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01/15/04
10:30 AM
JUDGE [unclear]

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

LISA SILVER & ROY SILVER
(H&W)

Plaintiffs,

vs.

WOOLWICH TOWNSHIP, THE
WOOLWICH TOWNSHIP POLICE
DEPARTMENT, PATROL OFFICER
V. MINNITTI, JOHN DOE
OFFICERS (1-5), SWEDESBORO
BOROUGH, THE SWEDESBORO
BOROUGH POLICE DEPARTMENT,
PATROL OFFICER STANLEY KEMP,
AND JOHN DOE OFFICERS (1-5)

Defendants.

CIVIL ACTION NO.

04 cv 141

District Judge

(JLI)

**AMENDED COMPLAINT
AND JURY DEMAND**

Plaintiffs, LISA SILVER & ROY SILVER, by way of Complaint
against the defendants says:

PARTIES

1. Plaintiff, LISA SILVER is an adult individual that is a
citizen of the State of New Jersey residing at 151 Glen Echo
Avenue, in the Borough of Swedesboro and County of Gloucester.

2. Plaintiff, ROY SILVER is an adult individual that is a
citizen of the State of New Jersey residing at 151 Glen Echo
Avenue, in the Borough of Swedesboro and County of Gloucester.

3. Plaintiff are lawfully married as husband and wife and were so on or about January 19, 2002.

4. Defendant, The Township of Woolwich, was and still is a domestic municipal corporation duly organized and existing under and by virtue of the laws of the State of New Jersey, with a principal place of business located at 121 Woodstown Road, Swedesboro, Gloucester County, New Jersey.

5. Defendant, the Borough of Swedesboro, was and still is a domestic municipal corporation duly organized and existing under and by virtue of the laws of the State of New Jersey, with a principal place of business located at 500 Kings Highway, Swedesboro, Gloucester County, New Jersey.

6. Defendants, Patrol Officer V. Minnitti and John Doe Officers (1-5), were at all times relevant employees of the Police Department of defendant, The Township of Woolwich. At all times herein mentioned, defendant Minnitti and John Doe Officers (1-5) were acting under the color of law and authority as an officer of the defendant, The Township of Woolwich.

7. Defendants, Patrol Officer Stanley Kemp and John Doe Officers (1-5), were at all times relevant employees of the Police Department of defendant, The Borough of Swedesboro. At all times herein mentioned, defendant Kemp and John Doe Officers (1-5) were acting under the color of law and authority as an officer of the defendant, The Borough of Swedesboro.

JURISDICTION AND VENUE

8. The Court has jurisdiction over the lawsuit because the action arises under the Laws and Constitution of the United States, in particular, the Fourth and Fourteenth Amendments and 42 U.S.C.A. § 1983. Plaintiff was deprived of her rights secured to her under the Constitution and the laws of the United States including, but not limited to, her rights to be secure in their person and property and be free from unlawful searches, seizures, arrests, the right to counsel, and freedom from imprisonments.

9. Plaintiff, Lisa Silver was falsely charged and was falsely and maliciously imprisoned.

10. The Court has supplemental jurisdiction under 28 U.S.C § 1367 over plaintiff's claims arising under state law, including but not limited to violations of her State Constitutional rights against defendant, false arrest, false imprisonment, assault, and intentional and negligent infliction of emotional distress because these claims are so related to the claims within the Court's original jurisdiction that they form part of the same case or controversy under Article 3 of the United States Constitution.

11. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, as the claims at issue arose in this judicial district.

COMPLAINT

GENERAL ALLEGATIONS

12. The above paragraphs are repeated and incorporated

herein by reference as if set forth in full.

13. On the evening of January 19, 2002, plaintiff Lisa Silver was an occupant of an establishment situated on Kings Highway in the Borough of Swedesboro.

14. At that time, Patrol Officer Minnitti and defendant Kemp, who were investigating a reported public disturbance, asked plaintiff and her husband to exit the area. The officer assaulted plaintiff shortly thereafter following a verbal altercation between her and plaintiff.

