FACCHINI, JOHN
DOE SERGEANT, JOHN DOE SUPERVISORS 1-5

130. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

131. If Defendants' failure to train and supervise was not the product of a willful policy decision, then it was the product of negligence and/or gross negligence and a pattern or custom by not knowing the whereabouts of the police officers.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

TENTH COUNT
GROSSLY NEGLIGENT HIRING, RETENTION, SUPERVISION
and FAILURE TO TRAIN
BY UNION DEFENDANTS

132. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

133. Defendants UCPD and the City of Union City owed a duty to Plaintiff to provide an experience in receiving police services to protect and serve as a citizen free of sexual harassment and sexual assault of a female citizen.

134. Defendants UCPD and the City of Union City failed and breached this duty to Plaintiff.

135. This failure was beyond mere negligence, as Defendants failed to exercise even a slight

degree of care, except such “care” as was motivated by self serving interests of the Defendants.

136. The failure to act and acts of Defendants implies an absence of care for and indifference towards the safety of female citizens.

137. Furthermore, the failures and acts of Defendants show a thoughtless disregard to the consequences that followed.

138. These acts and failures of Defendants indicate utter unconcern for creating an environment free of sexual harassment and sexual assault toward the citizens.

139. The Defendants’ acts and omissions resulted in an environment where officers, and even superiors (subsequently to the incident), routinely made sexual advances towards citizens and carried on romantic/sexual relationships with citizens unimpeded.

140. Defendants UCPD and the City of Union City not only failed in their duty to provide an environment free of sexual harassment and assault towards female citizens, but also encouraged this from the top thereby ratifying and endorsing his behavior.

141. Defendants UCPD and the City of Union City sent a message indirectly that sexual misconduct would not only be tolerated, but also be rewarded when the supervisors also attempt to pursue relationships with citizens while there is an active case.

142. Defendants UCPD, City of Union City and other officers and supervisors not yet named knew or should have reasonably foreseen that Defendant Torres would sexually harass female citizens, including Plaintiff and it was foreseeable that such harassment would lead to sexual assault.

143. Defendants UCPD, City of Union City and other officers and supervisors not yet named knew or should have reasonably foreseen that Defendant Torres would continue to sexually harass

female citizens, including Plaintiff.

144. Despite the foreseeable knowledge that Defendant Torres would continue to sexually harass female citizens, including Plaintiff, Defendants retained Defendant Torres in a police officer position through which he exercised power and control over female citizens.

145. Defendants UCPD and the City of Union City knew or should have known of the foreseeable danger posed by Defendant Torres to female citizens when Plaintiff reported to another police officer how she felt about him.

146. Defendants UCPD and the City of Union City knew or should have known that Defendant Torres was prone to inappropriate sexual conduct with citizens.

147. Defendants UCPD and the City of Union City failed in their duty to adequately train Defendant Torres in police policy and procedure, ethics, and prevention of sexual harassment.

148. Defendants UCPD, City of Union City and other officers and supervisors not yet named failed to implement, monitor, and enforce an effective sexual harassment/assault policy, properly investigate Plaintiff's and other employee's claims of sexual harassment/assault, or take appropriate remedial action to prevent Defendant Torres from sexually harassing and assaulting Plaintiff.

149. Defendants UCPD and the City of Union City failed in their duty to properly supervise Defendant Torres as evidenced by his failure to take reasonable actions to address the sexual harassment/assault or to prevent it prior to.

150. Defendants UCPD and the City of Union City were grossly negligent in retaining Defendant Torres considering any prior complaints he may of had and the knowledge that Plaintiff complained about him prior to the sexual assault.

151. Defendants UCPD and the City of Union City were grossly negligent in retaining Defendant Torres, failing to take disciplinary action despite serious allegations of sexual assault made by Plaintiff by only suspending him for 30 days.

152. Because of Defendants' UCPD and the City of Union City gross negligence in hiring, retention, discipline, and training of Defendants Torres, the Plaintiff was sexually assaulted and suffered damages.

153. Because of Defendants UCPD and the City of Union City failing to take any reasonable actions to mitigate the known environment towards a female citizen, Defendant Torres was empowered to commit a sexual assault against the Plaintiff and Plaintiff was damaged by this assault.

154. As a result of Defendants' grossly negligent conduct, Plaintiff has suffered and continues to suffer damages, including severe emotional distress.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

ELEVENTH COUNT
CIVIL CONSPIRACY
BY DEFENDANT TORRES and JOHN DOES

155. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

156. Upon information and belief, Defendant Torres spoke with another officer who he advised he was going to Plaintiff's home while on duty.

157. Based on information and belief, neither of the Individual Defendants or John Does ever reported to the Union Defendants, or any other lawful authority, the fact that Plaintiff voiced her concerns for her safety with Mr. Torres coming to her home and why she could not bring her documentation as mentioned above to the precinct.

158. Based on information and belief, this failure to report was the product of an inferred agreement between Mr. Torres and the other Defendants/John Does.

159. This agreement constituted an unlawful conspiracy because the same was entered into to frustrate New Jersey statutes governing the proper procedure to process the documents in a case and in the furtherance to use one's position and power and fabricated official police reports with false information in exchange for sexual acts.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

TWELFTH COUNT
RESPONDEAT SUPERIOR (VICARIOUS LIABILITY)
AS TO CITY OF UNION CITY AND UNION CITY
POLICE DEPARTMENT

160. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

161. On or around January 24, 2023 Officer Torres drove in his police car to Plaintiff's home around 11:30 pm in while on duty, in uniform, intentionally turned off his body cam and inflicted unpermitted harmful and/offensive bodily sexual conduct upon the Plaintiff, in the presence of her three year old child within the City of Union City, while working as an agent, employee, and servant of the City of Union City/UCPD.

162. Plaintiff did not consent to any of the harmful bodily contact and felt powerless when Mr. Torres made statements regarding his power with offering money and trying to coerce her when he said don't forget about him.

163. As set forth herein, Mr. Torres engaged in illegal "sexual contact" against Plaintiff, as that term is defined in N.J.S.A. 2A:61B-1(a)(2).

164. At all material times, Mr. Torres's conduct towards Plaintiff was willful, wanton, intentional, and malicious, and constituted evil-minded acts accompanied by a wanton and willful disregard of Plaintiff's rights, interests, and welfare.

165. At all material times, Mr. Torres's conduct towards Plaintiff was seriously harmful to the public—which has a compelling interest in ensuring that citizens, especially domestic violence victims in the community are protected from sexual predators and other dangerous instrumentalities—as well as Plaintiff.

166. The Union Defendants empowered the Individual Defendants by appointing them sworn law enforcement officers.

167. The Individual Defendants, as sworn law enforcement officers, were empowered to control various aspects of public life in the City of Union City and were employees of and under the control of Union Defendants.

168. This empowerment included responding to domestic violence calls, property damage regarding automobiles in the uniform of a city official, cloaked in the full authority of the law and armed at taxpayer expense.

169. The Individual Defendants, and particularly Defendant UCPD, abused the public trust and used the authority vested in them by the Union Defendants to commit the common law torts and negligence complained of herein.

