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THOMAS J. MALLON, ESQ.
Attorney-at-Law
86 Court Street
Freehold, NJ 07728
(732) 780-0230
Attorney for Plaintiff, Michael Forte

MICHAEL FORTE

Plaintiff,

vs.

UNITED STATES DISTRICT COURT
DISTRICT COURT OF NEW JERSEY
TRENTON

Civil Action No.: 08-4717

**BERKELEY TOWNSHIP;
BERKELEY TOWNSHIP POLICE
DEPARTMENT,
JOHN WEINLEIN, Chief of Police,
SERGEANT JAMES BLAIR,
SERGEANT CURTIS DRUMHILLER,
SERGEANT PETER KAVITT,
JOHN DOES 6-10, Personnel of the
Berkeley Township Police Department in
supervisory capacities;
PTL. PATRICK J. STESNER, JR.,
PTL. TAMMY M. SHINTON,
PTL. JOHN M. FOSBRE,
PTL. ANTHONY SCRO, JR.
and JOHN DOES 1-5, members of the Berkeley
Township Police Department**

COMPLAINT

Defendants.

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, Michael Forte ("Forte"), residing at 67 Butler Avenue, Bayville, New Jersey, 08721 County of Ocean, is and was, at all times herein relevant, a citizen of the United States and a resident of the State of New Jersey.

3. Defendants Ptl. Patrick Stesner; Ptl. John M. Fosbre; Ptl. Anthony Sgro; Ptl. Tammy Shinton; Sgt. Peter Kavitt; Sgt. Curtis Drumhiller; Sgt. James Blair and/or John Does 1-10 were at all times mentioned herein duly appointed and acting police officers of the Berkeley Township Police Department and at all times herein were acting in such a capacity as the agents, servants and/or employees of Berkeley Township, within the scope of their employment, and under color of state law.

4. Defendants Chief of Police John Weinlein; Sgt. Peter Kavitt; Sgt. Curtis Drumhiller; Sgt. James Blair and/or John Does 6-10 were acting in supervisory capacities over Defendants Ptl. Stesner; Ptl. Fosbre; Ptl. Sgro; Ptl. Shinton and/or John Does 1-5 and responsible by law for the hiring, training, supervision, discipline, and/or conduct of Defendants Stesner; Fosbre; Sgro; and/or John Does 1-5.

5. Defendant Chief of Police John Weinlein and/or John Does 6/10 were, at all times relevant hereto, the acting Chief of Police for the Defendant Berkeley Township Police Department and employed by Defendant Berkeley Township. As such, at all times relevant hereto, he was responsible for the training and conduct of the specifically named defendants herein and required by law to enforce the regulations of the Berkeley Township Police Department and of the United States of America.

6. Defendant Berkeley Township is a duly designated municipality of the State of New Jersey, created under the laws of the State of New Jersey.

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7. Defendant Berkeley Township Police Department is a municipal organization existing within the State of New Jersey and created under the laws of the State of New Jersey.

8. At all times relevant hereto, Defendant Berkeley Township and/or Berkeley Township Police Department employed the aforementioned specifically mentioned Defendants. As their employer, each was responsible for the hiring, training, supervision, discipline, and/or conduct of Defendants Weincin; Kavitt; Drumhiller, Blair; Stesner; Fosbre; Sgro; Shinton, and/or John Does 1-10.

9. Each defendant specifically mentioned above, with the exception of Berkeley Township and Berkeley Township Police Department is joined individually and in their official capacity as an agent, servant and/or employee of Berkeley Township acting within the scope of their employment.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

10. On March 7, 2007, Plaintiff's father, Pasquale Forte, received a call from his son, Patsy Forte, that Berkeley Township police officers were at his apartment, located at 33 Korman Rd., Apt. B-10.

11. In order to ensure his brother's well being, plaintiff, along with his father, drove to Patsy's apartment.

12. Upon arrival to this location, there were numerous police cars located in the parking lot of the apartment complex.

13. After stopping the vehicle, Forte alighted from the car and was confronted by several defendant officers.

14. Without provocation, the plaintiff was severely beaten by the Defendant Officers, including Defendants Stesner, Shinton, Fosbre, Sgro and/or John Does 1-5, and arrested by these

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individuals through the use of unnecessary, unreasonable and excessive force.