15. Specifically, the officer claims plaintiff raised her voice in a threatening manner toward him and as a result, he effectuated an arrest for disorderly conduct and hindering apprehension.

16. The defendant officers claim that a scuffle ensued between they and plaintiff and others at the scene.

17. Plaintiff denies that any type of resistance or physical confrontation with the defendant officers was posed by her during the course of the arrest.

18. Plaintiff further alleges that Officer Minnitti grabbed her by the neck and threw her to the ground to place her in handcuffs. The officer, who is far larger in stature than plaintiff, twisted plaintiff's arms behind her back in a show of unnecessary force. The officer utilized such force upon plaintiff's arm that she required shoulder surgery.

19. Plaintiff was falsely imprisoned and charged with

hindering apprehension and disorderly conduct among other charges. Following a bench trial before the Hon. Nicholas T. Lacovara of the Municipal Court of New Jersey, Swedesboro, Gloucester County, plaintiff was cleared of all charges.

COUNT I

FALSE ARREST AND FALSE IMPRISONMENT

SECTION 1983, CIVIL RIGHTS ACT

20. The allegations contained above are incorporated herein as though fully set forth.

21. The arrest and detention of plaintiff by defendants was carried out unlawfully, intentionally and maliciously, without just or probable cause, for the express purpose of trying to justify the illegal arrest of plaintiff. As such, such actions constitute a false arrest and false imprisonment.

22. The arrest and detention of plaintiffs by defendants violated their rights under the United States Constitution and the New Jersey Constitution and the Laws of the State of New Jersey.

COUNT II

DEPRIVATION OF FEDERALLY-PROTECTED RIGHTS

4th and 14th AMENDMENTS

23. The allegations contained above are incorporated herein as though fully set forth in this cause of action.

24. The actions of defendant Patrol Officers V. Minnitti,

Stanley Kemp and John Doe Officers (1-5) as police officers were committed under color of and authority of defendant Township of Woolwich and Borough of Swedesboro, and while acting in that official capacity. The actions or inactions of the defendant Township of Woolwich and Borough of Swedesboro deprived plaintiffs of their rights under the Laws and Constitution of the United States, in particular, the Fourth and Fourteenth Amendments and 42 U.S.C.A. § 1983.

25. Plaintiffs were thereby deprived of rights and immunities secured under the Constitution and Laws of the United States, including but not limited to the right to be secure in her person and property, to be free from unlawful searches, seizures, arrests, and the excessive use of force, to be afforded due process and equal protection under the laws.

COUNT III

NEGLIGENCE

26. The foregoing paragraphs are incorporated in this count but will not be restated for the sake of brevity.

27. Defendant, The Township of Woolwich and Borough of Swedesboro, as a matter of policy and practice failed to discipline, train or otherwise sanction police officers who violate the rights of citizens, including plaintiffs thus encouraging defendants in this case to engage in the unlawful and actionable conduct described above.

28. Defendant, The Township of Woolwich and Borough of

Swedesboro, as a further matter of policy and practice failed to train properly its police officers, including defendants Patrol Officers V. Minnitti, Stanley Kemp and John Doe Officers (1-5) in this case, with respect to the constitutional, statutory and departmental limits of their authority.

29. At all times herein mentioned, the defendant officers were acting as the agents, servants and/or employees of the defendant and therefore, their acts are attributable to defendant, Township of Woolwich and Borough of Swedesboro.

COUNT IV

ASSAULT AND BATTERY

30. The foregoing paragraphs are incorporated in this count but will not be restated for the sake of brevity.

31. The above described actions constitute an assault and battery by defendant Minnitti and Kemp, as a result of which plaintiffs had sustained severe and significant personal injuries and emotional distress.

COUNT V

CONSORTIUM

32. The foregoing paragraphs are incorporated in this count but will not be restated for the sake of brevity.

33. As a result of the acts of the Defendants as set forth above, Plaintiff, Roy Silver had to expend time and monies for the care and treatment of his wife, Plaintiff, Lisa Silver.