170. Despite engaging in conduct outside of the physical workplace of UCPD, as a officer of police and sworn law enforcement officer Defendant Mr. Torres was on-duty during the time of the sexual assault against the Plaintiff.

171. Defendant UCPD and City of Union City are responsible for the tortious actions of their employee Defendant Mr. Torres.

172. As a police officer, working on a case, Defendant Mr. Torres was acting within the scope of his employment when he committed acts of sexual assault and battery against the Plaintiff.

173. Defendant Torres's sexual assault of the Plaintiff flowed from an event that was an extension of the workplace, attended by UCPD and City of Union City's employees, supervisors, and executives.

174. Defendant Mr. Torres's utilized his department issued automobile in the commission of the sexual assault against Plaintiff.

175. On information and belief Defendant Mr. Torres possessed his department issued or department approved firearm and other department issued equipment during the chain of events leading to the sexual assault of the Plaintiff.

176. Defendants UCPD and City of Union City fostered this unsafe work environment wherein Defendant Mr. Torres felt comfortable using his department issued vehicle, department issued electronic devices and other City of Union City/UCPD resources in the commission of his sexual assault of the Plaintiff.

177. Defendants UCPD and City of Union City failed to implement an effective policy regarding the prohibition of going to citizens houses for things that can be done at the police precinct and the tracking of the whereabouts of the officers and failed to enforce any anti-sexual harassment policy.

178. Defendants UCPD and City of Union City failed to implement fraternization policies and failed to enforce any policy that may have existed with citizens and police officers or to track and know the locations of the officers at all times.

179. As a direct and proximate result of the forgoing, Plaintiff sustained physical, emotional and psychological injuries, along with severe emotional distress and mental and physical pain and suffering.

180. Defendant UCPD and City of Union City were grossly negligent in addressing and preventing the sexual assault of Plaintiff.

181. Instead of addressing the misconduct, upon information and belief a UCPD supervisor actually tried to ask Plaintiff out on a date after the sexual assault.

182. Defendants UCPD and City of Union City failed to follow its policy as written, failing to

investigate the Plaintiff's complaint in a thorough and timely manner.

183. Defendants UCPD and City of Union City knew or should have known that Defendant Torres would sexually harass and assault Plaintiff, could have prevented his actions but failed to do so, created a climate and culture within the UCPD which a reasonable person would expect to result in assault and battery of a sexual nature, and ratified Defendant Torres's actions after they occurred, especially since another officer knew it would occur and did not report it.

184. Defendants UCPD and City of Union City are responsible for the actions of their employee Defendant Torres respondeat superior.

185. As a result of the assault Plaintiff suffered damages including but not limited to loss of reputation and emotional distress, PTSD, anxiety, depression that persists to this date.

186. When Defendant Torres committed his acts against the Plaintiff he was acting under the scope of his authority as the officer working on a case regarding her and leveraged his position of power delegated by Defendant's UCPD and the City of Union City to aid and abet the sexual assault. UCPD and the City of Union City are liable to the Plaintiff for their actions and those of their agent Defendant Torres.

187. At all times during which Plaintiff was sexually assaulted, Union Defendants failed to implement, develop, create, or enforce any plan, policy, law, or regulatory framework that could protect members of the community—including vulnerable domestic violence victims—from the Union City Police Department, City of Union City, officers, agents, servants, or employees, like Mr. Torres, the Plaintiff, told others that she felt uncomfortable around him. and failed to enforce any plan, policy or law to protect Plaintiff from sexual misconduct.

188. New Jersey law has adopted Section 219 of the Restatement (Second) of Agency (1958) for evaluating vicarious liability in connection with claims predicated on facts that indicate sexual assault.

189. At all times while Mr. Torres was a police officer in Union City. The City of Union City/UCPD was his employer and master and he was its employee and servant.

190. At all times while Mr. Torres was a police officer in Union City, he was employed by the City of Union City/UCPD to perform services on behalf of Union City residents and was always subject to Union City's control and/or right to control with respect to all of his conduct in the performance of said services.

191. At all times while Mr. Torres was a police officer in Union City. Union Defendants were grossly negligent and reckless in hiring and appointing Mr. Torres to the position of police officer, retaining him in that position, failing to provide adequate supervision of him while he was in that position, and failing to take appropriate steps to suspend and/or terminate him from that position.

192. This gross negligence and recklessness by Union Defendants allowed Mr. Torres to use both his position and color of authority, as granted to him as the direct result of his employment by Union Defendants Jersey, to sexually assault Plaintiff, within Union City.

193. New Jersey has adopted Section 219(2)(c) of the Restatement (Second) of Agency, which provides that a master may be liable for the torts of its servants acting outside the scope of their employment if "(c) the conduct violated a non-delegable duty of the master[.]"

194. This means that there are some duties which the master cannot simply delegate away.

195. Section 214 of the Restatement of Agency (Second) provides that: A master or other

principal who is under a duty to provide protection for or have care used to protect others or their property and who confides the performance of such a duty to a servant or other person is subject to liability to such others for harm caused to them by the failure of such agency to perform the duty.

196. New Jersey law has adopted Section 214 of the Restatement of Agency (Second).

197. At all material times, the City of Union City, through the Union City Police Department, had a non-delegable duty to provide protection for the citizens and residents of Union City (including domestic violence victims and not preying on their vulnerable state), and to use care in protecting the citizens and residents of Union City.

198. At all material times, the City of Union City, through the Union City Police Department, placed its police officers, including Mr. Torres, in a position in which such police officers were vested with the authority to enforce the laws of the State of New Jersey, to effectuate arrests for actual or perceived violations of the law, and to isolate and detain individuals in Union City, when necessary for said police officers to properly and effectively perform their duties (including making arrests, questioning witnesses or suspects, and detaining individuals).

199. The Restatement of Agency further provides that when an employer places an employee in a position in which it is foreseeable that the enforcement of the employer's rules will result in altercations with others, the employer has created a non-delegable duty of care with respect to its employee's actions.

200. Defendant the City of Union City, at all material times, had a non-delegable duty for its police officers to provide protection to the citizens in Union City, and to use care to protect those citizens.

201. New Jersey law provides that, pursuant to Restatement of Agency (Second), § 219(2)(c), an employer is vicariously liable for the torts of an employee acting outside the scope of employment when the employee's conduct violates a non-delegable duty of the employer.

202. At all material times, Union Defendants knew that its police officers would frequently interact with, and have altercations with, numerous citizens and residents of Union City (including vulnerable domestic violence victims).

203. At all material times, New Jersey law recognizes the unique vulnerability of domestic violence victims and supports the imposition of vicarious liability against employers on the basis of Restatement § 219(2).

204. At all material times, Union City police officers were entrusted by Union City with supervisory authority, or the equivalent of supervisory authority, over citizens and residents of Union City (including vulnerable domestic violence victims), which was predicated on their authority to enforce the law and to effectuate arrests for actual or perceived violations of the law.

205. Restatement § 219(2)(c) applies to the above-described tortious actions of Defendant Mr. Torres. because he violated Union City's non-delegable duty to protect the citizens entrusted to its care from sexual abuse at the hands of police officer employees granted the authority and/or supervisory authority over them. Mr. Torres showed up at Plaintiff's home and exerted his power and control over her to try and get his way with sexual favors.