15. At no point prior to or during the beating did any of the defendant officers announce that Forte was under arrest.

16. Following the beating of Forte, defendant officer Stesner, Fosbre, Sgro and/or John Does 1-5 handcuffed plaintiff in a manner which caused him pain, discomfort, and lacerations to his wrists and hands.

17. Following his unlawful arrest, plaintiff was taken to Berkeley Township Police Department where the plaintiff was denied proper medical treatment for his injuries and ignored as he complained regarding the manner in which he was handcuffed.

18. In order to justify the beating of the plaintiff, the defendant officers charged him with Aggravated Assault on a Police Officer, Resisting Arrest and Disorderly Conduct. The plaintiff was incarcerated at Ocean County Jail, and released on bail the following day.

19. In order to shield themselves from criminal and/or civil liability, one or more of the defendant officers, aware of the fact that several citizen complaints had been made to the Berkeley Township Police Department and without any request to do so, visited the homes of the citizen complainants and provided false and incorrect justification for their conduct towards the plaintiff.

20. In order to shield themselves from criminal and/or civil liability, one or more of the defendant officers, aware of the fact that several citizen complaints had been made to the Berkeley Township Police Department, authored investigation reports containing false information regarding the conduct of the plaintiff and the circumstances surrounding the incident whereby the plaintiff was severely beaten.

21. As a result of the incident with the Berkeley Township Police described above, plaintiff suffered various serious injuries.

COUNT ONE
USE OF EXCESSIVE FORCE
42 U.S.C. § 1983

22. Each and every prior allegation is hereby incorporated as if fully set forth herein.

23. During the arrest of plaintiff, Defendant Officers Stesner, Fosbre, Sgro, Shinton, and/or John Does 1-5, under color of state law, intentionally, recklessly, and/or in a grossly negligent manner, utilized excessive force which was unreasonable and unnecessary under the totality of the circumstances.

24. As a direct and proximate result of the excessive force utilized by said defendants, Plaintiff has suffered and will continue to suffer bodily injuries, pain and suffering, emotional distress and other special damages in the form of lost wages, medical expenses.

25. As a direct and proximate result of the excessive force utilized by said defendants, plaintiff was deprived of his right to be secure in his person against unreasonable governmental seizure in violation of the Fourth and Fourteenth Amendments of the Constitution of the United States, made actionable through 42 U.S.C. Sect. 1983.

WHEREFORE, Plaintiff Michael Forte demands judgment against Defendants Stesner, Fosbre, Sgro, Shinton 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
FALSE ARREST / IMPRISONMENT
42 U.S.C. § 1983

26. Each and every prior allegation is hereby incorporated as if fully set forth herein.

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27. The aforementioned acts of Defendants Stesner, Fosbre, Sgro, Shinton and/or John Does 1-5 in falsely arresting and/or imprisoning Plaintiff were undertaken maliciously, intentionally, unlawfully, recklessly and/or in a grossly negligent manner, without legal or factual justification and without probable cause, and in violation of the plaintiffs' right to be secure from unreasonable seizure of his person pursuant to the Fourth and Fourteenth Amendments of the Constitution of the United States, made actionable through 42 U.S.C. Sect. 1983.

28. As a direct and proximate result of the acts described above, Plaintiff has suffered emotional distress preventing him from attending to his business, great expense in defending the criminal charges which were falsely brought against him, and will continue to suffer additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Michael Forte demands judgment against Defendants Stesner, Fosbre, Sgro, Shinton 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
ABUSE OF PROCESS
42 U.S.C. § 1983

29. Each and every prior allegation is hereby incorporated as if fully set forth herein.

30. Defendant Officers Stesner, Fosbre, Sgro, Shinton, and/or John Does 1-5, by bringing charges against the plaintiff without legal or factual justification to justify the beating of the plaintiff, falsifying official documents in order to shield themselves from civil or criminal liability, and by tampering with potential adverse witnesses, maliciously used a "legal process" to accomplish some ulterior purpose for which it was not designed or intended, or which was not

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the legitimate purpose of the particular process employed.

31. The aforementioned acts of Defendants Stesner, Fosbre, Sgro, Shinton and/or John Does 1-5 were undertaken maliciously, intentionally, unlawfully, recklessly and/or in a grossly negligent manner and in violation of the plaintiffs' right to be secure from unreasonable seizure of his person pursuant to the Fourth and Fourteenth Amendments of the Constitution of the United States, made actionable through 42 U.S.C. Sect. 1983.

