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MICHAEL MARSHALEK and FAIKUM MARSHALEK, on behalf of themselves and their minor child N.M.,

Plaintiffs

v.

CITY OF HOBOKEN; RAVI BHALLA, in his individual and official capacity; HOBOKEN POLICE DEPARTMENT; KEN FERRANTE, in his individual and official capacity; GINO JACOBELLI, in his individual and official capacity; MELISSA GIGANTE, in her individual and official capacity; DENNIS FIGUEROA, in his individual and official capacity; WILLIAM COLLINS, in his individual and official capacity; CHRISTOPHER LABRUNO, in his individual and official capacity; LUKE ZESZOTARSKI, in his individual and official capacity; JOHN QUINONES, in his individual and official capacity; VITO GIGANTE, in his individual and official capacity; NATE AROCHO, in his individual and official capacity; NEW JERSEY DEPARTMENT OF CHILD PROTECTION AND PERMANENCY; PAVITRA BADAMI, in her individual and official capacity; HUDSON COUNTY, CARLOS CLAVIJO, in his individual and official capacity; HUDSON COUNTY PROSECUTOR’S OFFICE, ESTHER SUAREZ, in her individual and official capacity; JANE WEINER, in her individual and official capacity; DENNIS J. MURRAY, in his individual and official capacity; ERICA BERTUZZI, in her individual and official capacity; ADAM SALAZAR, in his individual and official

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: HUDSON COUNTY
DOCKET NO.

Civil Action

COMPLAINT AND JURY DEMAND

capacity; HOBOKEN BOARD OF EDUCATION, MALANI CADEMARTORI, in her individual and official capacity; JANE AND JOHN DOES 1-10; and ABC CORPS. 1-10,

Defendants.

Plaintiffs, Michael Marshalek and Faikum Marshalek, on behalf of themselves and their minor child N.M. (“Plaintiffs”), by way of complaint against the Defendants City of Hoboken; Ravi Bhalla, in his individual and official capacity; Hoboken Police Department; Ken Ferrante, in his individual and official capacity; Gino Jacobelli, in his individual and official capacity; Melissa Gigante, in her individual and official capacity; Dennis Figueroa, Jr., in his individual and official capacity; William Collins, in his individual and official capacity; Christopher LaBruno, in his individual and official capacity; Luke Zeszotarski, in his individual and official capacity; John Quinones, in his individual and official capacity; Vito Gigante, in his individual and official capacity; Nathaniel Arocho, in his individual and official capacity; New Jersey Department of Child Protection and Permanency, Pavitra Badami, in her individual and official capacity; Hudson County; Carlos Clavijo, in his individual and official capacity; Hudson County Prosecutor’s Office; Esther Suarez, in her individual and official capacity; Jane Weiner, in her individual and official capacity; Dennis J. Murray, in his individual and official capacity; Erica Bertuzzi, in her individual and official capacity; Adam Salazar, in his individual and official capacity; Hoboken Board of Education; Malani Cademartori, in her individual and official capacity; Jane and John Does 1-10; and ABC Corps. 1-10 (hereinafter referred to collectively as “Defendants”) says:

PARTIES

1. Plaintiff Michael Marshalek (“Michael”) is a New Jersey resident married to Faikum Marshalek and has a residence at 736 Garden Street, Hoboken, New Jersey 07030.

2. Plaintiff Faikum Marshalek (“Faikum”) is a New Jersey resident married to Michael and has a residence at 736 Garden Street, Hoboken, New Jersey 07030.

3. Plaintiff N.M. (“N.M.”) is the minor child of Michael and Faikum Marshalek residing in New Jersey.

4. At all relevant times herein, Defendant City of Hoboken (the “City”), was and is a governmental entity organized and existing pursuant to the laws of the State of New Jersey, with a place of business at 94 Washington Street, Hoboken, New Jersey 07030, which controls the Hoboken Police Department and the Hoboken Board of Education.

5. Upon information and belief, at all relevant times herein, Defendant Mayor Ravi Bhalla (“Bhalla”) was an employee and/or elected official of the City acting in his individual, personal, and official capacities. Upon information and belief, Bhalla was and is a resident of New Jersey.

6. At all relevant times herein, Defendant Hoboken Police Department (the “Police Department”), was and is a governmental entity organized and existing pursuant to the laws of the State of New Jersey, with a place of business at 106 Hudson Street, Hoboken, New Jersey 07030.

7. Upon information and belief, at all relevant times herein, Defendant Police Chief Ken Ferrante (“Ferrante”) was an employee of the City and the Police Department acting in his individual, personal, and official capacities. Upon information and belief, Ferrante was and is a resident of New Jersey.

8. Upon information and belief, at all relevant times herein, Defendant Captain Gino Jacobelli (“Jacobelli”) was and is an employee of the City and the Police Department acting in her individual, personal, and official capacities. Upon information and belief, Jacobelli was and is a resident of New Jersey.