206. Union Defendants, pursuant to the principles as set forth in Section 219(2)(c) of the Restatement of Agency (Second), are vicariously liable to Plaintiff for the tortious acts of its agent, employee, and servant, Mr. Torres.

207. New Jersey law has adopted Restatement of Agency (Second), § 219(2)(d), which provides that a master will be vicariously liable for the torts of its servants acting outside the scope of their employment, if “(d) the servant purported to act or to speak on behalf of the principal and there was reliance upon apparent authority, or he was aided in accomplishing the tort by the existence of the agency relation.”

208. At all material times, Union Defendants cloaked Defendant Mr. Torres with the authority to

- (1) enforce the laws of the State of New Jersey;
- (2) effectuate arrests for actual and/or perceived violations of the law; and
- (3) isolate and detain individuals for alleged wrongful or criminal acts.

209. At all material times, Plaintiff—a vulnerable domestic violence victim—reasonably believed that Defendant Mr. Torres. had the authority to act on behalf of Union City to enforce the laws of New Jersey, effectuate arrests for actual or perceived violations of the law, and violate and/or detain persons for purported wrongful and criminal acts.

210. Plaintiff’s aforesaid reasonable belief in Defendant Mr. Torres.’s authority to act on behalf of Union City is directly traceable to the following manifestations of Union City:

- (1) Union City and UCPD selected Mr. Torres. to be a Union City police officer;
- (2) Union City and UCPD provided a rigorous training program for Mr. Torres, in which they provided Mr. Torres with extensive training and education as to the laws, rules, and procedures to which Union City police officers needed to comply;
- (3) Union City and UCPD determined that Mr. Torres was qualified and suited to be a Union City police officer and required Mr. Torres to swear an oath of allegiance to, inter alia, the laws of the State of New Jersey;
- (4) Union City and UCPD permitted Mr. Torres to work in Union City as a Union City police officer;

(5) Union City and UCPD entrusted Mr. Torres with the authority to enforce the law, effectuate arrests for actual and/or perceived violations of the law, and to isolate and/or detain persons for wrongful or illegal conduct;

(6) Union City and UCPD authorized Mr. Torres. to wear a Union City police uniform;

(7) Union City and UCPD authorized Mr. Torres to carry a gun to aid him in the performance of his police duties;

(8) Union City and UCPD authorized Plaintiff to wear a badge which identified him as a Union City police officer and conveyed to the public that he was vested with considerable authority (as described above); and

(9) Union City and UCPD authorized Mr. Torres to carry handcuffs to facilitate his arrests of persons whom he determined had violated the law and/or posed a risk of harm.

211. At all material times, Defendant Mr. Torres. manifested his assent to act on Union City's behalf and subject to Union City's control, by, inter alia,

- (1) accepting consideration for his performance as a police officer;
- (2) agreeing to wear a police uniform and badge, and to carry a gun and handcuffs, to facilitate the performance of his police officer duties; and
- (3) swearing an oath, upon his commencement of his employment as a police officer, to, inter alia, faithfully comply with New Jersey laws and New Jersey's rules, regulations, and procedures for police officers.

212. At all material times, Union City vested Mr. Torres with the authority to make arrests, which is an integral police function that imbued Mr. Torres with a public trust.

213. At the same time, this tremendous power carried the concomitant risk of abuse.

214. That risk, where Mr. Torres used the power and authority of his position as a police officer to isolate, detain, intimidate, offer money, offer to falsify police reports, offer to lie about insurance, and use his position and power to sexually assault, Plaintiff, in front of her three year old child, is a risk of harm that is attributable to Mr. Torres's employer, City of Union City/UCPD which cloaked Mr. Torres with that apparent authority.

215. At all times while he was a police officer in Union City, Mr. Torres was aided in accomplishing his intentional torts (sexual battery against Plaintiff by the existence of the agency relationship between Mr. Torres(as agent) and Union City/UCPD (as principal).

216. Mr. Torres was aided in committing wrongful acts (sexual assault/battery) against Plaintiff, under his authority, as he took advantage of numerous special mechanisms and instrumentalities that were afforded to him by his employment as police officer for Union City.

217. Mr. Torres, at all material times, wore his police uniform, badge, gun, and handcuffs, which vested him with authority over Plaintiff and provided him with the ability to have Plaintiff follow his instructions.

218. Mr. Torres, upon information and belief, also used a police car that was provided to him by Union City to drive to Plaintiff's home to commit the sexual assault/battery.

219. But for Mr. Torres's agency relationship with Union City, he would not have been able to use the apparent authority granted to him by Union City, to induce Plaintiff he would not have been to interact with her and show up at her home to obtain her car registration and insurance card.

220. Plaintiff relied upon such statements from Mr. Torres that he had to come to her house because of Mr. Torres's apparent authority to process the insurance for Plaintiff's property damage.

221. But for Mr. Torres's ability to use his police car, badge, gun, handcuffs and uniform, he would not have been able to sexually assault and commit a battery on Plaintiff.

222. Mr. Torres was also aided in committing his wrongful acts (sexual assault/battery) against Plaintiff because his employment as a Union City police officer provided him, as employee and agent, a position of special authority that made Plaintiff particularly vulnerable to his wrongful acts.

223. At all times while he was a Union City police officer, the unique agency relationship between Mr. Torres and Union City facilitated Mr. Torres's sexual assault/battery of Plaintiff, in that Union City's failure to provide any real or meaningful oversight or supervision of its police officers, like Mr. Torres., who was engaging in the sexual assault/battery allowed Mr. Torres to commit acts of sexual assault against Plaintiff even when she told others she felt uncomfortable around him and was told not to go to Plaintiff's home. .

224. At all material times, Mr. Torres was conferred an imprimatur of authority and power over Plaintiff, and he had coercive power over her.

225. At all material times, police officers (such as Mr. Torres) exercise the most awesome and dangerous power that a domestic state possesses with respect to its residents—the power to arrest and detain them.

226. Plaintiff was aware of that immense power held by Mr. Torres and other police officers.

227. At all material times, inherent in this formidable police power is the potential for abuse.

228. On the night of the incident, Police Officer Mr. Torres was armed, on duty, wearing a badge, carrying a gun and handcuffs, and in control of a police vehicle.

229. At all material times, Plaintiff, a recent domestic violence victim, was stripped of the official protection that society—through its law enforcement officials—provides.

230. When Plaintiff met Mr. Torres, she had a high level of trust and dependence on Mr. Torres when Mr. Torres sexually assaulted Plaintiff, she betrayed that trust and confidence to the greatest extent possible.

231. At all material times, Plaintiff believed and realized that Mr. Torres's exercise of authority

and power over her derived from his employment and agency status as a Union City police officer.

232. Mr. Torres, as servant of Union City, purported to act and to speak on behalf of his principal, Union City, when he told Plaintiff that—unless Plaintiff had to listen with his commands—he had to come to her home for the documents related to her car registration/insurance.

233. Mr. Torres falsely represented to Plaintiff that he had the power and authority, under color of state law, that he had to come to her home to obtain the documents. He could have informed her that she could have brought them to the police station or he could have looked them up online.