32. As a direct and proximate result of the acts described above, Plaintiff has suffered emotional distress preventing him from attending to his business, great expense in defending the criminal charges which were falsely brought against him, and will continue to suffer additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Michael Forte demands judgment against Defendants Stesner, Fosbre, Sgro, Shinton, 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.

COUNTY FOUR
MALICIOUS PROSECUTION
42 U.S.C. § 1983

33. Each and every prior allegation is hereby incorporated as if fully set forth herein.

34. Defendants Stesner, Fosbre, Sgro, Shinton and/or John Does 1-5 initiated criminal proceedings against Plaintiff maliciously in order to create a subterfuge protecting themselves from criminal and civil liability and justifying the injuries they caused Plaintiff to suffer.

35. The charges brought against the plaintiff were not based upon legal or factual justification, i.e. without probable cause.

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36. The criminal proceedings brought against Plaintiff terminated in his favor.

37. As a direct and proximate cause of the actions initiated by Stesner, Fosbre; Sgro; Shinton and/or John Does 1-5, Plaintiff suffered a deprivation of his constitutional right to be free from unreasonable seizures of his person, guaranteed by the Fourth and Fourteenth Amendments to the Constitution of the United States, made actionable through 42 U.S.C. Sect. 1983.. in addition to other special damages in connection with defending the maliciously brought prosecution in an amount yet to be determined.

WHEREFORE, Plaintiff Michael Forte demands judgment against Defendants Stesner; Fosbre; Sgro; Shinton 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
SUPERVISORY LIABILITY
42 U.S.C. § 1983

38. Each and every prior allegation is hereby incorporated as if fully set forth herein.

39. Defendants Weinlein, Kavitt, Drumhiller, Blair, and/or John Does 6-10 were supervisory officials and/or officers in charge at the time Plaintiff was arrested and assaulted.

40. Defendants Weinlein, Kavitt, Drumhiller, Blair and/or John Does 6-10 had a duty to prevent subordinate officers from committing acts which were in direct violation to the constitutional rights of citizens and/or detainees.

41. Defendants Weinlein, Kavitt, Drumhiller, Blair, and/or John Does 6-10 either directed Defendants Kavitt; Drumhiller; Blair; Stesner; Fosbre; Sgro; Shinton and/or John Does 1-10 to violate Plaintiff's constitutional rights, or despite having knowledge of such conduct, acquiesced in his/their subordinates' violations.

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42. As a direct and proximate result of the acts of Defendants Kavitt; Drumhiller; Blair and/or John Does 6-10 as set forth herein, Plaintiff suffered physical injury, medical expenses, lost wages and mental anguish in connection with the deprivation of his constitutional right to be free from unreasonable seizure of his person as guaranteed by the Fourth and Fourteenth Amendments to the Constitution of the United States, made actionable through 42 U.S.C. Sect. 1983.

WHEREFORE, Plaintiff Michael Forte demands judgment against Defendants Kavitt; Drumhiller; Blair 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 SIX
UNLAWFUL CUSTOM, PRACTICE, POLICY/ INADEQUATE TRAINING
42 U.S.C. § 1983

43. Each and every prior allegation is hereby incorporated as if fully set forth herein.

44. Defendants Berkley Township, Berkeley Township Police Department; Chief of Police John Weinlein; and/or John Does 6-10, are vested by law with the authority to hire, train, supervise, and discipline its or their officers on the use of force in making arrests and proper conduct during police-citizen encounters.

45. At all times mentioned herein, Defendants Kavitt; Drumhiller; Blair; Stesner; Fosbre; Sgro; Shinton and/or John Does 1-10, as police officers, agents, servants and/or employees of Defendant Berkeley Township Police Department, were acting under the direction and control of Defendants Berkeley Township, Berkeley Township Police Department; Chief Weinlein, and/or John Does 6-10, and were acting pursuant to the official unlawful policy, practice and/or custom of Berkeley Township Police Department.

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46. Acting under color of state law and pursuant to the official unlawful policy, practice, and/or custom, Defendants Berkeley Township; Berkeley Township Police Department, Weinlein; 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 Weinlein; Kavitt; Drumhiller; Blair; Stesner; Fosbre; Sgro; Shinton and/or John Does 1-5 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.