34. As a result of the acts of the Defendants as set forth

above, Plaintiff, Roy Silver was deprived of the care and companionship.

35. As a result of the acts of the defendants as set forth above, Plaintiff, Roy Silver has endured great pain and suffering.

COMPLIANCE WITH NOTICE PROVISIONS

31. Plaintiffs timely presented their claims to defendants as required by Tort Claims Act for the State of New Jersey.

DAMAGES

32. The above paragraphs are repeated and incorporated herein by reference as if set forth in full.

33. As a direct and proximate result of the defendant's conduct, plaintiffs suffered physical pain and suffering in the past and future, severe mental anguish in the past and future suffered, were deprived of their State and Federal Constitutional Rights as aforementioned, and will suffer economic damages and were otherwise damaged.

ATTORNEY FEES

34. It was necessary for plaintiffs to hire the undersigned attorney to file this lawsuit. Upon judgement plaintiffs are entitled to an award of attorney fees and costs under 42 U.S.C. § 1988 (b).

PRAYER

35. The above paragraphs are repeated and incorporated herein by reference as if set forth in full. Wherefore,

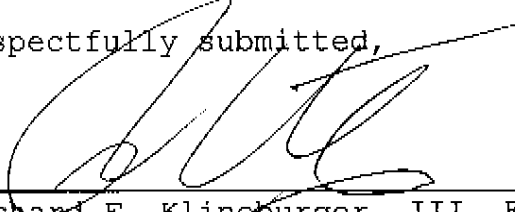
plaintiffs demand judgement against defendants individually, jointly and/or in the alternative for: compensatory damages, punitive damages, attorney fees, interest and costs of suit and such relief as the Court may deem just and equitable.

PLAINTIFFS' DEMAND FOR JURY TRIAL

Plaintiffs assert their rights under the Seventh Amendment to the U.S. Constitution and demands, in accordance with the Federal Rule 38, a trial by jury on all issues.

Respectfully submitted,

By:


Richard F. Klineburger, III, Esquire
Attorney for plaintiff

[Doc. No. 51]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

LISA SILVER, et al.,

Plaintiffs,

v.

WOOLWICH TOWNSHIP, et al.,

Defendants.

Civil No. 04-141 (JS)

O R D E R

This matter is before the Court on the "Motion to Enforce the Settlement Agreement" [Doc. No. 51] filed by defendants Swedesboro, Swedesboro Police Department and Patrol Officer Stanley Kemp; and all defendants joining in the motion; and the Court having held an evidentiary hearing on defendants' motion on December 22, 2009; and the Court having heard the testimony of plaintiffs Lisa and Roy Silver; and the Court having issued its oral opinion on the record on December 22, 2009; and the Court not receiving any objections to the language in defendants' Settlement Agreement and General Release and Covenant Not to Sue; and for the reasons stated in the Court's oral opinion; and good cause existing for the entry of this Order,

IT IS HEREBY ORDERED this 12th day of January, 2010, that defendants' Motion to Enforce the Settlement Agreement is GRANTED; and

IT IS FURTHER ORDERED that the parties shall be deemed to have settled this matter for the total sum of \$475,000; and

IT IS FURTHER ORDERED that plaintiffs shall be deemed to have signed and executed the attached "Settlement Agreement and General Release and Covenant Not to Sue"; and

IT IS FURTHER ORDERED that no later than January 22, 2010, defendants shall arrange to distribute the settlement proceeds to plaintiffs; and

IT IS FURTHER ORDERED that this matter shall be marked closed on the docket.

s/ Joel Schneider
JOEL SCHNEIDER
United States Magistrate Judge

<p>LISA SILVER & ROY SILVER (H&W), Plaintiffs,</p>	<p>UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY CIVIL NO. 04-cv-141 (JED)</p>
<p>vs.</p>	<p>Civil Action</p>
<p>WOOLWICH TOWNSHIP, THE WOOLWICH TOWNSHIP POLICE DEPARTMENT, PATROL OFFICER V. MINNITTI, JOHN DOE OFFICERS (1- 5), SWEDESBORO BOROUGH, THE SWEDESBORO BOROUGH POLICE DEPT, PATROL OFFICER STANLEY KEMP, AND JOHN DOE OFFICERS (1- 5),</p>	<p>SETTLEMENT AGREEMENT and GENERAL RELEASE and COVENANT NOT TO SUE</p>
<p>Defendants.</p>	