234. Plaintiff relied upon Mr. Torres's stated and apparent authority to effectuate demand this request that he come over and gain access to her home, and, in such reliance, appeared in person at her home in Union City, at the demanded time, in compliance with Mr. Torres's demands.

235. But for Mr. Torres's false statement of his authority and Plaintiff's reliance upon that apparent authority, Mr. Torres would not have been able to isolate, detain, and gain access to her home to sexually assault and commit a battery of Plaintiff.

236. Mr. Torres, in turn, used his role as an agent of Union City, which provided him with largely unfettered access to and authority over Plaintiff, to sexually assault Plaintiff in Union City with and through various owned and/or controlled instrumentalities and mechanisms of Union City.

237. But for Mr. Torres's role and position as a police officer for Union City, he would not have had access to Plaintiff; he would not have enjoyed a position of authority over Plaintiff; he would not have been permitted to wear a police uniform or carry a badge, gun and handcuffs; he would not have had access to and control over a Union City automobile; he would not have had any authority and/or control over Plaintiff; and he would not have had the ability to sexually assault and commit a

battery on Plaintiff.

238. Pursuant to the standards as set forth in Section 219 of the Restatement (Second) of Agency (1958), Defendant Union City should be held vicariously liable for the intentional acts of its agent, Mr. Torres, committed against Plaintiff (sexual assault and battery).

239. Indeed, Section 219(2)(d) of the Restatement (Second) of Agency should be applied to all claims arising from all of the other causes of action.

240. At all material times, Police Officer Mr. Torres was in a position of special authority to make Plaintiff a victim, and Mr. Torres used his position as a police officer for Union City to carry out a sexual assault/battery against Plaintiff.

241. Union City Defendants, pursuant to the principles set forth in Section 219(2)(d) of the Restatement of Agency (Second), is vicariously liable to Plaintiff for the tortious acts of its agent, employee, and servant, Mr. Torres

242. Plaintiff contends that New Jersey law recognizes Restatement of Agency (Second) § 219(2)(d) with respect to vicarious liability principles involving the sexual assault/battery.

243. In the alternative, to the extent that Restatement of Agency (Second), § 219(2)(d) has been superseded by the Restatement of Agency (Third) § 7.08, Plaintiff still sufficiently alleges that Union City is vicariously liable for the intentional torts of Mr. Torres

244. Restatement (Third) § 7.08 provides that “[a] principal is subject to vicarious liability for a tort committed by an agent in dealing or communicating with a third party on or purportedly on behalf of the principal when actions taken by the agent with apparent authority constitute the tort or enable

the agent to conceal its commission.”

245. Here, the above-described actions taken by Mr. Torres when dealing and communicating with Plaintiff purportedly on behalf of Union City, were taken by Mr. Torres with apparent authority, and: (1) enabled Mr. Torres to enter Plaintiff’s home to isolate her and to commit the sexual assault/battery; and (2) enabled Mr. Torres to conceal the commission of the sexual assault/battery of Plaintiff.

246. In addition, the Restatement (Third) recognizes the continued vitality of Restatement (Second) §§ 219(2)(c) and (d), and the theories underlying them are embedded in the broader treatment of apparent authority under the Restatement (Third).

247. While Mr. Torres was a police officer for Union City, he represented to Plaintiff that he had the full power and authority to take action on behalf of Union City with respect to any and all matters that allegedly involved Plaintiff and her property and ex boyfriend.

248. Plaintiff, at all material times, relied upon Mr. Torres’s stated authority within Union City and believed that—because Mr. Torres was a Union City police officer, Plaintiff had no one to turn to within Union City who was capable of addressing or remedying Mr. Torres’s sexual assault/battery..

249. At all material times, Mr. Torres’s conduct towards Plaintiff was willful, wanton, intentional, and malicious, and constituted evil-minded acts accompanied by a wanton and willful disregard of Plaintiff’s rights, interests, and welfare.

250. At all material times, Mr. Torres’s conduct towards Plaintiff was seriously harmful to the public—which has a compelling interest in ensuring that citizens in the community are protected from known predators and other dangerous instrumentalities—as well as Plaintiff.

251. New Jersey law has adopted Section 909 of the Restatement (Second) of Torts (1978) for vicariously assessing punitive damages against a principal for the acts of its agent.

252. At all times while he was a Union City police officer, Mr. Torres was unfit for the position of police officer, and Union City was reckless in employing and retaining him in that position.

253. At all material times, Union City failed to repudiate, punish, remedy, or mitigate Mr. Torres's sexual assaults of Plaintiff or any other prior complaints.

254. At all material times, Union City failed to take appropriate action, pursuant to federal, state, or local law, or other laws, rules, or codes of conduct, in connection with and/or in response to Mr. Torres's prior complaints or justifiable punishment regarding Plaintiff's mistreatment.

255. At all material times, Union City failed to engage in any conduct that was inconsistent with its, position, policy, and intent to adopt, foster, facilitate, condone, and excuse Mr. Torres's prior complaints and sexual assault/battery of Plaintiff.

256. Pursuant to the standards as set forth in Section 909 of the Restatement (Second) of Torts (1978), Defendants Union City/UCPD should be compelled to pay Plaintiff appropriate punitive damages.

257. As a direct and proximate result of the foregoing, Plaintiff sustained PTSD, emotional and psychological injuries, along with severe emotional distress and mental and physical pain and suffering

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include,

without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

THIRTEENTH COUNT
DEPRIVATION OF THE RIGHT TO BE LEFT ALONE
IN VIOLATION OF NEW JERSEY CONSTITUTION and
N.J.S.A. 10:6-2 73.
By all Defendants

258. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

259. Article I of the New Jersey Constitution prohibits any governmental entity from abridging the right to safety and security. It states: "All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness."

260. These provisions collectively contribute to the protection of citizens against abuses of power, including sexual assault by law enforcement officers.

261. The New Jersey Civil Rights Act, N.J.S.A. 10:6-2 ("NJCRA"), states in pertinent part: Any person who has been deprived of any substantive due process or equal protection rights, privileges or immunities secured by the Constitution or laws of the United States, or any substantive rights, privileges or immunities secured by the Constitution or laws of this State, or whose 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 a person acting under color of law, may

bring a civil action for damages and for injunctive or other appropriate relief.

262. By engaging in the aforementioned conduct, Defendant Torres has interfered with and restrained Plaintiff's right to be let alone, which is guaranteed by New Jersey Constitution and the NJCRA.

263. Plaintiff has suffered, is suffering, and will continue to suffer.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

FOURTEENTH COUNT
MUNICIPAL LIABILITY

42 U.S.C. § 1983 & New Jersey Civil Rights Act N.J.S.A. § 10:6-2 et seq.

By all Defendants

264. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

265. At all relevant times, Defendants, City of Union City and/or the Union City Police Department, was the employer of the individual defendants and the individual defendants were acting as its agents, servants and employees.

266. City of Union City, Union City Police Department failed to use reasonable care in the

selection of its employees, against and/or servants, failed to properly train and/or supervise the individual defendants, and failed to provide the appropriate safeguards to prevent the violation of the rights of Plaintiff as mentioned in this Complaint. .