47. Defendants Berkeley Township, Berkeley Township Police Department, Weinlein, and/or John Does 6-10 were provided actual and/or constructive notice of numerous similar police citizen encounters involving Defendants Kavitt; Drumhiller; Blair; Stesner; Fosbre; Sgro; Shinton; John Does 1-10 and/or other Berkeley Township Police Officers, and said defendants with deliberate indifference, permitted the unlawful pattern of conduct whereby officers would customarily and frequently subject citizens held in custody to physical and mental abuse; unlawfully and maliciously assault, arrest and harass citizens; intentionally, recklessly and/or negligently misrepresent facts of arrests and/or other police-citizen encounters to shield themselves from criminal and or civil liability; falsify police and/or other official records; falsely arrest citizens, tamper with potentially adverse witnesses, mishandle and/or withhold evidence and/or use unreasonable and excessive force on citizens/arrestees.

48. Defendants Berkeley Township; Berkeley Township Police Department, Chief Weinlein; and/or John Does 6-10, directly or indirectly, under color of state law, approved or ratified the

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unlawful, deliberate, malicious, reckless, and wanton conduct of Defendants Weinlein; Kavitt; Drumhiller; Blair; Stesner; Fosbre; Sgro; Shinton and/or John Does 1-10 as described.

49. As a direct and proximate result of the acts of Defendants Berkeley Township, Berkeley Township Police Department, Chief Weinlein, and/or John Does 6-10 as set forth herein, Plaintiff suffered physical injury, lost wages, medical expenses, and mental anguish in addition to the deprivation of his constitutional right to be free from unreasonable seizure as guaranteed by the Fourth and Fourteenth Amendments to the Constitution of the United States, made actionable through 42 U.S.C. Section 1983.

WHEREFORE, Plaintiff Michael Forte demands judgment against Defendants Berkeley Township, Berkeley Township Police Department, Chief Weinlein, 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 SEVEN
ASSAULT AND BATTERY

50. Each and every prior allegation is hereby incorporated as if fully set forth herein.

51. Defendants Stesner, Fosbre, Sgro, Shinton and/or John Does 1-5, maliciously, intentionally, knowingly, recklessly, and/or with gross negligence, committed an assault and battery on Plaintiff by beating him and by putting him in reasonable apprehension of serious bodily harm.

52. The assault and battery committed by Defendants was contrary to the established common law and in violation of rights guaranteed the plaintiff by the Constitution of the State of New Jersey.

53. As a result of the Defendant's actions set forth above, Plaintiff sustained severe and permanent bodily injury, emotional distress, medical expenses, lost income, pain and

suffering, lost wages and will continue to incur same in the future.

WHEREFORE, Plaintiff Michael Forte demands judgment against Defendants Stesner, Fosbre; Sgro; Shinton and/or John Does 1-5 on this Count, together with compensatory and punitive damages, interest and costs of suit incurred, and for any such further relief as the Court deems proper and just.

COUNT EIGHT
FALSE ARREST/ IMPRISONMENT

54. Each and every prior allegation is hereby incorporated as if fully set forth herein.

55. The aforementioned acts of Defendants Stesner, Fosbre; Sgro; Shinton and/or John Does 1-5 in falsely arresting and/or falsely imprisoning Plaintiff were contrary to the common law and in violation of rights guaranteed the plaintiff by the Constitution of the State of New Jersey.

56. As a result of the actions set forth above, Plaintiff sustained diverse personal injuries, permanent disabilities, permanent disability, medical expenses, lost income and pain and suffering and will continue to incur same time to come.

WHEREFORE, Plaintiff Michael Forte demands judgment against Defendants Stesner; Fosbre; Sgro; Shinton and / or John Does 1-5, on this Count, together with compensatory and punitive damages, interest and costs of suit incurred.

COUNT NINE
MALICIOUS ABUSE OF PROCESS

57. Each and every prior allegation is hereby incorporated as if fully set forth herein.

58. Defendants Stesner; Fosbre; Sgro; Shinton and/or John Does 1-5, by bringing charges against the plaintiff without legal or factual justification to justify the beating of the plaintiff, falsifying official documents in order to shield themselves from civil or criminal liability, and by tampering with potential adverse witnesses, maliciously used a "legal process" to

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accomplish some ulterior purpose for which it was not designed or intended, or which was not the legitimate purpose of the particular process employed. Specifically, these defendants knowingly undertook this course of conduct in order to gain an advantage over plaintiff's constitutional claims, and/or to protect their interest in their employment, and/or to avoid criminal prosecution and civil liability.

