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Attorney for Plaintiff Ricky Patel

RICKY PATEL

Plaintiff,

vs.

UNITED STATES DISTRICT COURT
DISTRICT COURT OF NEW JERSEY
NEWARK

Civil Action No.: - (-)

CITY OF UNION CITY;
BRIAN STACK, Union City Mayor
and Union City Director of Public Safety;
LT. NICHELLE LUSTER, a Union City
Police Officer; **JOHN DOES 1-5**,
(fictitious individuals) members of the
Union City Police Department
and/or Union City Municipal Employees,
Officials and/or Appointees;
JOHN DOES 6-10, (fictitious individuals)
Personnel of the Union City Police
Department in supervisory capacities and/or
Union City Municipal Employees,
Officials and/or Appointees.

Defendants.

COMPLAINT

JURISDICTION

1. This action is brought pursuant to 42 U.S.C. Section 1983 and in accordance with the Fourth and Fourteenth Amendments of the Constitution of the United States of America.

Jurisdiction is conferred under 28 U.S.C. Section 1331 and Section 1343(3). This Court has

supplemental jurisdiction over Plaintiff's State law claims pursuant to 28 U.S.C. Section 1367.

PARTIES

2. Plaintiff Ricky Patel, of 620 Freylingheusen Avenue, Newark, New Jersey, 07414, is and was, at all times herein relevant, a resident of the State of New Jersey and a citizen of the United States of America.

3. Defendants Lt. Nichelle Luster and John Does 1-5 were at all times mentioned herein duly appointed and acting police officers of the Union City Police Department and at all times herein were acting in such a capacity as the agents, servants and/or employees of Union City and were acting under the color of law.

4. At all times relevant herein, Defendant Brian Stack was the Union City Director of Public Safety and the Mayor of Union City and at all items herein was acting in such capacity as an agent, servant and/or employee and/or appointee of Union City and was acting under the color of law. Defendant Stack is also a New Jersey State Senator.

5. Defendants Luster and/or John Does 6-10 were at all times mentioned herein duly appointed and acting members of the Union City Police Department and at all times herein were acting in such capacities as the agents, servants and/or employees of Union City and were acting under the color of law.

6. Defendants Stack, Luster and/or John Does 6-10 were acting in supervisory capacities over Defendants Stack, Luster and/or John Does 1-10, and responsible by law for the training, supervision and conduct of Defendants Stack, Luster and John Does 1-10.

7. At all times relevant hereto, Defendants John Does 1-10 were Union City municipal employees, officials and/or appointees.

8. Defendants Union City; Stack; Luster, and/or John Does 1-10 were responsible by law for insuring that Union City police officers; officials; appointees; municipal employees; agents, servants and/or other employees obey the laws of the State of New Jersey and the United States of America.

9. Defendant Union City is a duly designated municipality of the state of New Jersey, under the laws of the state of New Jersey.

10. At all times relevant hereto, Defendant Union City employed the aforementioned Defendants and/or were acting under the authority of Defendant Union City. As such, it was responsible for the training, supervision and conduct of Defendants Stack, Luster and/or John Does 1-10.

11. Suit is brought against all individually named Defendants in their personal and official capacities.

FACTUAL ALLEGATIONS

1. Plaintiff is a U.S. Department of Homeland Security (Immigration and Customs Enforcement) Special Agent.

2. On or about 11/14/2012, FBI agents raided Union City Hall as part of a corruption probe.

3. On 11/30/12, Plaintiff was a resident of 605 New York Avenue, Apartment 701, Union City, New Jersey. Defendant Brian Stack, Union City Mayor, lived on the same street. Plaintiff did not know the Mayor and did not know that the Mayor lived on the same street.

4. On 11/30/12, Plaintiff noticed a vehicle occupied by a female on the street outside of his residence. He noticed the female in the vehicle on a number of occasions throughout the day.

5. Plaintiff had a fellow federal agent staying with him during he time of Hurricane Sandy. On the morning of 12/1/12, Plaintiff received a text message from the agent relating that a note from the Union City Police Department had been left on the windshield of Plaintiff's government owned vehicle stating that Plaintiff's vehicle was "part of an ongoing investigation" and to contact the Union City Police department as soon as possible.