267. City of Union City, Union City Police Department, Mr. Torres and all supervisors, and John Does acted under color of law pursuant to an official policy or custom/pattern and/or practice of the City of Union City, Union City Police Department and intentionally, knowingly, recklessly or with deliberate indifference failed to properly and adequately control and discipline on a continuing basis its employees, agents and/or servants and/or otherwise failed to prevent the individual defendants from unlawfully sexually assaulting Plaintiff in violation of the rights, privileges and immunities guaranteed to Plaintiff by the Constitution and laws of the United States and/or New Jersey. There was no system in place to track the whereabouts of the officers at all times.

268. City of Union City, Union City Police Department had knowledge of, or had it diligently and reasonably exercised its duties to instruct, supervise, control and discipline its employees, agents and/or servants, would have had knowledge of the wrongful acts and/or omissions identified above and intentionally, knowingly or with deliberate indifference to Plaintiff's rights, failed or refused to prevent their commission and/or omission.

269. City of Union City, Union City Police Department therefore, directly or indirectly, and under color of law, thereby approved or ratified the unlawful, malicious and wanton conduct of the individual defendants.

270. In the instant matter, these facts are solidified by the fact that Torres was not held accountable for his whereabouts while on duty and another officer knew he was going to Plaintiff's

house and she voiced her concern and no one reported Mr. Torres. This is a pattern of the Union Defendants that was ratified to protect other officers and encourage or condone this behavior.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

FIFTEENTH COUNT

Failure to Intervene

42 U.S.C. § 1983 & New Jersey Civil Rights Act N.J.S.A. § 10:6-2 et seq.

By all Defendants and John Does

271. Plaintiff repeats and realleges each and every allegation made in the above paragraphs

272. Police Officer Torres engaged in all the aforementioned violations including sexual assault.

273. While Defendant officer Torres was engaged in the sexual assault, the others failed to intervene to prevent the sexual assault, especially when Plaintiff told another Officer how creepy Mr. Torres seemed and that he was coming over to her house. No one reported Mr. Torres to any supervisor.

274. The other unnamed Defendants had an opportunity to intervene as to stop the violations and tried to persuade Mr. Torres from going to Plaintiff's home but it was never reported.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages,

and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

SIXTEENTH COUNT
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS (“NIED”)
BY ALL DEFENDANTS

275. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

276. Defendant, Officer Torres acted grossly negligent/reckless by not caring Plaintiff's three year old was in the room when he sexually assaulted Plaintiff.

277. This cause of action is brought in both individual and official capacities against Defendants.

278. As a direct and proximate result of Mr. Torres's actions Plaintiff experienced emotional distress that was so severe that she suffered from Post Traumatic Stress Disorder (“PTSD”), anxiety and depression and continues to undergo mental health treatment. She has experienced emotional distress that was so severe that she has nightmares, finds herself reliving the incident at various times of the day. Plaintiff has suffered manifestations of physical injury connected to the incident and by reason of the emotional distress inflicted upon her by Defendants as set forth in this Complaint. These include stomach problems and headaches, shaking and assorted aches and pains. Because of the foregoing Plaintiff has been damaged.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

SEVENTEENTH COUNT
NEGLIGENCE
BY ALL DEFENDANTS

279. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

Chief Anthony Facchini, John Doe Sergeant and John Doe Supervisors 1-5

280. At all relevant times herein Chief Anthony Facchini, John Doe Sergeant and John Doe Supervisors 1-5 were under a duty to act reasonably in the performance of their duties as police officers and supervisors, including:

- (a) overseeing training given to all officers including training given to Mr. Torres;
- (b) using reasonable care in the taking of corrective action and/or progressive discipline in making decisions about any prior complaints of Mr. Torres;
- (c) overseeing Mr. Torres's employment, his training, supervision and retention, including discipline and knowing his location at all times;(c) ensuring that investigating officers and Internal Affairs conduct proper investigations on any prior complaints; and (d) disciplining or terminating officers that tamper with evidence and/or conspire to conceal malfeasance by other officers.

281. With respect to all of these issues, the duties were ministerial and not subject to discretion or immunities in that (1) the duty to provide training regarding dealing with citizens and not crossing the line of personal sexual situations with a citizen who the police officer is working on a

case, and attempting to falsify a police report. 2) the failure to use reasonable care in the hiring, training, supervision and retention of Mr. Torres is not subject to any immunity under Title 59; (3) the duty to provide training regarding how to conduct investigations was and is mandated by Attorney General guidelines, General Orders, and police procedures and protocols; (4) taking corrective action and/or imposing progressive discipline was based on specific protocol set by the foregoing policies and procedures and the Collective Bargaining Agreement between Union City and its police officers.

282. All of the above duties were breached.

283. As a direct and proximate result of failing to the aforementioned Plaintiff suffered damages below.

Training Officers 1-3

284. At all relevant times herein TRAINING DEFENDANTS, were under a duty to act reasonably in the performance of their duties as training officers in the handling of Mr. Torres's training regarding how to accurately and truthfully compose a report, protocol on going to a citizens home late at night when the same could be done in the precinct, offering citizens money, not to mix police business with personal feelings, not to use the officer power and position to groom a citizen to receive sexual favors while on duty.

285. With respect to all of these issues, the duties were ministerial and not subject to discretion or immunities.

286. TRAINING DEFENDANTS breached their duties just mentioned.

287. As a direct and proximate cause of the breach of their duty to train Mr. Torres

on the aforementioned duties, Plaintiff suffered damages.

John Does Officers 1-3

288. The John Doe Officers includes any internal affair officers and any other officers that had knowledge that Mr. Torres was going over to Plaintiff's house

289. At all relevant times herein the Internal affair officers had a duty to investigate and interview other police officers thoroughly to determine if any other officers knew Mr. Torres was going to Plaintiff's home.

290. JOHN DOES 1-3, were under a duty to act reasonably in the performance of their duties as police officers in the handling of investigations, or any officers that had knowledge that Plaintiff was afraid of Mr. Torres or had knowledge that he was going to Plaintiff's home.

291. With respect to all of these issues, the duties were ministerial and not subject to discretion or immunities because they were mandated by police procedures and protocols.

292. The JOHN DOES 1-3 breached their duty to investigate Mr. Torres prior conduct and failed to interview all other officers where they would have learned Mr. Torres told another officer he was going to Plaintiff's home. Other unnamed officers had a duty to not just tell Mr. Torres to not go to Plaintiff's home but to report it to the supervisor or up the chain of command.

293. The INTERNAL AFFAIRS DEFENDANTS and JOHN DOES 1-3 also breached their duty of reasonable care in the failure to properly investigate prior complaints regarding Mr. Torres and others and take remedial action.

294. As a direct and proximate cause of the breach of their duty as just mentioned, Plaintiff suffered damages as stated below.

295. By reason of the foregoing negligence on the part of each and every Defendant, Plaintiff suffered lost wages, mental health treatment, loss of enjoyment of life, impacting the relationship with her children, PTSD, emotional distress and pain and suffering.

296. All conditions precedent under Title 59 have been met on all state causes of action regarding the permanency of the injuries.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

EIGHTEENTH COUNT

(New Jersey Civil Rights Act - Monell and Supervisory Liability)

By all Defendants

297. Plaintiffs repeat and reallege each and every paragraph contained in this Complaint and incorporates the same by reference.

298. At all relevant times herein, the SUPERVISORY DEFENDANTS, CHIEF OF POLICE ANTHONY FACCHINI, JOHN DOE SERGEANT, JOHN DOE SUPERVISORS 1-5, JOHN DOE TRAINING OFFICERS 1-3 AND JOHN DOES OFFICERS 1-5 were acting within the scope of their authority as employees, agents and/or officers of UCPD/UNION CITY and in their official capacities.

299. At all relevant times herein, the SUPERVISORY DEFENDANTS, CHIEF OF POLICE ANTHONY FACCHINI, JOHN DOE SERGEANT, JOHN DOE SUPERVISORS 1-5, JOHN DOE

TRAINING OFFICERS 1-3 AND JOHN DOES OFFICERS 1-5 acted under color of law, under the color of the constitution, statutes, laws, charters, ordinances, rules, regulations, customs, usages and practices of UNION CITY/UCPD.

300. At all relevant times herein UNION CITY/UCPD, the SUPERVISORY DEFENDANTS, CHIEF OF POLICE ANTHONY FACCHINI, JOHN DOE SERGEANT, JOHN DOE SUPERVISORS 1-5, JOHN DOE TRAINING OFFICERS 1-3 AND JOHN DOES OFFICERS 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 Mr. Torres, TRAINING DEFENDANTS, and the JOHN DOE 1-5 Defendants, in conformity with clearly established constitutional principles, the Police Training Commission guidelines and NJSACOP policies which govern their conduct.

301. At all relevant times herein, UNION CITY/UCPD, the SUPERVISORY DEFENDANTS, CHIEF OF POLICE ANTHONY FACCHINI, JOHN DOE SERGEANT, JOHN DOE SUPERVISORS 1-5, JOHN DOE TRAINING OFFICERS 1-3 AND JOHN DOES OFFICERS 1-5 acted with deliberate and conscious indifference to Plaintiff's constitutional rights which violations (1) arose out of a pattern, custom, policy and practice by and of defendants in failing to implement and enforce the proper procedures to account for the whereabouts of the police officers and the purpose in such location, the Police Training Commission guidelines and NJSACOP policies, police procedures and protocols as well as the failure to properly hire, train and supervise police officers in the procedure to report other officers, evidence tampering and failing to properly discipline officers so as to permit, and

(2) with the exception of the TRAINING DEFENDANTS, engaging in a conspiracy and allowing one officer to conceal another's behavior by not reporting Mr. Torres's motive and intent to go to Plaintiff's home, a conspiracy commenced

302. At all relevant times herein, Union City/UCPD, the SUPERVISORY DEFENDANTS, CHIEF OF POLICE ANTHONY FACCHINI, JOHN DOE SERGEANT, JOHN DOE SUPERVISORS 1-5, JOHN DOE TRAINING OFFICERS 1-3 AND JOHN DOES OFFICERS 1-5 were responsible for creating, implementing and/or enforcing the policies and procedures set forth in this Complaint, including all policies and procedures referring to tracking the location and whereabouts of police officers while on duty, procedure to handle document requests, the procedure when one police officer is to report another police officer.

303. The practice, pattern, custom and/or policy of failing to train, discipline, hire, retain and/or supervise defendants in conformity with clearly established constitutional principles of which these defendants would have known, are set forth with particularity in the Factual

Allegations above and include:

- (a) the failure to take action to prevent the sexual assault/battery by Mr. Torres to Plaintiff;
- (b) the failure to take action to be able to track the location at all times of Mr. Torres while on duty, thereby creating a situation where there is a strong likelihood of harm to a third party, including Plaintiff as the officer has too much discretion and is unaccountable for where and what he was doing;
- (c) the failure to take action to properly investigate, charge and discipline officers who had knowledge of Mr. Torre's intent to go to Plaintiff's home;
- (d) the failure to terminate an officer, such as Mr. Torres, who has upon information and belief had other complaints against him and whose continued employment created a serious risk of harm to third parties;

(e) the failure to evaluate, review and monitor police investigations by JOHN DOES 1-5, internal affairs investigations by the INTERNAL AFFAIRS DEFENDANTS to avoid misconduct and conspiracy to cover up police malfeasance prior and subsequent to the acts alleged in this Complaint;

(f) allowing and permitting officers to stay on the force who have exhibited misconduct and misfeasance, thereby creating a custom and practice by allowing one officer to protect another officer;

(g) the failure to follow the AG guidelines, the Police Training Commission guidelines and NJSACOP local police policies and practices regarding procedures governing the aforementioned while on-duty, among other constitutional proscriptions regarding the conduct of the Defendants.

304. During all relevant times herein the SUPERVISORY DEFENDANTS (Chief Facchini, John Doe Sergeants, John Doe Supervisors 1-5) were responsible for the conduct of Mr. Torres, the TRAINING DEFENDANTS, the INTERNAL AFFAIRS DEFENDANTS and JOHN DOES 1-5, and For the instruction, supervision and implementation of proper law enforcement procedures and oversight on behalf of the UNION CITY/UCPD and ABC ENTITIES 1-5 Defendants.

305. In addition to the specific facts alleged with respect to Mr. Torres, the failure to properly train and supervise law enforcement officers in their duties and the failure to conduct appropriate and adequate police and internal affairs investigations into any other officers with knowledge, fabricating police reports, and the failure to discipline based on those complaints and problems permits, promotes and condones the misfeasance which led to the failures and actions which were the proximate cause of Plaintiff's harm.

306. Any reasonable Defendant would know or should know that he/she was violating Plaintiff's constitutional rights as well as police procedure and protocol during all periods alleged in this Complaint.

307. By reason of the failures to train, supervise, monitor, retain and discipline Mr. Torres, the TRAINING DEFENDANTS, the INTERNAL AFFAIRS DEFENDANTS, JOHN DOES 1-5, and all law enforcement officers under the control and authority of the SUPERVISORY DEFENDANTS and UNION CITY/UCPD, the SUPERVISORY DEFENDANTS and UNION CITY/UCPD, through and by its employees and representatives, willfully, wantonly, and recklessly violated the civil rights of Plaintiff..

308. The foregoing acts and omissions violated Plaintiff's liberty rights, to be free of deprivation of her life and liberty, to be free of sexual assault/battery by a police officer causing her long term lifelong emotional distress.

309. UNION CITY/UCPD, ABC ENTITIES 1-5, the SUPERVISORY DEFENDANTS, the TRAINING DEFENDANTS, the INTERNAL AFFAIRS DEFENDANTS 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.

310. By reason of the foregoing, these Defendants violated the civil rights of Plaintiff.

311. By reason of the foregoing, and as a direct and proximate result of Defendants' constitutional violations, Plaintiff was caused to suffer severe personal injuries, PTSD, loss of enjoyment of life, loss of appetite, loss of sleep, nightmares, severe emotional anguish, medical expenses.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished

with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

NINETEENTH COUNT
(New Jersey Civil Rights Act - Individual Liability)
By all Individual Defendants

312. Plaintiffs repeat and reallege each and every allegation contained in the above paragraphs and incorporate same by reference, including but not limited to all paragraphs referring to color of law, scope of employment, deprivation of constitutional rights, privileges under the NJCRA and deliberate indifference.

DEFENDANT POLICE OFFICER MR. TORRES

313. At all relevant times herein Mr. Torres was acting under color of law and within the scope of his authority as a police officer in the handling a case of which the Plaintiff was a part of and went to her house to collect her automobile insurance and registration card.

314. Mr. Torres should have been trained in all the policies and procedures set forth in this Complaint including best police practices in general and should have went to her home at night to do so and should have been trained on not pursuing any sexual encounters with a citizen while assigned to a case. Mr. Torres was at Plaintiff's home for official police business acting in his capacity as a police officer with respect to the specific actions alleged in this Complaint.

315. Mr. Torres violated every possible policy and procedure regarding how to handle the documents and committing a sexual assault/battery while on duty and grossly violated his duties and obligations as a law enforcement officer.

316. The actions of Mr. Torres were clearly reckless and amounted to deliberate indifference to the safety of others, including Plaintiff, were substantially certain to result in serious injury, presented a clear and overwhelming danger and risk to others, including Plaintiff, and were shocking in the extreme, shocking the conscience.

317. These violations included: (a) sexually assaulting and committing a battery upon Plaintiff in the presence of her three year old daughter; (b) engaging in a conspiracy to cover up the circumstances of his motive and intent to go to Plaintiff's house with JOHN DOES 1-5

318. Any reasonable officer in Mr. Torres's position would know that these affirmative acts and omissions were grossly inappropriate, not done in good faith and made with deliberate indifference to the potential for harm to Plaintiff.

319. Mr. Torres's actions constitute violations of constitutional rights to liberty and bodily integrity as well as his rights to access to the courts protected by the NJCRA. Director Speziale, Chief Oswald and John Doe Supervisors 1-5

320. CHIEF OF UCPD FACCHINI, JOHN DOE SERGEANT, and JOHN DOE SUPERVISORS 1-5 knew or should have tracked and monitored the location of their officers, including Mr. Torres and why he was at Plaintiff's home while on duty. There was no accountability and supervision.

321. JOHN DOE TRAINING OFFICER 1-3 DEFENDANTS failed to and/or inadequately trained police officers, including Mr. Torres, regarding going to citizens homes while there is an open case while on duty to engage in sexual misconduct and they failed to train JOHN DOE OFFICERS 1-5 how to report anything related to another police officer.

322. CHIEF OF UCPD FACCHINI, JOHN DOE SERGEANT, and JOHN DOE

SUPERVISORS 1-5 knew or should have known that the AG guidelines, the NJSACOP guidelines and best practices standards and policies were not being enforced or implemented regarding the aforementioned.

323. Despite individual knowledge regarding the inadequacy of training and supervision, CHIEF OF UCPD FACCHINI, JOHN DOE SERGEANT, and JOHN DOE SUPERVISORS 1-5 compounded the failure to train officers on going to citizens homes while there is an open case while on duty to engage in sexual misconduct and they failed to train JOHN DOE OFFICERS 1-5 how to report anything related to another police officer by failing to issue specific General Orders and SOPs on how to collect car insurance/registration and how it is advised to tell citizens to bring it to the precinct or look it up in the system.

324. Further, CHIEF OF UCPD FACCHINI, JOHN DOE SERGEANT, and JOHN DOE SUPERVISORS 1-5 knew that (a) Mr. TORRES, JOHN DOES OFFICERS 1-5 had conspired to cover-up the circumstances of Mr. Torres having a plan to go to Plaintiff's home without being reported prior to; (b) the INTERNAL AFFAIRS DEFENDANTS failed to interview key police eye-witnesses and/or omitted statements from key, police eye-witnesses statements in their reports in that had knowledge of Mr. Torres intent and motive to go to Plaintiff's home and was not reported.

325. At all relevant times herein CHIEF OF UCPD FACCHINI, JOHN DOE SERGEANT, and JOHN DOE SUPERVISORS 1-5 were personally and directly involved in the evaluation, enforcement and implementation of ali applicable policies referring or relating to the proper reporting from one police officer regarding another police officer's misconduct, knowing the location

of police officers under their control and supervision, failed to comport themselves in conformity with clearly established constitutional principles which govern their conduct and which would have been known to any reasonable person in their position by:

(a) the failure to take action to prevent the sexual assault and battery of Plaintiff by Mr. Torres, which could have been avoided had they have know the location of Mr. Torres and what his purpose was being at Plaintiffs home;

(b) the failure to take action to require the TRAINING OFFICERS 1-3 DEFENDANTS to train Union City Officers how to report other officers for misconduct, and Instructing police officers to have citizens bring any documents to the precinct;

(c) the failure to take action to require the INTERNAL AFFAIRS DEFENDANTS and JOHN DOES 1-5 to properly investigate, charge and discipline officers who failed to report Mr. Torres.

(d) allowing and permitting officers to stay on the force who have exhibited misconduct and misfeasance, thereby creating a custom and practice that emboldened Mr. Torres to follow suit;

(e) failing to follow the AG guidelines, Police Training Commission guidelines and NJSACOP local police policies and practices regarding procedures governing location tracking of police officers, , reporting of other police officers internally, document retrieval process among other constitutional proscriptions regarding the conduct of the Defendants;

326. These Defendants' own individual actions by personal involvement in these activities and conduct produced and directly caused Plaintiff to be sexually assaulted/battery and they are liable to Plaintiff.

327. The INTERNAL AFFAIRS DEFENDANTS and JOHN DOES 1-5 failed to adequately investigate any other Police Officers having knowledge of Mr. Torres's intent that night.

328. The INTERNAL AFFAIRS DEFENDANTS and JOHN DOES 1-5 then conspired amongst themselves and with the SUPERVISORY DEFENDANTS to cover-up any other officers knowledge of Mr. Torres going over to Plaintiff's house and failed to report it.

329. The INTERNAL AFFAIRS DEFENDANTS and JOHN DOES 1-5 acted with full knowledge that their actions violated any guidelines and procedures

330. These actions establish derelictions of such a gross and shocking nature as to give rise to the inference that a pattern and practice, custom and policy existed permitting an officer to get away without being reported, by one police officer protecting his coworker and the misconduct to occur with impunity throughout the police force with no consequences or remediation. It is the individual actions of these defendants including CHIEF FACCHINI and JOHN DOE SERGEANT that permitted and allowed these gross abuses and misconduct to occur and who, together with the INTERNAL AFFAIRS DEFENDANTS, failed and refused to discipline their subordinates, permitting and allowing abuse including that committed by Mr. Torres to continue.

Training Officers

331. Notwithstanding the Attorney General guidelines, General Orders, the Police Commission Training guidelines and NJSACOP policies, police procedures and protocols, the JOHN DOE TRAINING DEFENDANTS 1-3 failed to train and/or inadequately trained police officers, including Mr. Torres regarding everything mentioned above

332. By the aforesaid failure to train, JOHN DOE TRAINING DEFENDANTS 1-3 deprived Plaintiff of his rights, privileges, and immunities secured by the Constitution and laws of the United States including violation of his Fourteenth Amendment right to substantive and procedural due process and the right to bodily integrity and liberty.

333. By the aforescribed derelictions, the SUPERVISORY DEFENDANTS,

JOHN DOES 1-5, the JOHN DOE TRAINING OFFICER 1-3, JOHN DOE SERGEANT and the INTERNAL AFFAIRS DEFENDANTS violated Plaintiff's rights under the New Jersey Civil Rights Act and their own individual actions and/or personal involvement produced and directly caused the sexual assault/battery.

334. As a direct and proximate result of the violation of constitutional rights as aforescribed, Plaintiff was caused to suffer severe and permanent personal injuries (PTSD), emotional anguish.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

TWENTIETH COUNT
(New Jersey Civil Rights Act - State Created Danger)
By all Individual Defendants

335. Plaintiff repeats and realleges each and every allegation contained in this Complaint and incorporates the same by reference.

336. Article I of the New Jersey Civil Rights Act prohibits deprivation of life, liberty or property without due process of law.

337. Substantive due process under the NJCRA requires that a citizen, such as Plaintiff, be protected from state action which deprives the citizen of their life and liberty.

338. The direct and proximate cause of the injuries, damages suffered by Plaintiff are the result of state action, both by Mr. Torres directly and by the other defendants, all acting under color of law, which actions increased the substantial likelihood of harm to Plaintiff and in fact put her directly in danger that she wouldn't otherwise have been exposed to, but for the state action.

339. For the aforementioned reasons Mr, Torres acted with a degree of culpability that shocks the conscience or shows deliberate indifference.

340. At all relevant times Mr. Torres was acting under color of law and his affirmative actions constitute state action.

341. The affirmative actions of defendants CHIEF OF POLICE FACCHINI, JOHN DOE SERGEANT, JOHN DOE SUPERVISORS 1-5, JOHN DOE TRAINING OFFICERS 1-3, and the INTERNAL AFFAIRS DEFENDANTS, JOHN DOES 1-5 OFFICERS consisted of in affirmatively determining not to train on the proper procedure in how to obtain a citizen's car insurance/registration, not tracking the location of police officers at all times, not training on the internal process to report coworkers misconduct. among other acts, by conspiring amongst themselves to not report Mr. Torrees's intent and motive to go to Plaintiffs home prior to the incident.

342. Mr. Torres's actions shock the conscience; they were also deliberately indifferent to the substantial likelihood of serious harm; and increased the risk of harm by specifically putting Plaintiff in danger.

343. CITY OF UNION CITY, UCPD, ABC ENTITIES 1-5, CHIEF OF POLICE FACCHINI, JOHN DOE SERGEANT, JOHN DOE SUPERVISORS 1-5, JOHN DOE TRAINING OFFICERS 1-3, INTERNAL AFFAIRS DEFENDANTS, JOHN DOES 1-5 OFFICERS owed a duty to protect Plaintiff from the unlawful actions of MR. TORRES separate and independent from any duty owed by MR. TORRES to PLAINTIFF as the affirmative actions of these Defendants directly led to the violation of constitutional rights caused by the actions of MR. TORRES which exposed PLAINTIFF to danger as a direct and foreseeable result of state action.

344. As a direct and proximate result of the violation of constitutional rights as aforescribed, Plaintiffs was caused to suffer severe and permanent personal injuries (PTSD), emotional anguish.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

TWENTY-FIRST COUNT
FICTITIOUS PARTIES

345. Plaintiff repeats and realleges each and every allegation made in the above paragraphs of this complaint.

346. John Doe Sergeant, John Does Supervisors 1-5, John Doe Training officers 1-3 John Does Officer 1-3 (Fictitious Individuals) and ABC CORPORATIONS A-Z (Fictitious Corporations) are

fictitious names for persons or entities that have not yet been identified but whose identities will be supplemented when ascertained by Plaintiff.

347. The Fictitious Parties may have had knowledge that Plaintiff spoke with another person about feeling uncomfortable with Defendant Torres. The Fictitious Parties may have entered into a conspiratorial agreement with the Individual Defendants to conceal this incident.

348. The Fictitious Parties may also be municipal decision-makers or related entities who failed to implement policies regarding police officers going to citizens' homes to gather documentation and/or to supervise officers' compliance with those policies, tracking location of police officers while on duty, including but not limited to those individuals at the City of Union City and UCPD at all times relevant hereto.

349. Plaintiff hereby reserves his right to amend the Complaint as a result of pleading such fictitious parties.

WHEREFORE, Plaintiff hereby demands Judgment against all named Defendants jointly and severally in all capacities alleged which shall consist of compensatory damages, punitive damages, and costs of suit, including reasonable attorneys' fees. Said compensatory damages should include, without limitation, damages for pain and suffering, medical expenses, emotional trauma, diminished with her children, diminished enjoyment of life, costs of counseling, and lost wages. and such other relief as the court or jury may deem proper.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter an Order

providing relief against all named (and not named yet) Defendants jointly and severally In all capacities for :

- (A) Compensatory damages
- (B) Statutory damages, if applicable;
- (C) Damages for lost wages and medical bills;
- (D) Damages for humiliation, mental and emotional distress, loss of enjoyment of life an relationship with children;
- (E) Punitive damages and or liquidated damages where permitted by law;
- (F) Attorneys' fees and costs of suit;
- (G) Lawful interest - including pre-judgment interest on lost wages;
- (H) Lawful interest - including pre-judgment interest on any wages;
- (I) Such other, further and different relief as the Court deems fitting, just and Proper.

PAGLIARA LAW GROUP, P.A.
Attorney for Plaintiffs

By: /s/ Nicholas A. Pagliara, Esq.

Dated: June 26, 2024

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to New Jersey Court Rule 4:10-2(b), demand is made that the Defendants disclose to

Plaintiff's attorney whether or not there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or indemnify or reimburse for payments made to satisfy the judgment and provide Plaintiff's attorney with true copies of those insurance agreements or policies, including, but not limited to, any and all declaration sheets. This demand shall include and cover not only primary coverage, but also any and all excess, catastrophe and umbrella policies.

JURY DEMAND

Plaintiff hereby demands a Trial by a Jury on all of the uses contained herein.

By: /s/ Nicholas A. Pagliara, Esq.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, the Court is advised that Nicholas Anthony Pagliara is hereby designated as trial counsel for the plaintiff, Marco Giron.

/s/ Nicholas A. Pagliara

Nicholas A. Pagliara
Attorney for Plaintiff

R. 4:5-1 CERTIFICATION

I certify that the matter in controversy in the within action, is not, as far as I am aware, the subject of any other action pending in any court or of a pending arbitration proceeding and that no such action or arbitration proceeding is contemplated. I further certify that I am not aware of any other parties who should be joined in this action at this time. If, however, any such matter or non-party later becomes known to me, an amended certification will be filed and served upon all other parties and filed with this Court in accordance with R. 4:5-1(b)(2).

/s/ Nicholas A. Pagliara

Nicholas A. Pagliara
Attorney for Plaintiff

CERTIFICATION OF COMPLIANCE WITH RULE 1:38-7(c)

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 R. 1:38-7(b).

/s/ Nicholas A. Pagliara

Nicholas A. Pagliara

Attorney for Plaintiff