9. Upon information and belief, at all relevant times herein, Defendant Lieutenant Melissa Gigante (“Gigante”) was an employee of the City and the Police Department acting in her individual, personal, and official capacities. Upon information and belief, Gigante was and is a resident of New Jersey.

10. Upon information and belief, at all relevant times herein, Defendant Sargent Dennis Figueroa, Jr. (“Figueroa”) was and is an employee of the City and the Police Department acting in her individual, personal, and official capacities. Upon information and belief, Figueroa was and is a resident of New Jersey.

11. Upon information and belief, at all relevant times herein, Defendant Sargent William Collins (“Collins”) was and is an employee of the City and the Police Department acting in her individual, personal, and official capacities. Upon information and belief, Collins was and is a resident of New Jersey.

12. Upon information and belief, at all relevant times herein, Defendant Sergeant Christopher LaBruno (“LaBruno”) was an employee of the City and the Police Department acting in his individual, personal, and official capacities. Upon information and belief, Gigante was and is a resident of New Jersey.

13. Upon information and belief, at all relevant times herein, Defendant Sergeant Luke Zeszotarski (“Zeszotarski”) was an employee of the City and the Police Department, specifically the ESU Supervisor acting in his individual, personal, and official capacities. Upon information and belief, Zeszotarski was and is a resident of New Jersey.

14. Upon information and belief, at all relevant times herein, Defendant Detective John Quinones (“Quinones”) was an employee of the City and the Police Department acting in his

individual, personal, and official capacities. Upon information and belief, Quinones was and is a resident of New Jersey.

15. Upon information and belief, at all relevant times herein, Defendant Detective Vito Gigante (“Vito”) was an employee of the City and the Police Department acting in his individual, personal, and official capacities. Upon information and belief, Gigante was and is a resident of New Jersey.

16. Upon information and belief, at all relevant times herein, Defendant Officer Nathaniel Arocho (“Arocho”) was an employee of the City and the Police Department, specifically ranking member of the Emergency Response Unit acting in his individual, personal, and official capacities. Upon information and belief, Arocho was and is a resident of New Jersey.

17. At all relevant times herein, Defendant New Jersey Department of Child Protection and Permanency (the “DCPP”), was and is a governmental entity organized and existing pursuant to the laws of the State of New Jersey, with a place of business at 438 Summit Avenue, 4th Floor Jersey City, New Jersey 07306.

18. Upon information and belief, at all relevant times herein, Defendant Pavitra Badami (“Badami”) was and is a Deputy Attorney General prosecuting cases for the DCPP acting in her individual, personal, and official capacities. Upon information and belief, Badami was and is a resident of New Jersey.

19. At all relevant times herein, Defendant Hudson County (the “County”), was and is a governmental entity organized and existing pursuant to the laws of the State of New Jersey, with a place of business at 257 Cornelison Avenue, 4th Floor, Jersey City, New Jersey 07302, which controls the Hudson County Prosecutor’s Office.

20. Upon information and belief, at all relevant times herein, Defendant Sergeant Carlos Clavijo (“Clavijo”) was an employee of the County and the Hudson County Regional SWAT Team acting in his individual, personal, and official capacities. Upon information and belief, Clavijo was and is a resident of New Jersey.

21. At all relevant times herein, Defendant Hudson County Prosecutor’s Office (the “Prosecutor’s Office”), was and is a governmental entity organized and existing pursuant to the laws of the State of New Jersey, with a place of business at 595 Newark Avenue, Jersey City, New Jersey 07306.

22. Upon information and belief, at all relevant times herein, Defendant Esther Suarez (the “Prosecutor”) was and is an employee of the Hudson County Prosecutor’s Office acting in her individual, personal, and official capacities. Upon information and belief, the Prosecutor was and is a resident of New Jersey.

23. Upon information and belief, at all relevant times herein, Defendant Chief Assistant Prosecutor Jane Weiner (“Weiner”) was and is an employee of the Hudson County Prosecutor’s Office acting in her individual, personal, and official capacities. Upon information and belief, Weiner was and is a resident of New Jersey.

24. Upon information and belief, at all relevant times herein, Defendant Assistant Prosecutor Dennis J. Murray (“Murray”) was and is and is an employee of the Hudson County Prosecutor’s Office acting in his individual, personal, and official capacities. Upon information and belief, Murray was and is a resident of New Jersey.

25. Upon information and belief, at all relevant times herein, Defendant Assistant Prosecutor Erica Bertuzzi (“Bertuzzi”) was and is an employee of the Hudson County Prosecutor’s

Office acting in her individual, personal, and official capacities. Upon information and belief, Bertuzzi was and is a resident of New Jersey.