This Settlement Agreement and General Release and Covenant Not to Sue (hereafter referred to as the "Release") is entered into by and between and among, and on behalf of, jointly, severally, or in the alternative:

1. Lisa Silver;
2. Roy Silver;
3. Woolwich Township;
4. The Woolwich Township Police Department;
5. Woolwich Township Patrol Officer Vincent Minnitti;
6. Swedesboro Borough;
7. The Swedesboro Borough Police Dept
8. Swedesboro Patrol Officer Stanley Kemp;
9. any and all John Does or other persons or entities participating in any alleged

wrongful conduct which is the subject of an action filed by Lisa Silver and Roy Silver in the United States District Court for the District of New Jersey, Camden Vicinage, bearing Civil Action Number 04cv141(JEI) and all of their respective agents, servants, representatives, attorneys, and insurers for all of those foregoing in this paragraph;

(hereafter referred to as "the Parties"); and,

WHEREAS, Lisa Silver and Roy Silver, hereafter referred to as the "Releasor", and,

WHEREAS, Woolwich Township, The Woolwich Township Police Department, Woolwich Township Patrol Officer Vincent Minnitti, Swedesboro Borough, The Swedesboro Borough Police Dept., Swedesboro Patrol Officer Stanley Kemp, any and all John Does or other persons or entities participating in any alleged wrongful conduct which is the subject of an action filed by Lisa Silver and Roy Silver in the United States District Court for the District of New Jersey, Camden Vicinage, bearing Civil Action Number 04cv141(JEI) and all of their respective agents, servants, representatives, attorneys, and insurers for all of those foregoing in this paragraph are hereafter sometimes referred to as the "Releasees"; and

WHEREAS, Lisa Silver and Roy Silver filed a Complaint against the Defendants in the United States District Court for the District of New Jersey, Camden Vicinage, entitled *Lisa Silver & Roy Silver (H&W), Plaintiffs, vs. Woolwich Township, the Woolwich Township Police Department, Patrol Officer V. Minnitti, John Doe Officers (1-5), Swedesboro Borough, the Swedesboro Borough Police Dept, Patrol Officer Stanley*

Kemp, and John Doe Officers (1-5), Defendants, and bearing Docket No. 04cv141(JEI);
and,

WHEREAS, the Parties have settled all controversies by and between and among them which were brought, or which may have been brought, in the foregoing described proceeding, or which otherwise could have been asserted as of the effective date of this Release, which effective date is the date when this Release is signed by the Releasers;
and,

WHEREAS, the Parties acknowledge that the merits of any controversy in dispute, or which may have been disputed by or between or among them as of the effective date of this Release, have not been fully adjudicated; and

WHEREAS, no party to this Release admits to any liability, fault, or blame; and,

WHEREAS, all the Parties acknowledge that they have reason to conclude this matter, fully, completely and with finality; and

NOW, THEREFORE, IT HAS BEEN AGREED, AND IT IS AGREED, THAT for, and in consideration of, the specific agreements, covenants, and conditions contained herein, the adequacy and sufficiency of which are hereby expressly acknowledged by the Parties, it is specifically agreed as follows:

I. The terms of the settlement:

1. A check in the total amount of Four Hundred Seventy-Five Thousand Dollars (\$475,000.00) shall be issued on behalf of Releasees to "Lisa Silver and her attorneys Dion & Goldberg, and Roy Silver and his attorney, Abramson & Dennenberg;" said check shall be forwarded to Benson Goldberger, Esq., Dion &