59. Defendants' actions were contrary to the common law and in violation of rights guaranteed to the plaintiff by the Constitution of the State of New Jersey.

60. As a result of the wanton, intentional acts set forth above, Plaintiff sustained diverse personal injuries, permanent injuries, permanent disability, medical expenses, lost income and pain and suffering and will continue to incur same in the future.

WHEREFORE, Plaintiff Michael Forte demands judgment against Defendants Stesner; Fosbre; Sgro; Shinton and/or John Does 1-5, on this Court together with compensatory and punitive damages, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

COUNT TEN
MALICIOUS PROSECUTION

61. Each and every prior allegation is hereby incorporated as if fully set forth herein. Defendants Stesner; Fosbre; Sgro; Shinton and/or John Does 1-5 maliciously, willfully, intentionally and/or deliberately initiated criminal proceedings without any legal or factual basis and in the absence of probable cause.

62. The maliciously initiated criminal proceedings terminated in favor of the plaintiff.

63. Defendants' actions were contrary to the common law and in violation of rights guaranteed to the plaintiff by the Constitution of the State of New Jersey.

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64. As a direct and proximate result of such acts, the plaintiff was caused to suffer physical injury, economic loss, and mental anguish.

WHEREFORE, Plaintiff Michael Forte demands judgment against Defendants Stesner; Fosbre; Sgro; Shinton and/or John Does 1-5, on this Count together with compensatory and punitive damages, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

COUNT ELEVEN

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

65. Each and every prior allegation is hereby incorporated as if fully set forth herein.

66. The actions of Defendants Stesner; Fosbre; Sgro; Shinton and/or John Does 1-5 in utilizing excessive force upon Plaintiff, their unprovoked assault and battery of Plaintiff in front of other citizens, their false arrest and imprisonment and detaining of Plaintiff in Ocean County Jail, their malicious use of process and prosecution of Plaintiff for the ulterior purposes set forth above, their tampering with potentially adverse witnesses, falsification of police records, among other actions as set forth above, constitutes outrageous conduct which was intentionally undertaken which would cause a reasonable plaintiff to suffer extreme emotional distress.

67. As a result of said outrageous conduct, the plaintiff did in fact suffer extreme emotional distress.

WHEREFORE, Plaintiff Michael Forte demands judgment against Defendants Stesner; Fosbre; Sgro; Shinton and/or John Does 1-5, on this Count, together with compensatory and punitive damages, interest and costs of suit incurred and for such further relief as the Court deems proper and just.

COUNT TWELVE
RESPONDEAT SUPERIOR

68. Each and every prior allegation is hereby incorporated as if fully set forth herein.

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69. Defendants Stesner; Fosbre; Sgro; Shinton; Weinlein; Kavitt; Drumhiller; Blair and/or John Does 1-10 were at all times mentioned herein duly appointed and acting members of the Berkeley Township Police Department and/or Berkeley Township and at all times herein were acting in such capacities as the agents, servants, and/or employees of the Berkeley Township Police Department and/or Berkeley Township, and acting within the scope of their employment.

70. As the employer of said Defendants, by virtue of the doctrine of respondeat superior, Defendant Berkeley Township and/or Defendant Berkeley Township Police Department is liable for the aforementioned injuries to plaintiff suffered as a direct and proximate result of the tortious conduct of its agents, servants and/or employees for acts committed within the scope of their employment.

WHEREFORE, Plaintiff Michael Forte demands judgment against Defendant Berkeley Township and/or Defendant Berkeley Township Police Department on this Count together with compensatory and punitive damages, interest and costs of suit incurred and for any such further relief as the court deems proper and just.

COUNT THIRTEEN
DEMAND FOR PROSPECTIVE INJUNCTIVE RELIEF

71. Pursuant to 42 USC Section 1983, since there is no adequate remedy at law to make plaintiff whole and irreparable and immediate harm will occur in the absence of such an order, Plaintiff is entitled to prospective relief against the Defendants.

72. The relief sought by Plaintiff include, but is not limited to, the following:

- a. An order permanently restraining and enjoining Defendants Berkeley Township; Chief of Police Weinlein; Kavitt; Drumhiller; Blair; Stesner; Fosbre; Sgro; Shinton from engaging, encouraging, teaching, promoting or training Berkeley Township Police Officers in falsely arresting, maliciously prosecuting, maliciously abusing process, and/or using excessive force against citizens and/or arrestees.

- b. An order compelling Defendant Berkeley Township to take prompt, appropriate and corrective measures to prevent any practices that encourage, teach, engage in, promote or train its officers in falsely arresting, maliciously prosecuting, maliciously abusing process and/or using excessive force against citizens and/or arrestees.
- c. An order compelling Defendant Berkeley Township to provide regular and consistent training sessions to Berkeley Township Police Officers on the use of force against citizens as detailed in the Attorney General Guidelines on the subject..
- d. An order compelling Defendant Berkeley Township to implement a system whereby prompt, appropriate action is taken against any Berkeley Township Police Officer who engages in, teaches and/or condones falsely arresting, maliciously prosecuting, maliciously abusing process and/or using excessive force against citizens and/or arrestees.
- e. An order permanently restraining and enjoining Defendants Kavitt; Drumhiller; Blair; Stesner; Fosbre; Sgro; Shinton and/or John Does 1-5 from arresting citizens without adequate probable cause, physically abusing and using excessive force against citizens and/or arrestees.
- f. An order permanently restraining and enjoining Defendant Berkeley Township from employing Defendants Stesner, Fosbre, Sgro, Shinton, and/or John Does as police officers or law enforcement personnel in any capacity except for clerical duty, solely and entirely confining them to the Berkeley Township Police Station and limiting them entirely to duties whereby they will not be permitted to arrest or assist in arresting citizens.
- g. Any other relief as the Court deems proper and just.

DEMAND FOR TRIAL BY JURY

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

DESIGNATION OF TRIAL COUNSEL

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

Dated: September 19, 2008

/s/ Thomas J. Mallon, Esquire

THOMAS J. MALLON, ESQUIRE

RELEASE

This Release, dated 1-13-10, is given

BY the Releasor(s) MICHAEL FORTE

referred to as "I",

TO BERKELEY TOWNSHIP and BERKELEY TOWNSHIP POLICE DEPARTMENT

referred to as "You".

If more than one person signs this Release, "I" shall mean each person who signs this Release.

1. Release. I release and give up any and all claims and rights which I may have against you. This releases all claims, including those of which I am not aware and those not mentioned in this Release. This Release applies to claims resulting from anything which has happened up to now. I specifically release the following claims: Any and all claims for personal injury and/or property damage resulting from violations of my Federal and/or State constitutional rights and/or commission of common law torts, and as may be more particularly set forth in the Complaint filed in the United States District Court for the District of New Jersey, including but not limited to claims for compensatory damages, punitive damages, counsel fees and costs of suit arising out of an incident which occurred on or about March 7, 2007 in the Township of Berkeley, which forms the basis of said action filed in United States District Court, District of New Jersey, Civil Action No: 08-4717 (JAP-TJB).

I further waive any right which I may have under Federal and/or State statutes to petition the Court for payment of counsel fees incurred concerning these claims.

The settlement of this matter is not to be construed as an admission of fault or liability on the part of the defendants and the parties acknowledge that the within settlement is being entered into for economic reasons only and to avoid the cost of protracted litigation.

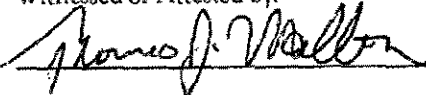
I further agree that any further payments from the named defendants in the action pending in the United States District Court for the District of New Jersey will be sought and that any such payments received as a result of the settlement will be released to third party except as requested by law.


2. Payment. I have been paid a total of \$110,000.00, in full payment for making this Release. I agree that I will not seek anything further including any other payment from you.

3. Who is Bound. I am bound by this Release. Anyone who succeeds to my rights and responsibilities, such as my heirs or the executor of my estate, is also bound. This Release is made for your benefit and all who succeed to your rights and responsibilities, such as your heirs or the executor of your estate.

4. Signatures. I understand and agree to the terms of this Release. If this Release is made by a corporation its proper corporate officers sign and its corporate seal is affixed.

Witnessed or Attested by:



 (Seal)
MICHAEL FORTE

STATE OF NEW JERSEY, COUNTY OF

SS:

I CERTIFY that on 1-13-2010

MICHAEL FORTE, personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- (a) is named in and personally signed this document; and
- (b) signed, sealed and delivered this document as his or her act and deed.

A. Thomas J. Milton

Prepared by:

A. Thomas J. Milton