26. Upon information and belief, at all relevant times herein, Defendant Assistant Prosecutor Adam Salazar (“Salazar”) was and is an employee of the Hudson County Prosecutor’s Office acting in her individual, personal, and official capacities. Upon information and belief, Salazar was and is a resident of New Jersey

27. At all relevant times herein, Defendant Hoboken Board of Education (the “BOE”), was and is a governmental entity organized and existing pursuant to the laws of the State of New Jersey, with a place of business at 158 4th Street, Hoboken, New Jersey 07030.

28. Upon information and belief, at all relevant times herein, Defendant Malani Cademartori (“Cademartori”) was and is a Member of the BOE acting in her individual, personal, and official capacities. Upon information and belief, Cademartori was and is a resident of New Jersey.

29. There are several other individuals and/or corporations who may have been involved in the issues and decisions relevant herein who are unknown at this time and listed as Defendants John and Jane Does 1-10 and Defendants ABC Corps. 1-10.

JURISDICTION AND VENUE

30. Upon information and belief, all parties are New Jersey residents; as such, New Jersey has jurisdiction.

31. Upon information and belief all parties involved herein reside and/or maintain principal places of business within Hudson County and the events at issue took place in Hudson County; as such, Hudson County is the proper venue.

NOTICES OF CLAIMS

32. On or about January 9, 2021, Plaintiffs sent a notice of claim to the City.

33. On or about January 9, 2021, Plaintiffs sent a notice of claim giving substantial notice to the County. Further, on or about September 1, 2022, Plaintiffs sent another notice of claim to Hudson County outlining additional claims.

34. On or about January 9, 2021, Plaintiffs sent a notice of claim to the State of New Jersey.

FACTUAL BACKGROUND

35. In or about the fall of 2020, N.M., who was five (5) years old at the time and has respiratory issues, was having difficulty breathing with his mask in his school at the Brandt School in Hoboken, New Jersey (the “School”).

36. As a result, Plaintiffs made their displeasure with the mask mandate at the School known.

37. At an August 20, 2020 City Council meeting, Michael made comments disapproving of Bhalla’s policy of a fine for failure to wear a mask.

38. Thereafter, Michael, with Faikum carbon copied, sent emails critical of the mask policy of the School. His opposition to the mask policy was also on social media.

39. Upon information and belief, Cademartori, a BOE Member, made her displeasure at Michael’s remarks and emails known.

40. Plaintiffs informed the School of the issues N.M., who has asthma, was having breathing while wearing a mask.

41. Then, on October 15, 2020, Michael attempted to drop N.M. off at the School without a mask. LaBruno prevented N.M. from entering the school and called Gigante, his supervisor.

42. Gigante, who was at the School ostensibly to promote “safety,” informed Michael that N.M. could not enter the school without a mask.

43. Gigante then told Michael he should take N.M. home and have him log on to the School’s remote learning.

44. As instructed, Michael took N.M. home.

45. In the State of New Jersey, children are not legally required to be enrolled in school until they are six (6) years of age. N.M. was five (5) years of age at the time Michael took him home on October 15, 2020.

46. However, based on her own bias and anger toward Michael for his position on masking, Gigante allegedly did not “trust” that Michael would have his child, who was not required to be enrolled in school, log onto the remote learning.

47. As such, without any non-discriminatory, legitimate or legal reason to do so, Gigante called the Police Department’s Mobile Crisis Unit to check on Michael at his residence. Approximately two (2) hours after Michael took N.M. home, the Mobile Crisis Unit knocked on the door of Plaintiffs’ residence, but no one answered. As such, the Mobile Crisis Unit reported that there was no answer at the residence to Gigante, who came to Plaintiffs’ residence personally.

48. Incredibly, based on her discriminatory belief that Michael would not log his five (5) year old son onto virtual learning just a couple hours after their interaction at the School, Gigante called the Police Department’s Emergency Services Unit to be on “standby” in case Police

Department needed to “breach the door” and enter Plaintiffs’ residence, ostensibly to ensure a five (5) year old didn’t miss a day of remote learning.

49. Gigante herself went to Plaintiffs’ residence and attempted to enter, opening the front door and going into the foyer. However, the second door into the residence was closed and locked. According to her testimony in Court, amazingly, Gigante felt at that point she would have been justified entering Plaintiffs’ property forcefully. However, Gigante did not breach the door at that point.

50. Instead, without just cause and with malicious intent, Gigante called the DCPP because she allegedly believed there was “neglect of education” due to a five (5) year old missing one day of school, which he was not legally required to attend.

51. Gigante emailed Michael and demanded he speak with her. Plaintiffs responded later that night via email, telling her there was nothing to discuss.

52. The next day, October 16, 2020, Michael and Faikum decided that they would not bring their child to school on that day and instead would discuss virtual learning options.

53. However, Gigante, angry that a private citizen would tell her that he did not want to speak with her when she wanted to speak to him, decided to take the matter further. In her testimony, Gigante stated, “just because he doesn’t want a conversation ... doesn’t mean I don’t have one with him.”

54. As such, the next morning she sent Figueroa and DCPP to Plaintiffs’ residence again, and again did not get a response.

55. Shortly thereafter, and, upon information and belief in coordination with the Police Department, Plaintiffs alleged “neighbor,” Cademartori, called LaBruno. She reported false and inflammatory irrelevant hearsay information over a month old about Plaintiffs. Cademartori gave

this information knowing that it was false or at the very least likely false, and with the specific malicious intent of harming Michael.

56. Cademartori falsely alleged that Faikum complained to a third-party (who was never questioned) that Michael was verbally abusive and controlling of the couple's assets.

57. Although being a month old and irrelevant to the issue of N.M.'s education, Gigante and LaBruno used this trumped-up call to justify forcibly entering Plaintiffs' residence.

58. Cademartori is a Hoboken School Board member who, upon information and belief, was aware that Michael exercised his right to free speech and voiced concerns about children wearing masks to school and strongly disagreed with his position at the time.

59. Gigante called Captain Jacobelli, who, incredibly, approved Gigante forcibly entering Plaintiffs' residence without a warrant.

60. Arocho and the Emergency Response Unit staged for a breach without just cause to do so.

61. Thereafter, on October 16, 2020, just over twenty-four (24) hours after her interaction at the School with Michael, Gigante and dozens of heavily armed officers, including SWAT team members under the command of Clavijo, broke down the door to Plaintiffs' home.

62. Officers stuck a gun in Faikum's terrified face and demanded she leave her own home, ordering her to go to a waiting ambulance.

63. At that point, officers did not search the entire residence or remove Michael or N.M., who were hiding terrified in Faikum's meditation room. Rather, they called in *more* officers, including the ESU under the command of Zeszotarski, and closed Plaintiffs' entire block.

64. Chief Ferrante eventually came to the site and upon information and belief took charge of the situation. Upon information and believe, Mayor Bhalla was aware of and approved of the actions of the Police Department.

65. Upon information and belief there were upwards of eighty (80) officers at Plaintiffs' home – none of whom were wearing a mask.

66. This ordeal went on for hours needlessly building attention and tension to the situation while reporters gathered outside Michael and Faikum's home.

67. Faikum told the officers at the scene that her husband was not abusive and would never harm their child.

68. Despite this, not content with breaking one door down, some hours later dozens of police officers and SWAT team members broke down the door to Plaintiffs' other entrance, causing significant destruction to Plaintiffs' home.

69. Police Officers smashed windows, destroyed a glass patio door and two exterior front hallway doors, ransacked Plaintiffs' home and caused other destruction of Plaintiffs' property. They even stepped on and destroyed N.M.'s favorite toy, which he is still upset about. The also took Michael's phone and deleted videos (which would be evidence) from it.

70. During this entire incident until the point where Michael was forcibly removed from his own residence, no communication was made between Michael and the Defendants.

71. Michael, Faikum and N.M. were all removed from their home by the Defendants.

72. Incredibly, without any probable cause or any crime having been committed, Michael was arrest for endangering the welfare of a child. He was arrested by the same individuals who burst into N.M.'s home without probable cause or a warrant, waiving guns, terrifying the five (5) year old child, and putting his life in danger.

73. Collins, a Sergeant, who had prior inappropriate interactions with Michael, encouraged the arrest of Michael due to his own personal bias against Michael. Collins, as well as others at the Police Department, also put intentionally false and/or misleading information into various reports of the incident.

74. Vito, Gigante's husband, and Quinones were detectives who were at the scene and/or investigated the incident, and upon information and belief encouraged the breach and arrest of Michael for their own bias against Michael. They also put intentionally false and/or misleading information into various police reports of the incident.

75. Bertuzzi and Salazar were at the scene. Rather than put an end to the Police Department's clear overreach, they decided, upon conferring with Weiner, to sign off on the arrest of Michael.

76. Faikum was questioned at the police station, where she again informed Defendants that Michael had never and would never physically harm her or their child.

77. Without just cause, Michael was taken to the Jersey City Medical Center where he was wrongfully involuntarily committed to the psychiatric ward for approximately seven (7) days and then put in jail for another based on false information provided by the Police Defendants, including Collins and Gigante.

78. Thereafter, despite Faikum's testimony, Defendants conspired to both prosecute the criminal and DCPP charges against Michael and forcibly prohibit Michael from contacting his son for almost two (2) years. The actions of the various Defendants kept him from living with his wife and son for a period of almost (2) years without any probable cause, a valid search warrant or a legitimate criminal cause of action against him.

79. Further, in order to comply with the court's orders, Michael had to move out of his primary residence to another residence.

80. N.M.'s isolation from his father – ostensibly done to protect him – was so lengthy that N.M. kept asking Faikum if his father was dead. The emotional distress caused by Michael's separation from N.M. and Faikum was and continues to be a significant burden to the entire family.

81. Murray was the prosecutor prosecuting Michael, and upon information and belief the Prosecutor knew of and participated in the malicious prosecution of Michael.