Goldberger, 1616 Walnut Street, 23rd Floor, Suite 2316, Philadelphia, PA 19102, contingent on approval by the Municipal Excess Liability Joint Insurance Fund at its next claims meeting and following receipt by Allan E. Richardson, Esq., of the fully executed, properly notarized Release, W-9 forms for Dion & Goldberger and for Abramson & Dennenberg, and a Stipulation of Dismissal With Prejudice signed by counsel for each Releasor;

2. Releasors agree to assume full liability for any and all applicable state, federal, and local taxes, if any, which may be required by law to be paid with respect to the settlement payment described in this Release.
3. Releasors further agree that, in the event the Internal Revenue Service or any other taxing authority, including but not limited to the State of New Jersey, deems any tax, interest, penalties, or other amounts to be due with respect to any portion of the settlement amount paid herein, then Releasors shall indemnify the Releasees and/or its insurer(s) for any sums the Releasees may be required to pay, inclusive of reasonable attorneys' fees and costs.
4. Releasors Lisa Silver and Roy Silver agree that, but for this Settlement Agreement and General Release and Covenant Not to Sue, they would not be entitled to the aforesaid payment, or any other terms of settlement described herein.
5. Releasors Lisa Silver and Roy Silver and their attorneys Dion & Goldberger and Abramson & Dennenberg, agree not to disclose the facts, amounts, and terms of this Settlement Agreement and General Release and Covenant Not to Sue, and will keep such information confidential, and will not disclose it to anyone, except

to immediate family, or as may be required to consult with legal counsel, or for tax or accounting consultation, or advice, or as by court order.

6. Releasors guarantee that they shall satisfy from the settlement proceeds all liens, including but not limited to Worker's Compensation liens, physicians' liens, hospital liens, Blue Cross and Blue Shield liens, Medicaid liens, Medicare liens, Welfare liens, and any other liens resulting from this incident, event, or occurrence.

II No Claims Permitted, Covenant Not to Sue

The Releasors waive any right to file any charge or complaint on his own behalf and/or to participate as a complainant, a plaintiff, or charging party in any charge or complaint which could have been made, or which may be made, by any other person or organization with respect to anything which has happened up to the time of the effective date of this Release before any federal, state, or local court against the Releasees. Should any such charge or complaint be filed, then the Releasors agree not to accept any relief or recovery therefrom against the Releasees. The Releasors further confirm that no charge, complaint, or action presently exists by or on his behalf in any forum other than the Complaint against the Defendants in the United States District Court for the District of New Jersey, Camden Vicinage, entitled *Lisa Silver & Roy Silver (H&W), Plaintiffs, vs. Woolwich Township, the Woolwich Township Police Department, Patrol Officer V. Minnitti, John Doe Officers (1-5), Swedesboro Borough, the Swedesboro Borough Police Dept, Patrol Officer Stanley Kemp, and John Doe Officers (1-5), Defendants*, and bearing Docket No: 04cv141(JET) and the Releasors hereby covenant and agree not to file any

charge, complaint, or action in any forum against the Releasees, based upon anything which is encompassed by the terms of this Release, or for anything which has happened up until now at any time, from the beginning of time until now, at any place on the planet Earth, except as prohibited by law, in the event that any such charge, complaint, or action is filed by or on behalf of Releasors Lisa Silver and/or Roy Silver against the Releasees, then the Releasor shall dismiss the same with prejudice and the Releasors hereby agree to do so.

III Attorney's Fees and Costs:

Releasors Lisa Silver and Roy Silver agree that they will bear the litigation costs and attorney's fees for litigation in any forum for any claim encompassed in any matter referred to in this Settlement Agreement and General Release and Covenant Not to Sue, and that no amount shall be paid, due, or owing to Releasors other than the payment made pursuant to this Settlement Agreement and General Release and Covenant Not to Sue.

IV No Admission of Liability

It is expressly understood that neither the execution of this Settlement Agreement and General Release and Covenant Not to Sue, nor any other action taken in connection with any claim referred to herein, constitutes an admission or statement against interest by any Party to this Settlement Agreement and General Release and Covenant Not to Sue, and does not constitute any violation of any law, duty, rule, or regulation.