Both men parked their government owned vehicles on the street outside the apartment.

6. Plaintiff tried calling the number listed on the note but got no answer.

7. Plaintiff then went downstairs to retrieve the note from his windshield and saw the same female sitting in her vehicle as from the previous day. Plaintiff had observed this and other vehicles conducting what he thought was surveillance since the previous day. Prior to getting the note on his car, Plaintiff did not believe the surveillance was directed towards him.

8. Plaintiff approached her and asked her if she lived in the area.

9. The female responded: " Who the f**k are you? Why are you asking me that? Do you live in the area?"

10. Plaintiff told her that he did and pointed to his apartment.

11. The female tried to take a photograph of Plaintiff. Plaintiff turned away because his job requires him to perform undercover work.

12. Plaintiff advised her that she was going to call the police, to which she responded: "Call whoever you want, I'm calling whoever I have to."

13. Plaintiff heard the female make a call during which she related: "Brian, that guy from the silver car is asking me why I'm parked here."

14. Plaintiff called the Union City Police Department and reported the female occupying a suspicious vehicle with the vehicle's description and license plate number.

15. Another vehicle arrived and three males exited it. Plaintiff would later learn that one of the individuals was Defendant Mayor Brian Stack.

16. Defendant Stack walked up to Plaintiff and began screaming in Plaintiff's face: "Who the f**k are you questioning my girlfriend, you have no right! Who are you? Let me see some I.D.!"

17. Plaintiff asked Defendant why he was so angry and explained that he had just asked the female why she had been parked outside for so long. Plaintiff suggested that they just wait for the Police to get there.

18. Defendant Stack again screamed in Plaintiff's face, yelling "F**k you!"

19. Plaintiff called the police department again to advise that three males had arrived and were screaming at him.

20. Plaintiff heard Defendant Stack speak with someone on the phone telling them to "get the f**king Chief of Police down here!" Defendant then yelled to Plaintiff: "Let me see some I.D. Do you know who the f**k I am?"

21. Plaintiff told him that he did not know who he was. Defendant Stack responded: "I'm the f**king Mayor!"

22. Plaintiff asked him to show identification, to which Defendant Stack responded: "F**k you!"

23. Plaintiff identified himself as a federal agent to which Defendant Stack responded "I knew you were a fed! Go f**k yourself, you have no right to question my girlfriend!" Defendant Stack also said: "This is my city! F**k the Feds!" several times.

24. Defendant Luster and John Does 1-5 arrived at the scene as Defendant Stack paced around screaming profanities at Plaintiff.

25. Plaintiff identified himself to Defendant Luster as a federal agent and described the events leading up to her arrival.

26. Defendant Stack screamed: “Arrest him right now for harassment and impound those two vehicles!”, pointing to Plaintiff’s government owned vehicle and Plaintiff’s guest’s vehicle. During his encounter with Defendant Stack, Stack had grabbed Plaintiff by the arm and had poked him in the face.

27. Defendant Stack ordered that Plaintiff be detained. Plaintiff was surrounded by Union City police officers. Defendant Luster told Plaintiff: “You have to come with us to the Police station.” Plaintiff saw that one of the officers on the scene had his handcuffs ready to restrain Plaintiff.

28. Based on the facts and circumstances confronting him (*surrounded by police officers, one with handcuffs ready to restrain him and being ordered by Defendant Luster to come with them*) and his experience and training as a law enforcement officer, Plaintiff believed that he was not free to leave the scene and agreed to go to the police station.

29. Plaintiff drove his own vehicle but was escorted by police to the station.

30. Plaintiff was questioned at police headquarters by Defendants Luster and John Does 1-10. During the questioning, Defendant Luster stated that she needed “to determine if you guys are conducting an unsanctioned investigation against our mayor” and whether Plaintiff’s apartment had been rented for the purpose of conducting surveillance on Defendant Stack.

31. Defendants Luster and/or John Does 1-10 requested that Plaintiff consent to a search of his apartment. Plaintiff refused.

32. Defendant Luster told Plaintiff that Defendant Stack, as Mayor of Union City was also the Public Safety Director and as such, Defendant Luster worked for him.

33. Defendant Luster told Plaintiff that if “he (*Defendant Stack*) wants you charged, you will be charged.”

34. Plaintiff gave Defendant Luster the names of a Union City officer he had worked with on previous investigations who would vouch for his identity.

35. Defendant Luster contacted the officers and Plaintiff was released.

36. At some point prior to December 5, 2012, Plaintiff received notice from the State of New Jersey that his apartment was to be inspected on 12/5/12. Plaintiff believes that Defendant Stack used his influence and connections with the State of New Jersey (*he is a State Senator*) to schedule an unconstitutional, unlawful and unwarranted search of Plaintiff’s premises.

37. Based on the behavior of Defendants Stack, Luster and/or John Does 1-5 and at the urging of Plaintiff’s supervisors, Plaintiff moved out of his apartment with the assistance of his fellow agents approximately a month after the incident.

COUNT ONE
SECTION 1983 USE OF EXCESSIVE FORCE

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. Defendants Stack and/or John Does 1-5 used unreasonable and excessive force on Plaintiff’s person.
3. As a direct and proximate result of the above-referenced unlawful and malicious physical abuse of Plaintiff by Defendants Stack and/or John Des 1-5 committed under color of state law, Plaintiff was deprived of his right to be secure in his person against unreasonable seizure of his person, in violation of the Fourth and Fourteenth Amendments of the Constitution of the United States and U.S.C. Section 1983.
4. As a direct and proximate cause of the malicious and outrageous conduct of Defendants as set forth above, Plaintiff was deprived of his constitutional rights and will incur

additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Ricky Patel demands judgment against Defendants Brian Stack and/or John Does 1-5 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

COUNT TWO
SECTION 1983 ILLEGAL SEARCH / SEIZURE

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.

2. The aforementioned acts of Defendants Stack, Luster and/or John Does 1-5 committed under color of state law in seizing Plaintiff's person, taking him into custody and arresting him was unjustified, without probable cause, reasonable suspicion or any other exception to the warrant requirements under the Fourth and Fourteenth Amendments of the Constitution of the United States.

3. The aforementioned acts were in violation of Plaintiff's right to be free from unreasonable search and seizure under the Fourth Amendment of the Constitution of the United States, and the right to be free of the deprivation of liberty under the Fourteenth Amendment of the Constitution of the United States, made actionable through 42 U.S.C. Section 1983.

4. By reason of the above Plaintiff was deprived of his constitutional rights and will incur additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Ricky Patel demands judgment against Defendants Stack, Luster and/or John Does 1-5 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

COUNT THREE
SECTION 1983 FALSE ARREST / IMPRISONMENT

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. The aforementioned acts of Defendants Stack, Luster and/or John Does 1- 5 in seizing Plaintiff's person, taking him into custody, arresting and/or imprisoning him was without probable cause under the Fourth and Fourteenth Amendments of the Constitution of the United States.
3. The aforementioned acts were in violation of Plaintiff's right to be free from unreasonable seizure under the Fourth Amendment of the Constitution of the United States, and the right to be free of the deprivation of liberty under the Fourteenth Amendment of the Constitution of the United States, protected by 42 U.S.C. Section 1983.
4. As a direct and proximate cause of conduct of Defendants set forth above Plaintiff was deprived of his constitutional rights and will incur additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Ricky Patel demands judgment against Defendants Stack, Luster and/or John Does 1-5 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

COUNT FOUR
SECTION 1983 FAILURE TO INTERVENE

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. Defendants Luster and/or John Does 1-5 were Union City Police Officers and at all times mentioned herein were acting under color of state law.
3. Defendants Luster and/or John Does 1-5 had a duty to intervene in the unjustified

assault and arrest of Plaintiff by Defendants Stack, Luster and/or John Does 1-5.

4. The unjustified assault and arrest of Plaintiff by Defendants Stack, Luster and/or John Does 1-5 deprived Plaintiff of his right to be secure in his person against unreasonable seizure in violation of the Fourth and Fourteenth Amendments of the Constitution of the United States and made actionable through 42 U.S.C. Section 1983.

5. Defendants Luster and/or John Does 1-5 had a reasonable opportunity to intervene in the unjustified arrest and assault of Plaintiff by Defendants Stack, Luster and/or John Does 1-5 and failed to intervene.

6. As a direct and proximate cause of conduct of Defendants set forth above, Plaintiff was deprived of his constitutional rights and will incur additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Ricky Patel demands judgment against Defendants Luster and/or John Does 1-5 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

COUNT FIVE
SECTION 1983 SUPERVISORY LIABILITY

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.

2. Defendants Stack; Luster; John Does 2, and/or John Does 6-10 were supervisory officials and/or officers in charge at the time Plaintiff was arrested and assaulted.

3. Defendants Stack; Luster; John Does 2, and/or John Does 6-10 had a duty to prevent subordinate officers Luster and/or John Does 1-5 from violating the constitutional rights of citizens.

4. Defendants Stack; Luster; John Does 2, and/or John Does 6-10 either directed Defendants Luster and/or John Does 1-5 to violate Plaintiff's constitutional rights or had knowledge of and acquiesced in his/their subordinate's violations.

5. Defendants Stack; Luster; John Does 2, and/or John Does 6-10 failed to adequately track departmental excessive force complaints, administrative complaints and/or use of force incidents in violation of Union City Police Department policies, practices, customs and/or guidelines and/or the New Jersey Attorney General's Use of Force and/or Internal Affairs Guidelines, and/or failed to discipline officers for such violations.

6. By reason of the above Plaintiff was deprived of his constitutional rights and will incur suffer additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Ricky Patel demands judgment against Defendants Stack; Luster; John Does 2, and/or John Does 6-10 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

COUNT SIX
SECTION 1983 ABUSE OF PROCESS

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. Defendants Stack and/or John Does 1-10 caused an issuance of process in the form of a State of New Jersey Notice of Inspection of Plaintiff's premisses.
3. After the initial issuance of such process against Plaintiff, Defendants Stack and/or John Does 1-10 used such "process" to accomplish some ulterior purpose for which it was not designed or intended, or which was not the legitimate purpose of the particular process employed.

4. Specifically, Defendants Stack and/or John Does 1-10 used the issuance of process (*the State Notice of Inspection of Plaintiff's premises*) as a means of entry to Plaintiff's residence to initiate an illegal, unjustified and unwarranted search to determine if Plaintiff was using his apartment to conduct surveillance on Defendant Stack as part of an FBI investigation.

5. By reason of the above Plaintiff was injured, deprived of his constitutional rights and will incur additional special damages in the future in an amount which cannot yet be determined.

6. As a direct and proximate result of the acts of Defendants Stack and/or John Does 1-10 as set forth herein, Plaintiff

WHEREFORE, Plaintiff Ricky Patel demands judgment against Defendants Brian Stack and/or John Does 1-10, on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

COUNT SEVEN
SECTION 1983 UNLAWFUL POLICY, CUSTOM, PRACTICE
INADEQUATE TRAINING

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. Defendants Union City; Brian Stack in his position of Director of Public Safety and/or Mayor, and/or John Does 6-10 are vested by state law with the authority to make policy on : (1) the use of force; internal affairs investigations and/or administrative reviews pursuant to the Union City Police Department policies, practices and/or customs and/or the New Jersey Attorney General's Use of Force and/or Internal Affairs Guidelines; (2) effectuating arrests; (3) police citizen encounters, and/or (4) disciplining officers.
3. Defendants Union City, Stack; Luster, and/or John Does 6- 10 are responsible for training Police Officers in the use of force, effectuating arrest and/or were officers in charge

when Plaintiff Ricky Patel was assaulted and arrested.

4. At all times mentioned herein, Defendants Stack, Luster and/or John Does 1- 10, as police officers; agents; servants; appointees, and/or employees of Defendant Union City, were acting under the direction and control of Defendants Union City, Stack and/or John Does 1-10, and , and were acting pursuant to the official policy, practice or custom of Defendants Union City, Stack and/or John Does 1-10.

5. Acting under color of law pursuant to official policy, practice, or custom, Defendants Union City; Stack; Luster and/or John Does 6-10 intentionally, knowingly, recklessly and/or with deliberate indifference failed to train, instruct, supervise, control, and discipline on a continuing basis, Defendants Stack, Luster and/or John Does 1-10 in their duties to refrain from: (1) unlawfully and maliciously assaulting, arresting and harassing citizens; (2) intentionally, recklessly and/or negligently misrepresenting the facts of arrests and/or other police-citizen encounters; (3) falsifying police and/or other official records; (4) withholding and/or mishandling evidence; (5) making false arrests and seizing citizens without probable cause or legal justification, and/or (6) using unreasonable and excessive force.

6. Defendant Stack as Union City Director of Public Safety and/or Mayor, along with Defendants John Does 6-10 presided over and acted in accordance with and in furtherance of an unconstitutional policy, custom and/or practice of using Union City police officers and/or other municipal agents; servants; employees, and or appointees in the service of: harassing; falsely arresting; maliciously prosecuting; assaulting, and or retaliating against citizens and/or law enforcement officers who were perceived by Defendants Stack and/or John Does 6-10 to be investigating instances of official misconduct on the part of Defendants Stack and/or John Does 6-10.

7. Specifically, Defendants Stack and/or John Does 6-10 used Defendant Stack's position as Mayor and/or Director of Public Safety to assault, falsely arrest and illegally seize Plaintiff Ricky Patel's person, ordering Defendants Luster and/or John Does 1-5 to take Plaintiff into custody. Defendants Stack and/or John Does 6-10 illegally used Defendant Stack's position as Mayor and/or Director of Public Safety to question Plaintiff at Union City police headquarters based on the erroneous belief that Plaintiff was an FBI agent investigating Defendant Stack as part of an ongoing corruption probe.

8. Defendants Union City and/or John Does 6-10 are well aware of the unconstitutional policy, practice and/or custom created, utilized and maintained by Defendants Stack and/or John Does 6-10. Specifically, Defendant Stack has been named as a Defendant in at least one other lawsuit filed by a citizen alleging harassment and false arrest in retaliation for investigating instances of official misconduct on Defendant Stack's part: Medina v. City of Union City/ Stack, et als. Civil Action#: 13-04393 (SDW-SCM).

9. Despite their awareness, Defendants Union City, Stack and/or John Does 6-10 failed to cease or halt the unconstitutional policy, custom and/or practice created by Defendants Stack and/or John Does 6-10.

10. Defendants Union City, Stack and/or John Does 6-10 had knowledge of, or, had they diligently exercised their duties to supervise and control Defendants Stack and/or John Does 6-10 on a continuing basis, should have had knowledge that the wrongs which were done, as heretofore alleged, were about to be committed.

11. Defendants Union City, Stack and/or John Does 6-10 had power to prevent or aid in preventing the commission of said wrongs, could have done so by reasonable diligence, and intentionally, knowingly, recklessly and/or with deliberate indifference failed to do so.

12. Defendants Union City, Stack and/or John Does 6-10, directly or indirectly, under color of state law, approved and/or ratified the unlawful, deliberate, malicious, reckless, and wanton conduct of Defendants Stack and/or John Does 6-10 heretofore described.

13. As a direct and proximate cause of conduct of Defendants set forth above, Plaintiff was deprived of his Fourth and Fourteenth Amendment constitutional rights and will incur additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Ricky Patel demands judgment against Defendants Union City, Stack and/or John Does 6-10 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

COUNT EIGHT

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.

2. Defendants Union City; Union City Director of Public Safety Brian Stack; Lieutenant Nichelle Luster and/or John Does 6-10 are vested by state law with the authority to make policy on : (1) the use of force; internal affairs investigations and/or administrative reviews pursuant to the Union City Police Department policies, practices and/or customs and/or the New Jersey Attorney General's Use of Force and/or Internal Affairs Guidelines; (2) effectuating arrests; (3) police citizen encounters, and/or (4) disciplining officers.

3. Defendants Stack, Luster and/or John Does 6- 10 are responsible for training Police Officers in the use of force, effectuating arrest and/or were officers in charge when Plaintiff Ricky Patel was assaulted and arrested.

4. At all times mentioned herein, Defendants Stack, Luster and/or John Does 1- 5, as police officers, agents, servants and/or employees of Defendant Union City, were acting under

the direction and control of Defendant Union City's Police Department, Defendants Stack, Luster and/or John Does 6-10, and were acting pursuant to the official policy, practice or custom of the Union City Police Department.

5. Acting under color of law pursuant to official policy, practice, or custom, Defendants Union City; Stack; Luster, and/or John Does 6-10 intentionally, knowingly, recklessly and/or with deliberate indifference failed to train, instruct, supervise, control, and discipline on a continuing basis, Defendants Luster, Stack and/or John Does 1-10 in their duties to refrain from: (1) unlawfully and maliciously assaulting, arresting and harassing citizens; (2) intentionally, recklessly and/or negligently misrepresenting the facts of arrests and/or other police-citizen encounters; (3) falsifying police and/or other official records; (4) withholding and/or mishandling evidence; (5) making false arrests, and/or (6) using unreasonable and excessive force.

6. Acting under color of law pursuant to official policy, practice, or custom, Defendants Union City; Stack; Luster, and/or John Does 6-10 intentionally, knowingly, recklessly and/or with deliberate indifference implemented and/or conducted superficial and shallow Internal Affairs processes which ignored evidence and patterns of police misconduct on individual and departmental levels. Defendants Union City; Stack, Luster and/or John Does 6-10 failed to professionally, objectively and/or expeditiously investigate instances and patterns of police misconduct in violation of the spirit and substance of the New Jersey Attorney General's Guidelines for Internal Affairs Policy and Procedures.

7. Defendants Union City; Stack; Luster, and/or John Does 6-10 failed to adequately track departmental excessive force complaints, administrative complaints and/or use of force incidents in violation of Union City Police Department policies, practices, customs and/or guidelines and/or the New Jersey Attorney General's Use of Force and/or Internal Affairs

Guidelines, and/or failed to discipline officers for such violations.

8. Defendants Union City; Stack; Luster, and/or John Does 6- 10 were aware of numerous similar police citizen encounters involving, and/or Internal Affairs complaints and/or civil lawsuits filed against Defendants Stack; Luster; John Does 1-10, and/or other Union City Police Officers whereby they customarily and frequently subjected citizens held in custody to physical and mental abuse; unlawfully and maliciously assaulted, arrested and harassed citizens; intentionally, recklessly and/or negligently misrepresented the facts of arrests and/or other police-citizen encounters; falsified police and/or other official records; made false arrests, mishandled and/or withheld evidence and/or used unreasonable and excessive force on citizens/arrestees.

9. Union City police officers have been named in at least two prior lawsuits alleging police misconduct against citizens: . Peguero / DeCastro v. Union City, et als. , Civil Action#: 12-06045(ES-SCM), and Peguero v. Union City, et als. ,Civil Action#: 10-01768 (KSH-PS).

10. Despite their awareness, Defendants Union City; Stack; Luster, and/or John Does 6-10 failed to employ any type of corrective or disciplinary measures against Defendants Stack; Luster; John Does 1-10, and/or other Union City Police Officers.

11. Defendants Union City; Stack; Luster, and/or John Does 6-10 had knowledge of, or, had they diligently exercised their duties to instruct, train, supervise, control, and discipline Defendants Stack, Luster and/or John Does 1-10 on a continuing basis, should have had knowledge that the wrongs which were done, as heretofore alleged, were about to be committed.

12. Defendants Union City; Stack; Luster, and/or John Does 6-10 had power to prevent or aid in preventing the commission of said wrongs, could have done so by reasonable diligence, and intentionally, knowingly, recklessly and/or with deliberate indifference failed to do so.

13. Defendants Union City; Stack; Luster, and/or John Does 6-10, directly or indirectly, under color of state law, approved and/or ratified the unlawful, deliberate, malicious, reckless, and wanton conduct of Defendants Stack, Luster and/or John Does 1-10 heretofore described.

14. As a direct and proximate cause of conduct of Defendants set forth above, Plaintiff was deprived of his Fourth and Fourteenth Amendment constitutional rights and will incur additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Ricky Patel demands judgment against Defendants Union City; Stack; Luster, and/or John Does 6-10 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

SUPPLEMENTAL STATE CLAIMS

COUNT NINE
VIOLATION OF NEW JERSEY CIVIL RIGHTS ACT (NJCR)

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. The false arrest/imprisonment; illegal search and seizure; malicious abuse of process, and excessive force used by Defendants Stack, Luster and/or John Does 1-10 set forth at length above, deprived Plaintiff of his substantive due process right to be free from unlawful seizure of his person and his fundamental right to liberty secured by the Constitution of the United States and the Constitution of the State of New Jersey, in violation of N.J.S.A. 10:6-1, *et seq.* ("The New Jersey Civil Rights Act")
3. Plaintiff invokes the supplemental jurisdiction of this court to hear and determine this claim.

4. As a direct and proximate cause of conduct of Defendants set forth above, Plaintiff was deprived of his Fourth and Fourteenth Amendment constitutional rights and will incur additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Ricky Patel demands judgment against Defendants Stack, Luster and or John Does 1-10, on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

COUNT TEN
ASSAULT AND BATTERY

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. Defendants Stack and/or John Does 1-5 committed an assault and battery on Plaintiff by physically injuring him without justification and/or by putting him in reasonable apprehension of serious and imminent bodily harm.
3. The assault and battery committed by Defendants was contrary to the common law of the State of New Jersey.
4. Plaintiff invokes the supplemental jurisdiction of this court to hear and determine this claim.
5. As a result of the intentional, reckless, negligent and/or objectively unreasonable assault and battery, as specifically alleged above, Plaintiff Plaintiff was injured and will incur additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Ricky Patel demands judgment against Defendants Brian Stack and/or John Does 1-5, on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

COUNT ELEVEN
ABUSE OF PROCESS

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. Defendants Stack and/or John Does 1-10 caused an issuance of process in the form of a State of New Jersey Notice of Inspection of Plaintiff's premises.
3. After the initial issuance of such process against Plaintiff, Defendants Stack and/or John Does 1-10 used such "process" to accomplish some ulterior purpose for which it was not designed or intended, or which was not the legitimate purpose of the particular process employed.
4. Specifically, Defendants Stack and/or John Does 1-10 used the issuance of process (*the State Notice of Inspection of Plaintiff's premises*) as a means of entry to Plaintiff's residence to initiate an illegal, unjustified and unwarranted search to determine if Plaintiff was using his apartment to conduct surveillance on Defendant Stack as part of an FBI investigation.
5. By reason of the above Plaintiff was injured, deprived of his constitutional rights and will incur additional special damages in the future in an amount which cannot yet be determined.
6. Defendants' actions were in violation of the common law of the State of New Jersey and Plaintiff invokes the supplemental jurisdiction of this court to hear and determine this claim.

WHEREFORE, Plaintiff Ricky Patel demands judgment against Defendants Brian Stack and/or John Does 1-10, on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

DEMAND FOR TRIAL BY JURY

Plaintiff hereby demands a trial by jury as to all issues.

DESIGNATION OF TRIAL COUNSEL

Please be advised that Thomas J. Mallon, Esquire is hereby designated trial counsel in the above captioned matter.

Dated: November 26, 2014

/s/ Thomas J. Mallon, Esquire
THOMAS J. MALLON, ESQUIRE

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, Email and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.