82. Upon information and belief, Badami was and is the Deputy Attorney General prosecuting the DCPD case against Michael and continues to maliciously prosecute Michael.

83. Defendants further intentionally and maliciously publicly spread misinformation about the incident through various news outlets, publicly slandering Michael's character and tarnishing his reputation despite the lack of evidence of any wrongdoing.

84. During Michael's criminal case, Michael's defense attorney made a motion to bar all evidence obtained by the police based on an illegal search and seizure.

85. After months of delay by Murray and the Prosecutor's office, hearings were held in which Gigante, Figueroa, and others testified.

86. Then, on or about August 10, 2022, the Honorable Mitz Galis-Menendez explicitly found that the Police Department did not have probable cause to enter Plaintiffs' residence, resulting in the Prosecutor's Office dismissing the criminal charges against Michael.

87. Judge Galis-Menendez' decision clearly indicated that she questioned the veracity of the testimony of Gigante, and she very strongly opined that there was no probable cause.

88. Despite this, Badami continues to attempt to prosecute the DCPD action against Michael.

89. Defendants implemented policies, customs, or practices that resulted in a culture where the violations alleged above are not only allowed but encouraged.

90. Defendants, for all the reasons stated above, violated Plaintiffs' civil rights; failed to properly train and supervise their employees in the proper procedures to be used in entering a private residence without a warrant, among other failures to maintain, implement and enforce proper procedures and protocols.

91. Mayor Bhalla, Chief Ferrante, Captain Jacobelli, and the Prosecutor, as supervisory defendants and officials, failed to ensure that the employees under their control and supervision followed appropriate policy and procedure in the manner in which the civil rights of citizens, including Plaintiffs, were maintained.

92. Mayor Bhalla, Chief Ferrante, Captain Jacobelli, and the Prosecutor, as supervisory defendants and officials, implemented policies, customs, or practices that caused significant and material delays in providing Michael a fair opportunity to defend against the criminal charges and/or obtain access to his son.

93. The failures of the Defendants included but are not limited to failure to properly train and supervise and failure to set, maintain and enforce proper procedures.

94. The violation of Plaintiffs' rights and the arrest and prosecution of Michael was an abuse of process, an abuse of power and authority, and violative of proper procedure, custom, practice, and policy.

95. The failure to take proper precautions with Plaintiffs is a direct and proximate result of the failure to properly hire, train, and supervise law enforcement officers, and constitutes reckless and deliberate indifference to the serious likelihood of harm which in fact occurred.

96. Defendants were negligent, careless and reckless in entering Plaintiffs' residence and prosecuting him in violation of their duty, their own standard operating procedures, common law, statutory law, and common sense.

97. Defendants' conduct as described above was also discriminatory and in violation of Plaintiffs' civil rights.

98. Defendants' conduct was egregious, intentional and/or demonstrated deliberate indifference to the Plaintiffs' physical well-being.

99. As a direct and proximate result of the intentional and negligent acts of the Defendants, Plaintiffs were damaged.

100. Plaintiffs institute this action for compensatory and punitive damages arising out of the unlawful actions and conduct of Defendants who, acting under color of state law and under authority, custom and usage violated the civil rights of Plaintiff protected by and secured under the New Jersey State Constitution, 10 N.J.S.A. 6-1. et seq.

101. Plaintiffs also institute this action pursuant to the common law and statutory laws of the State of New Jersey for damages arising by reason of pain of suffering, negligence, failure to properly hire, train and supervise, failure to intervene, abuse of authority, failure to protect, among other acts of negligence and misconduct.

WHEREFORE, Plaintiffs demand judgment in their favor against Defendants, jointly and severally, awarding them damages, including incidental and consequential damages, statutory penalties, attorneys' fees, punitive damages, plus interest, costs of suit, and for other such relief as the Court may deem just, equitable, and proper.

COUNT ONE: NEW JERSEY STATE CONSTITUTIONAL AND CIVIL RIGHTS ACT VIOLATIONS

102. Plaintiffs repeat and re-allege each and every allegation contained in the above paragraphs and incorporates the same by reference.

103. At all relevant times herein and as described in detail above, Defendants were acting under color of law under the State Constitution, statutes, laws, charters, ordinances, rules, regulations, customs, usages and practices of the subject government departments, agencies and entities and within the scope of their authority as supervisors, employees and/or officers.

104. At all relevant times herein and as described in detail above, the aforementioned Defendants acted jointly and in concert with each other and conspired and agreed between and amongst themselves to subject Plaintiffs to inhumane conditions, discriminate against him, wrongfully prosecute him, and allow the Plaintiffs to be placed in a position of imminent danger and harm by, among other things.

105. At all relevant times herein and as described in detail above, Defendants, their agents, servants and/or employees acted with deliberate and conscious indifference to Plaintiffs' constitutional rights which violations arose out of a pattern or custom or policy and practice by each of the Defendants, in allowing, permitting and conducting the violation of procedures and protocol, maintaining inadequate policies and protocols for employee conduct, preventing discrimination, and preventing wrongful prosecution, as well as the failure to properly hire, train and supervise their employees, and John and Jane Does 1-10 in the proper conduct of their duties, among other acts and omissions.

106. At all relevant times herein and as described in detail above, Defendants individually as well as by their agents, servants and/or employees, by reason of their acts, omissions and deliberate and conscious indifference to the rights of the Plaintiff, deprived the Plaintiff his

rights, privileges and immunities secured by the New Jersey Constitution and laws of New Jersey, and are liable to Plaintiffs pursuant to the New Jersey State Constitution and the New Jersey Civil Rights Act.

107. Defendants, their agents, servants and/or employees deprived Plaintiffs of their rights, privileges, and immunities secured by the New Jersey Constitution and laws of the State of New Jersey including violations of their rights of due process and equal protection.

108. Defendants, their agents, servants and/or employees deprived Plaintiffs of their rights, privileges, and immunities secured by the New Jersey Constitution and laws of the State of New Jersey including violations of their rights of freedom of speech and freedom of assembly.

109. Defendants, their agents, servants and/or employees deprived the Plaintiffs of their rights, privileges, and immunities secured by the New Jersey Constitution and laws of the State of New Jersey prohibiting illegal searches and seizures.

110. Defendants, their agents, servants and/or employees deprived the Plaintiffs of their rights, privileges, and immunities secured by the New Jersey Constitution and laws of the State of New Jersey prohibiting cruel and unusual punishment.

111. Defendants, their agents, servants and/or employees deprived the Plaintiffs of their rights, privileges, and immunities secured by the New Jersey Constitution and laws of the State of New Jersey guaranteeing a speedy trial.

112. Defendants, their agents, servants and/or employees deprived the Plaintiff of his rights, privileges, and immunities secured by the New Jersey Civil Rights Act.

113. At all relevant times herein, the above-described acts were committed under color or law within the authority and scope of employment of the agents, servants, and employees of the Defendants.

114. Defendants acted pursuant to official and unofficial policy and/or custom and to deprive the Plaintiff of his constitutional rights under the New Jersey State Constitution and the New Jersey Civil Rights Act.

115. By the reason of the foregoing, Defendants violated the civil rights of Plaintiffs.

116. By reason of the foregoing, and as a direct and proximate result of Defendants' constitutional and statutory violations, the Plaintiffs sustained damages.

117. The intentional and malicious nature of the acts of Defendants justifies the imposition of punitive damages.

WHEREFORE, Plaintiffs demand judgment in their favor against Defendants, jointly and severally, awarding them damages, including incidental and consequential damages, statutory penalties, attorneys' fees, punitive damages, plus interest, costs of suit, and for other such relief as the Court may deem just, equitable, and proper.

COUNT TWO: NEGLIGENCE

118. Plaintiffs repeat and re-allege each and every allegation contained in the above paragraphs and incorporates the same by reference.

119. At all relevant times herein, Defendants were under a duty to act reasonably in the performance of their duties as law enforcement officers, educational providers, and supervisors in the handling of the subject harassment, arrest and prosecution of Michael and the unlawful entry into Plaintiffs' home.

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

121. As described in detail above, Defendants were negligent in their failure to properly evaluate evidence; failure to reach reasonable decisions and/or conclusions; failure to provide a safe environment; failure to provide an environment free of discrimination; failure to properly hire, retain, train and supervise officers; and failure to properly implement, enact, enforce, follow and maintain proper protocol, procedures, policies, rules and guidelines; and were otherwise negligent under the circumstances.

122. The personal injuries and emotional damages suffered by Plaintiffs were caused as a result of the negligence and carelessness of Defendants.

WHEREFORE, Plaintiffs demand judgment in their favor against Defendants, jointly and severally, awarding them damages, including incidental and consequential damages, statutory penalties, attorneys' fees, punitive damages, plus interest, costs of suit, and for other such relief as the Court may deem just, equitable, and proper.

COUNT THREE: TRESPASS

123. Plaintiffs repeat and reallege the allegations of paragraphs above as if set forth herein.

124. As stated above, the Police Department, Ferrante, Jacobelli, Gigante, Figueroa, Collins, LaBruno, Zeszotarski, Quinones, Arocho, Clavijo, Bertuzzi, Salazar and others (the "Police Defendants") entered Plaintiffs' home without consent, probable cause or a warrant.

125. Defendants then forcibly removed Plaintiffs from their home, destroying personal property and damaging Plaintiff's residence in the process.

126. Defendants' actions constitute trespass.

127. As a direct and proximate result of Defendants' trespass, Plaintiff suffered damages.

WHEREFORE, Plaintiffs demand judgment in their favor against Defendants, jointly and severally, awarding them damages, including incidental and consequential damages, statutory penalties, attorneys' fees, punitive damages, plus interest, costs of suit, and for other such relief as the Court may deem just, equitable, and proper.

COUNT FOUR: HARASSMENT

128. Plaintiff repeats and realleges the allegations of paragraphs above as if set forth herein.

129. Defendants harassed Plaintiffs as stated at length above.

130. As a direct and proximate result of Defendants' harassment, Plaintiffs suffered damages.

WHEREFORE, Plaintiffs demand judgment in their favor against Defendants, jointly and severally, awarding them damages, including incidental and consequential damages, statutory penalties, attorneys' fees, punitive damages, plus interest, costs of suit, and for other such relief as the Court may deem just, equitable, and proper.

COUNT FIVE: ASSUALT

131. Plaintiffs repeat and reallege the allegations of paragraphs above as if set forth herein.

132. As stated above, Defendants entered Plaintiff's home without consent, probable case or a warrant.

133. The Police Defendants then forcibly removed Michael from his home, injuring him in doing so.

134. As a direct and proximate result of this assault, Plaintiff suffered injuries.

WHEREFORE, Plaintiffs demand judgment in their favor against the Police Defendants, jointly and severally, awarding them damages, including incidental and consequential damages, statutory penalties, attorneys' fees, punitive damages, plus interest, costs of suit, and for other such relief as the Court may deem just, equitable, and proper.

COUNT SIX: EXCESSIVE FORCE

135. Plaintiffs repeat and reallege the allegations of paragraphs above as if set forth herein.

136. As stated above, the Police Defendants entered Plaintiff's home without consent, probable cause or a warrant.

137. Defendants then forcibly removed Michael from his home, using excessive force in so doing.

138. As a direct and proximate result of this excessive force, Plaintiff suffered injuries.

WHEREFORE, Plaintiffs demand judgment in their favor against the Police Defendants, jointly and severally, awarding them damages, including incidental and consequential damages, statutory penalties, attorneys' fees, punitive damages, plus interest, costs of suit, and for other such relief as the Court may deem just, equitable, and proper.

COUNT SEVEN: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

139. Plaintiffs repeat and reallege the allegations of paragraphs above as if set forth herein.

140. As stated above, Defendants entered Plaintiffs' home without consent, probable cause or a warrant.

141. Defendants then forcibly removed Michael, his child, and the mother of his child from their home.

142. Thereafter, Defendants forcibly prevented Plaintiff from seeing his child for almost two (2) years.

143. Defendants collectively and individually engaged in actions which were intended to, and which did, inflict severe emotional trauma upon the Plaintiff.

144. The distress inflicted upon Plaintiff was such that no reasonable should have been expected to endure it.

145. As a direct and proximate result of these acts, Plaintiff suffered damages.

WHEREFORE, Plaintiffs demand judgment in their favor against Defendants, jointly and severally, awarding them damages, including incidental and consequential damages, statutory penalties, attorneys' fees, punitive damages, plus interest, costs of suit, and for other such relief as the Court may deem just, equitable, and proper.

COUNT EIGHT: DEFAMATION AND/OR SLANDER

146. Plaintiffs repeat and reallege the allegations of paragraphs above as if set forth herein.

147. As stated above, Defendants made knowingly false statements about Michael's character.

148. These statements unjustly harmed Michael's reputation.

149. As a result of these statements, Michael suffered damages.

WHEREFORE, Michael demands judgment in his favor against Defendants, awarding him damages for front pay, back pay, loss of economic opportunity, losses, emotional pain and suffering, physical pain and suffering, humiliation and psychological suffering, as well as lawful pre-judgment interest, costs of suit, attorneys' fees, punitive damages, and for any other such relief as the Court deems just and proper.

COUNT NINE: FALSE IMPRISONMENT

150. Plaintiffs repeat and reallege the allegations of paragraphs above as if set forth herein.

151. As described above, Plaintiffs' freedom of movement was restrained when they was cornered within their home by the Police Defendants.

152. Further, Michael was wrongfully arrested and detained at the psychiatric ward of a hospital for seven (7) days and then incarcerated in jail for a day.

153. These restraints upon Plaintiffs' movement were made against their will and were without legal justification.

154. These actions were intentional and malicious and designed to cause Plaintiffs harm which they did.

155. As a result of these actions, Plaintiffs suffered damages.

WHEREFORE, Plaintiffs demand judgment in their favor against Defendants, jointly and severally, awarding them damages, including incidental and consequential damages, statutory penalties, attorneys' fees, punitive damages, plus interest, costs of suit, and for other such relief as the Court may deem just, equitable, and proper.

COUNT TEN: MALICIOUS PROSECUTION

156. Plaintiffs repeat and re-allege each and every allegation contained in the above paragraphs and incorporates the same by reference.

157. Defendants brought false criminal charges against Michael despite knowingly lacking sufficient evidence.

158. Defendants continued to attempt to prosecute Michael under knowingly false allegations, and eventually Michael was exonerated.

159. Defendants' actions constitute malicious prosecution.

160. The intentional and malicious nature of the acts of Defendants justifies the imposition of punitive damages.

WHEREFORE, Michael demands judgment in his favor against Defendants, jointly and severally, awarding them damages, including incidental and consequential damages, statutory penalties, attorneys' fees, punitive damages, plus interest, costs of suit, and for other such relief as the Court may deem just, equitable, and proper.

COUNT ELEVEN: ABUSE OF PROCESS

161. Plaintiffs repeat and re-allege each and every allegation contained in the above paragraphs and incorporates the same by reference.

162. The actions of Defendants as described above constitute an abuse of process.

163. By reason of the foregoing, and as a direct and proximate result of the above abuse of process of and the actions of Defendants as described above, Plaintiffs suffered emotional distress, anguish and other damages.

164. The intentional and malicious nature of the acts of Defendants justifies the imposition of punitive damages.

WHEREFORE, Plaintiffs demand judgment in their favor against Defendants, jointly and severally, awarding them damages, including incidental and consequential damages, statutory penalties, attorneys' fees, punitive damages, plus interest, costs of suit, and for other such relief as the Court may deem just, equitable, and proper.

COUNT TWELVE: FALSE ARREST

165. Plaintiffs repeat and reallege the allegations of paragraphs above as if set forth herein.

166. As described above, the Police Defendants arrested Michael despite there being no evidence of any wrongdoing on his part.

167. This criminal action was adjudicated thereafter in Michael's favor.

WHEREFORE, Michael demands judgment in his favor against Defendants, awarding him damages for front pay, back pay, loss of economic opportunity, losses, emotional pain and suffering, physical pain and suffering, humiliation and psychological suffering, as well as lawful pre-judgment interest, costs of suit, attorneys' fees, punitive damages, and for any other such relief as the Court deems just and proper.

COUNT THIRTEEN: CIVIL CONSPIRACY

168. Plaintiffs repeat and re-allege each and every allegation contained in the above paragraphs and incorporate the same by reference.

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

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

171. By reason of the foregoing, and as a direct and proximate result of the conspiracy of and the actions of Defendants as described above, Plaintiffs have suffered emotional distress, anguish and other damages.

172. The intentional and malicious nature of the acts of Defendants justifies the imposition of punitive damages.

WHEREFORE, Plaintiffs demand judgment in their favor against Defendants, jointly and severally, awarding them damages, including incidental and consequential damages, statutory penalties, attorneys' fees, punitive damages, plus interest, costs of suit, and for other such relief as the Court may deem just, equitable, and proper.

COUNT FOURTEEN: PUNITIVE DAMAGES

173. Plaintiffs repeat and re-allege each and every allegation contained in the above paragraphs and incorporate the same by reference.

174. Defendants' actions as described above were egregious, intentional and/or they acted with deliberate indifference to the Plaintiffs' life and well-being.

175. Such egregious actions are sufficient for punitive damages.

WHEREFORE, Plaintiffs demand judgment in their favor against Defendants, jointly and severally, awarding them damages, including incidental and consequential damages, statutory penalties, attorneys' fees, punitive damages, plus interest, costs of suit, and for other such relief as the Court may deem just, equitable, and proper.

SMITH + SCHWARTZSTEIN LLC
Attorneys for Plaintiffs Michael Marshalek,
Faikum Marshalek and N.M.

/s/ Andrew Smith

By: _____

Andrew B. Smith, Esq.

Dated: September 19, 2022

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Andrew B. Smith, Esq., is hereby designated as trial counsel in the within matter for Plaintiffs.

SMITH + SCHWARTZSTEIN LLC
Attorneys for Plaintiffs Michael Marshalek,
Faikum Marshalek and N.M.

/s/ Andrew Smith
By: _____
Andrew B. Smith, Esq.

Dated: September 19, 2022

JURY DEMAND

Plaintiffs hereby demands a trial by jury on all issues.

SMITH + SCHWARTZSTEIN LLC
Attorneys for Plaintiffs Michael Marshalek,
Faikum Marshalek and N.M.

/s/ Andrew Smith
By: _____
Andrew B. Smith, Esq.

Dated: September 19, 2022

CERTIFICATION PURSUANT TO RULES 4:5-1 AND 1:38-7(b)

Pursuant to Rule 4:5-1, I certify that I am an attorney at law of the State of New Jersey, and to my knowledge and based upon the information available to me at this office, the matter in controversy is not the subject of any other action pending in any court or in any other arbitration proceeding. I further certify that confidential personal identifiers have been redacted from documents now submitted to the court and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b). I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

SMITH + SCHWARTZSTEIN LLC
Attorneys for Plaintiffs Michael Marshalek,
Faikum Marshalek and N.M.

/s/ Andrew Smith

By: _____
Andrew B. Smith, Esq.

Dated: September 19, 2022