V Entire Agreement

This Settlement Agreement and General Release and Covenant Not to Sue contains the sole and entire agreement by and between and among the Parties, pertaining

to the subject matter set forth in this Settlement Agreement and General Release and Covenant Not to Sue, and this Settlement Agreement and General Release and Covenant Not to Sue is intended to memorialize the settlement of all claims by and between and among the Parties..

VI Consultation with Counsel

The Releasors represent and acknowledges that, prior to executing this Settlement Agreement and General Release and Covenant Not to Sue, he consulted with his attorneys, and that the Releasor has had ample time to consult his attorney, and that the Releasor obtained the advice of his attorney prior to making the decision to execute this Settlement Agreement and General Release and Covenant Not to Sue, and that the Releasor did not rely upon any representation or statement which is not set forth in this Settlement Agreement and General Release and Covenant Not to Sue.

VII Acknowledgment

By executing this Settlement Agreement and General Release and Covenant Not to Sue, Releasors Lisa Silver and Roy Silver acknowledge that:

- (a) He or she has read it;
- (b) He or she understands it and knows he or she is giving up important rights;
- (c) He or she agrees with everything in it;
- (d) His or her attorney negotiated this Settlement Agreement and General Release and Covenant Not to Sue with his or her full knowledge and consent.
- (e) He or she has been advised to consult with an attorney prior to executing this Settlement Agreement and General Release, and Covenant Not to Sue, and has in fact

done so;

(f) He or she has signed this Settlement Agreement and General Release and Covenant Not to Sue knowingly and voluntarily.

VIII Governing Law

This Settlement Agreement and General Release and Covenant Not to Sue shall be governed and conformed in accord with the laws of the State of New Jersey, without regard to its conflict of laws provision.

IX Enforceability Clause

In the event that any provision contained in this Settlement Agreement and General Release and Covenant Not to Sue is declared invalid, illegal, or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable, excluding the general release language, such provision shall immediately become null and void, leaving the remainder of this Settlement Agreement and General Release and Covenant Not to Sue in full force and effect. Moreover, if any such provision determined to be invalid, illegal, or unenforceable can be made valid, legal, or enforceable by modification thereof, then the party for whose benefit the provision exists may make such modification as necessary to make the provision valid, legal and enforceable.

X Limited Evidence

This Settlement Agreement and General Release and Covenant Not to Sue is not intended to be used, and shall not be used, as evidence for any other purpose in any other action or proceeding, other than evidence of compromise by and between and among the

Parties, as set forth herein, or to enforce the terms of this Settlement Agreement and General Release and Covenant Not to Sue.

XI Headings

Paragraph headings are understood to be for document organization and navigation purposes only and are not to be used to interpret this document.

Lisa Silver	Roy Silver
Dated:	Dated:
Sworn to and subscribed before me this _____ day of _____, 2009	Sworn to and subscribed before me this _____ day of _____, 2009

Allan E. Richardson, LLC

915 Haddon Ave.

Collingswood, NJ 08108

Tel: 856-858-3330, Fax: 856-858-3343

Arichardson@employmentlaw-nj.com

Attorney for Defendants Woolwich Township, Woolwich Township Police Department,
and Patrolman Minnitti

<p>LISA SILVER & ROY SILVER (H&W), Plaintiffs, vs. WOOLWICH TOWNSHIP, et al. Defendants.</p>	<p>UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY CIVIL NO. 04cv141(JEI) Civil Action STIPULATION OF DISMISSAL</p>
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The matter in difference in the above-entitled action having been amicably
adjusted by and between the parties, it is hereby stipulated that this matter be dismissed,
with prejudice and without costs against either party.

<p>Robert Baxter, Esq. Counsel for Swedesboro, Kemp</p>	<p>Allan E. Richardson, Esq. Counsel for Woolwich, Minnitti</p>
<p>Benson Goldberger, Esq. Counsel for Lisa Silver</p>	<p>Alan E. Denenberg, Esq. Counsel for Roy Silver</p>

Dated: