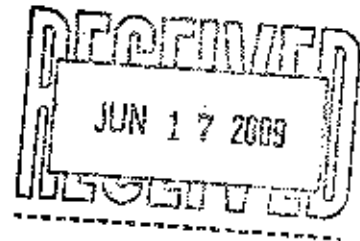


UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

George Snider and Linda Snider	:	Civil Action No.
	:	
v.	:	07-CV-2428
	:	
The Township of Winslow	:	
and	:	
Anthony D. Ortiz, in his official and	:	
individual capacities	:	
and	:	
Michael Parker, in his official and	:	
individual capacities	:	
and	:	
Michael Gingrich, in his official and	:	
individual capacities	:	
and	:	
Robert Stimelski, in his official and	:	
individual capacities	:	
and	:	
Robert Boisvert, in his official and	:	
individual capacities	:	
and	:	
Robin Fanelle, in official and	:	
individual capacities	:	
and	:	
Anthony Bello, in his official and	:	
individual capacities	:	



**AMENDED COMPLAINT**

**Jurisdiction**

1. This Court has jurisdiction over the subject matter of this Complaint which sets forth causes of action under 42 U.S.C. § 1983.
2. The amount in controversy is in excess of \$75,000.00.
3. This court has pendent jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367(a).

4. Venue is based upon 28 U.S.C. § 1391(b) as the Defendants reside in the Southern District of New Jersey, and the events giving rise to the action occurred in the Southern District of New Jersey.

#### Parties

5. Plaintiffs, George and Linda Snider, individually and as husband and wife, are adult individuals who reside at 12 Waterview Drive, Sicklerville, New Jersey 08081 and are citizens of the State of New Jersey.

6. Defendant, Winslow Township is a Township organized and existing under the laws of the State of New Jersey, with an address of 125 South Route 73, Braddock, New Jersey, 08037.

7. The Winslow Township Police Department is a duly constituted and authorized entity of the Township of Winslow.

8. Defendant Officer Antony D. Ortiz was at all times relevant a police officer employed by the Winslow Township Police Department of Camden County, New Jersey. He is sued in both his individual and official capacities.

9. Defendant Officer Michael Parker was at all times relevant a police officer employed by the Winslow Township Police Department of Camden County, New Jersey. He is sued in both his individual and official capacities.

10. Defendant Officer Robin Fanelle was at all times relevant a police officer employed by the Winslow Township Police Department of Camden County, New Jersey. Officer Fanelle is sued in both individual and official capacities.

11. Defendant Officer Michael Gingrich was at all times relevant a police officer employed by the Winslow Township Police Department of Camden County, New Jersey. He is sued in both his individual and official capacities.

12. Defendant Sergeant Robert Stimelski was at all times relevant a police officer employed by the Winslow Township Police Department of Camden County, New Jersey. He is sued in both his individual and official capacities.

13. Defendant Lieutenant Robert Boisvert was at all times relevant a police officer employed by the Winslow Township Police Department of Camden County, New Jersey. He is sued in both his individual and official capacities.

14. Defendant, Anthony Bello, serves as the Chief of the Winslow Police Department and was at all times relevant a police chief employed by the Winslow Township Police Department of Camden County, New Jersey. He is sued in both his individual and official capacities.

#### **Factual Allegations Relevant to all Causes of Action**

15. Plaintiff incorporates paragraphs one (1) through fourteen (14) as though fully set forth herein at length.

16. On or about Wednesday, May 25, 2005, at some time prior to 12:43 p.m., the Plaintiff, George N. Snider, left his home and proceeded to lawfully operate his motor vehicle on various public roadways within the State of New Jersey and the Township of Winslow, and at some point during this time, Plaintiff suffered or fell victim to the full symptoms of an acute right frontoparietal cerebrovascular incident with left hemiparesis, commonly known as a cerebral stroke, which caused him to experience the onset of an extreme headache, blurred vision, partial blindness, paralysis of his left side including his left upper and lower extremities, mental confusion, facial

droop and slurred or otherwise impaired speech.

17. On or about May 25, 2005, on or about 12:30 p.m., the Plaintiff, while experiencing the symptoms described above, also began experiencing extreme difficulty in controlling his motor vehicle and at some point at or about 12:30 p.m., or within minutes thereafter, Plaintiff's vehicle, while traveling northbound on Sicklerville Road and attempting to enter the driveway servicing Wachovia Bank, left the roadway and went up over a curb. In attempting to put his vehicle back on the roadway, Plaintiff then struck a traffic signpost and fence coming to a rest partially off the highway.

18. On information and belief, thereafter, within minutes but prior to 12:36 p.m., the Plaintiff's vehicle re-entered the roadway and allegedly struck a police vehicle which had pulled into his path approximately one hundred (100) feet north of the intersection of Sicklerville Road and Church Road in Winslow Township.

19. On information and belief, the police vehicle was operated by Defendant, Anthony D. Ortiz who was then and there acting within the scope and course of his employment and under color of law as a police officer for the Winslow Township Police Department.

20. Various individuals witnessed the incident described herein and one or more of these individuals called the 911 emergency response number serving the Winslow Township Police Department the first acknowledged call is believed to have been made at 12:36 p.m. to report this occurrence.

21. At all relevant times after the onset of the aforesaid cerebral stroke, the Plaintiff was attempting to obtain for himself emergency medical care as a result of the symptoms that he was experiencing and all actions which he undertook were based upon this intent.

22. During this time aforesaid, Plaintiff was unable to control his motor vehicle, respond to any instructions which would require his use of any portion of the left side of his body, and was unable to speak clearly, but nevertheless, Plaintiff made every effort to explain his circumstances and to respond to and comply with instructions.

23. At or around 12:43 p.m., Defendant, Anthony D. Ortiz was present at the aforesaid location where the Defendant's motor vehicle re-entered the roadway and allegedly made slight contact with Defendant's motor vehicle.

24. At that time, Defendant Ortiz did exit his motor vehicle and approach the left, driver's side of the Plaintiff's motor vehicle, briefly questioned Plaintiff as to whether he was drinking, wherein Plaintiff responded that he had not been drinking, and he felt a severe pain in his head.

25. At that time, Defendant Ortiz then forcibly removed the Plaintiff from his motor vehicle dragging him out from behind the wheel and throwing him onto the ground, face first, when, at all times relevant hereto, it would have been clear to a reasonable police officer that the Plaintiff was suffering from a physical condition such as a stroke which rendered him incapable of fully complying with any requests or commands or to fully communicate his condition.

26. After dragging the Plaintiff from his motor vehicle, Defendant Ortiz threw the Plaintiff onto the ground in such a way that the Plaintiff was unable to shield himself from having his face and teeth strike the ground.

27. As a result of the force of being thrown to the ground, the Plaintiff had several teeth forcibly dislodged from his jaw and suffered other bruises, cuts and abrasions about his face and mouth, and a ripped rotator cuff.

28. Defendant Ortiz and other officers then forcibly handcuffed the Plaintiff's hands behind his back and kned Plaintiff in the back even though Plaintiff attempted to advise the officers that he physically could not place his hands behind his back. Officers threatened Plaintiff with mace if he did not comply, and at one point, Plaintiff was lodged against a vehicle, wherein its windshield wipers were striking Plaintiff's face. Subsequently, officers threw Plaintiff into the backseat of a police vehicle where the Plaintiff lay face down on the backseat with his arms hogtied and cuffed behind him.

29. On information and belief, at approximately 12:48 p.m. at which time the Winslow Township EMS arrived at the scene and subsequently diagnosed the Plaintiff as having an altered mental status with left side paralysis and suffered from a possible stroke. Plaintiff was then thereafter transported to Virtua Hospital where he received medical care and treatment for his stroke.

30. At some point, prior to his transportation to the hospital, Plaintiff's wallet and eyeglasses were removed from his person.

31. At all times relevant hereto, it is believed and therefore averred that Defendants, Patrolman Michael Parker, Patrolman Robin Fanelle, Patrolman Michael Gingrich, Sergeant Robert Stimejski, and Lieutenant Robert Boisvert were also present at the scene of the incident described herein and participated in all of the physical contact and treatment of the Plaintiff for the time period in which he was in the custody of the Defendants as described herein and/or said Defendants failed and refused to render appropriate assistance to the Plaintiff although they knew or should have known that the Plaintiff was suffering from a stroke and/or a serious medical condition which required immediate medical assistance.

32. At all relevant times hereto, Defendants, Anthony D. Ortiz, Michael Parker, Robin Fanelle, Michael Gingrich, Robert Stimelski, Robert Boisvert, and Anthony Bello were acting within the scope and course of their employment with the Winslow Township Police Department and Township of Winslow and were otherwise acting under color of law.

33. At all times relevant hereto prior to the arrival of the EMS at the scene of this incident, said individual Defendants failed to conduct even the most minimal evaluation of the Plaintiff's physical and mental condition and ignored all of the obvious signs that the Plaintiff was suffering from a stroke and/or a serious medical condition and could not use his left side and was otherwise suffering from an involuntary altered mental state which prevented him from speaking clearly in conveying complete thoughts to the Defendants and that he required immediate medical care.

34. It is believed and therefore averred that officers provided wrong or misleading information to the EMS unit about Plaintiff's medical condition.

35. Said conduct of the Defendants was willful and wanton and was clearly and deliberately indifferent to the rights of the Plaintiff.

36. As a direct and proximate result of the Defendants' delay in rendering and/or procuring immediate medical assistance to Plaintiff, Plaintiff suffered additional medical problems and aggravated medical problems than would have occurred otherwise.

37. At all times relevant hereto, the Plaintiff was in the physical custody of the Defendants not free to move, care for himself, seek medical attention, or otherwise protect himself, all of which resulted in the Plaintiff being imprisoned by the Defendants.

38. All of the foregoing criminal conduct of the Defendants herein did not conform at any time with the publicly disseminated, official standards of the subject police department nor with statutory or case law and amounted to the false arrests, false imprisonment, the use of excessive force, the denial of due process, and the deliberate indifference to the rights of the Plaintiff to medical care and treatment and under fundamental rights, all of which violated the Plaintiff's rights under the fourth, fifth, sixth, and fourteenth amendments.

39. All of the conduct aforesaid constitutes assault and battery, false arrest, false imprisonment, intentional infliction of emotional distress, outrageous conduct, negligence, gross negligence, and reckless and outrageous conduct, all of which violate the laws of the State of New Jersey and the New Jersey Constitution.

40. Defendant, Township of Winslow, had the responsibility to hire, train, and supervise properly, each of the individual Defendants and in conjunction therewith to adopt and maintain customs, policies, and/or practices with which would have caused the individual Defendants to have performed the necessary tests, observations and/or obtain immediate medical assistance to undertake said observations so that the Plaintiff would have received immediate medical care for the physical conditions from which he suffered at the time of his initial contact with the individual Defendants and which would have prevented the individual Defendants from inflicting upon the Plaintiff, the beating and imprisonment heretofore described.

41. Defendant, Township of Winslow, had an obligation to hire, train, and supervise the individual Defendants so that they were fully cognizant of their obligations not to violate the civil rights of the Plaintiff or to inflict upon the Plaintiff excessive use of force, punishment, false imprisonment, and other deprivations of important state and federal rights.



42. At all times relevant hereto the Defendant, Township of Winslow, adopted, maintained and/or permitted customs, policies, and/or practices which were deliberately indifferent to known conditions and situations such as that presented by the Plaintiff at the time of the incident alleged herein which permitted, condoned and/or authorized the individual Defendants to undertake each and every one of the acts undertaken by them at the time of this incident including the infliction of physical harm, excessive force, punishment and imprisonment upon the Plaintiff.

43. At all times relevant hereto, individual Defendant, Chief Anthony Bello, was under an obligation to fully investigate the circumstances surrounding the incident alleged in the Plaintiffs' Complaint and to acknowledge true facts of what occurred and to not attempt to conceal and cover up said facts; however, at all times relevant hereto, following this incident, during the investigation by parties on behalf of the Plaintiff, the Defendants, each individually, in concert, and as agents of Defendant, Township of Winslow, sought to conceal and cover up the true circumstances surrounding this event including the times of their involvement and activities so as to deny the Plaintiff of his rights of redress under state and federal law.

44. Defendants had no legal or factual basis for the subsequent seizure and warrantless search of Plaintiff's personal effects, and such search was conducted with a corrupt motive in violation of the constitutional rights of the Plaintiff.

**First Cause of Action  
Violation of 42 U.S.C. § 1983  
Ortiz, Parker, Fanelle, Gingrich, Stimelski, Boisvert, and Bello**

45. Plaintiff incorporates paragraphs one (1) through forty-four (44) as though fully set forth herein at length.

46. Defendants Ortiz, Parker, Fanelle, Gingrich, Stimelski, Boisvert, and Bello, violated Plaintiff's rights under the Fourth and Fourteenth Amendments to be free from the use of unjustified and excessive force, to be free from an unreasonable seizure and detention, and to be free from an illegal arrest effected without reasonable suspicion or probable cause, when they beat and dragged Plaintiff from his car, applied shackles to his hands and caused him permanent and disabling physical and emotional injuries.

47. Each of the Defendants violated Plaintiff's right to be free from unjustified and excessive force when he failed to intervene to protect the Plaintiff, who was disabled due to a physical condition rendering him defenseless and unable to respond, when the other Defendants effected an illegal arrest and used excessive force.

48. As a direct, foreseeable and proximate result of Defendants' illegal actions, Plaintiff was deprived of the rights, privileges and immunities guaranteed to him under the Fourth and Fourteenth Amendments to the United States Constitution and the constitution and laws of the State of New Jersey and has suffered and continues to suffer permanent physical as well as emotional injuries, pain, permanent disfigurement, loss of income and earning capacity, among other injuries.

49. The actions of the Defendants were committed under color of law, with malice and with an intent to violate the rights of the Plaintiff.

50. Defendant officers repeatedly and knowingly violated accepted police practice standards for responding to calls for assistance for a disabled, disoriented, or seriously ill individual.

51. Despite accepted police practice standards which dictate against the use of restraints when the medical condition of a disabled victim is unknown or has attributes of a seizure disorder, Defendants shackled Plaintiff at his wrists and handled him in a way that caused him serious bodily injury.

52. Defendant officers, acting with deliberate indifference, placed the Plaintiff within their vehicles and isolated him from his only source of aid, the emergency medical technicians who had responded to the scene.

53. Defendants acted with malice, reckless, deliberate and/or callous indifference toward Plaintiff's federal and state constitutional and statutory rights.

54. At all times during the events described above each of the Defendant officers agreed with and assisted each of the other Defendant Officers in performing the various actions described above and lent their support and the authority of their office to each other during said events.

55. Defendants each advised, assisted, ratified and/or directed the actions taken against Mr. Snider.

56. Each of the Defendant officers played a substantial role and provided input and assistance which affect the illegal, violent, and unconstitutional actions taken against Plaintiff.

57. Mr. Snider's constitutional rights to be free from unreasonable searches and seizures and from the illegal use of excessive force were clearly established at the time of Defendants' actions and known to them.

58. Winslow Township police officers, including those named as Defendants herein, have a pattern and practice of using unreasonable and excessive force, effecting illegal searches and seizures, and violating the constitutional rights of individuals with whom they come into contact.

59. By their actions, Defendants have deprived Plaintiff of rights secured by the Fourth and Fourteenth Amendments to the United State Constitution, in contravention of 42 U.S.C. § 1983.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendants, Ortiz, Parker, Fanelle, Gingrich, Stimelski, Boisvert, and Bello, in an amount exceeding Seventy-Five Thousand Dollars (\$75,000.00), including, but not limited to, compensatory damages for past and future medical expenses, past pain and suffering, past lost wages, future lost wages, and loss of earning capacity; punitive damages; reasonable attorney's fees and costs; and such other legal or equitable relief as appears just and reasonable.

**Second Cause of Action  
Violation of 42 U.S.C. § 1983  
Winslow Township**

60. Plaintiff incorporates Paragraphs one (1) through fifty-nine (59) as though fully set forth herein at length.

61. Defendant Township has, with deliberate indifference, failed to adequately train, supervise and discipline its officers to prevent civil rights violations within the Township, and the injuries to Plaintiff were caused by, and were a foreseeable consequence of such deliberate failures.

62. Defendant Township has with deliberate indifference, failed to adequately train, supervise and discipline its officers concerning the proper way to respond to a report of an individual experiencing a medical emergency, and the injuries to Plaintiff were caused by, and were a direct and foreseeable consequence of such failures.

63. Defendant Township has with deliberate indifference, failed to adequately train, supervise, and discipline its officers concerning the proper use of emergency medical personnel when

responding to calls involving non-responsive or convulsive, or disabled individuals, and the injuries to Plaintiff were caused by, and were a direct and foreseeable consequence of such failures.

64. Defendant Township has with deliberate indifference, failed to adequately train, supervise, and discipline its officers concerning the proper use of force against a nonviolent, disabled citizen and the injuries to Plaintiff were caused by, and were a direct and foreseeable consequence of such failures.

65. Defendant Township has with deliberate indifference, failed to adequately train, supervise, and discipline its officers concerning the proper use of force on citizens unable to communicate or follow commands, and the injuries to Plaintiff were caused by, and were a direct and foreseeable consequence of such failures.

66. Defendant Township has with deliberate indifference, failed to adequately train, supervise, and discipline its officers concerning the proper way to respond to calls involving persons possibly debilitated due to physical or mental disabilities and the injuries to Plaintiff were caused by, and were a direct and foreseeable consequence of such actions.

67. Defendant Township knew and/or reasonable should have know that it had provided inadequate training, supervision and discipline to the Defendant officers, and that this failure of training, supervision and discipline was likely to result in the constitutional and statutory violations that caused Mr. Snider's injuries.

68. As a direct and proximate result of Defendant Township's actions, Plaintiff was deprived of the rights, privileges and immunities guaranteed by the Fourth and Fourteenth Amendments to the United State Constitution and the laws of the State of New Jersey and has suffered and continues to suffer permanent physical and emotional injuries, pain, loss of income, loss of earning capacity, and losses due to un-reimbursed medical bills, among other injuries.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendant, Township of Winslow, in an amount exceeding Seventy-Five Thousand Dollars (\$75,000.00), including, but not limited to, compensatory damages for past pain and suffering, future pain and suffering, past and future medical bills, past lost wages, future lost wages, and loss of earning capacity; punitive damages; reasonable attorneys' fees and costs; injunctive relief to be fashioned by the Court to prevent such occurrences in the future in Winslow Township; and such other legal and equitable relief as appears just and reasonable.

**Third Cause of Action**  
**Violation of Americans With Disabilities Act of 1990,**  
**42 U.S.C. §§ 12101 et. seq. ("ADA") and the Rehabilitation Act**  
**of 1973, as amended, 29 U.S.C. §§ 701 et. seq. ("RA")**  
**Winslow Township**

69. Plaintiff incorporates paragraphs one (1) through sixty-eight (68) as though fully set forth at length herein.

70. Defendant, Winslow Township, is a Township located in Camden County, New Jersey.

71. Defendant, Winslow Township, accepts federal funding for its police department.

72. Defendant, Winslow Township, acting recklessly, and with deliberate indifference, implemented a policy of wholly inadequate training and protocols for responding to emergencies involving disabled individuals and thereby caused the Defendant officers to act violently, recklessly and without any regard for the rights of the disabled Plaintiff who, as a result of his disability, was unable to communicate, thus depriving Plaintiff of the rights guaranteed by the Fourth and Fourteenth Amendments to the U.S. Constitution and the Americans with Disabilities Act (hereinafter "ADA") and Rehabilitation Act (hereinafter "RA").

73. Defendant, Winslow Township, violated Plaintiff Snider's federally guaranteed right to be free from discrimination on the basis of disability by failing to make reasonable modifications to their policies, training practices and procedures in compliance with the ADA and RA to insure that Plaintiff and other citizens, who either have or are perceived by Winslow Township police officers to suffer from a disability, would be treated appropriately by police officers.

74. The ADA and its regulations specifically require police entities such as Winslow Township to "modify policies, practices or procedures [and]...to make changes in policies that result in discriminatory arrests or abuse of individuals with disabilities."

75. Plaintiff was seized, shackled, arrested and physically abused, as a result of his inability to respond to Defendants' commands due to his disability.

76. Plaintiff was physically disabled pursuant to the ADA and RA as a result of a physical condition (stroke) that was not self-inflicted.

77. Defendant, Winslow Township, violated the Plaintiff's constitutional rights and the requirements of the ADA and RA by failing to reasonably accommodate Plaintiff's disability by wilfully failing and refusing to adopt a policy which would protect the well-being and physical security of Plaintiff and other individuals who, as a result of physical or psychological disabilities, are not able to promptly respond to police officers' commands.

78. The failure of Defendant Winslow Township to conform to the requirements of the ADA and RA was a direct and proximate cause of the injuries sustained by Plaintiff.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendant, Township of Winslow, in an amount exceeding Seventy-Five Thousand Dollars (\$75,000.00), including, but not limited to, compensatory damages for past pain and suffering, future pain and suffering, past and future medical bills, past lost wages, future lost wages, and loss of earning capacity; punitive damages; reasonable attorney's fees and costs; injunctive relief to be fashioned by the Court to prevent such occurrences in the future in Winslow Township; and such other legal or equitable relief as appears just and reasonable.

**Fourth Cause of Action**  
**Civil Rights Attorney's Fees Award Act of 1976,**  
**as amended, 42 U.S.C. § 1988**

79. Plaintiff incorporates paragraphs one (1) through seventy-eight (78) as though fully set forth at length herein.

80. Plaintiff is entitled to an award of counsel fees from Defendants Ortiz, Parker, Pannelle, Gingrich, Stimeiski, Boisvert, and Bello, and Defendant, Winslow Township, as a result of their violations of the constitutional and statutory rights of the Plaintiff.



WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendants Ortiz, Parker, Fanelle, Gingrich, Stimelski, Boisvert, and Bello, and Defendant, Winslow Township including the awarding of counsel fees to Plaintiff.

**Fifth Cause of Action**  
**Violations of 42 U.S.C. §1983 and §1985**  
**All Defendants**

81. Plaintiff incorporates paragraphs one (1) through eighty (80) as though fully set forth at length herein.

82. At all relevant times hereto, and particularly on May 25, 2005, the Winslow Township Police Department ("WTPD") maintained a recording device known as a Thales Series Two, Word Net Work Station ("Thales Machine").

83. At all times relevant hereto, and particularly on May 25, 2005, the WTPD's Thales Machine recorded any and all incoming telephone calls, 911 calls, and all police radio transmissions, including transmissions between the officers and transmissions between the officers and Dispatch.

84. At all relevant times, and particularly on May 25, 2005, the Thales Machine consisted of two (2) DVD disc drives, a hard drive, and a display monitor; and the WTPD had an informal custom of using a rotation of eight (8) to nine (9) discs, each disc capable of recording approximately thirty (30) days worth of telephone calls, radio transmissions and 911 calls, thereby making the DVD record of any day's transmissions available for copying or supplying its stored information at least 240 days after the disc was taken out of the machine.

85. On May 25, 2005, a DVD recording was made and contained the times, substance, and content of the 911 calls and radio traffic/transmissions between WTPD officers, dispatch, and Winslow Township EMS, including all such communication involving the WTPD and George Snider (the consolidated DVD recording is hereinafter referred to as "DVD").

86. The DVD regarding the incident involving Plaintiff contained evidence including, but not limited to, the following:

- (a) the number of 911 calls received by dispatch regarding Plaintiff;
- (b) the times of the 911 calls received by dispatch regarding Plaintiff;
- (c) the duration of the 911 calls received by dispatch regarding Plaintiff;
- (d) the subject matter and/or statements of witnesses contained in the 911 calls received by dispatch regarding Plaintiff;
- (e) the subject matter and/or statements made by various officers in radio transmissions by and among other officers and/or dispatch regarding Plaintiff and attendant events and circumstances;
- (f) the state of mind of various responding officers based upon the ability to hear and/or discover the statements made by officers and accompanying tones of voice in radio transmissions by and among other officers and/or dispatch regarding Plaintiff;
- (g) the times of arrival of various officers responding to the scene of the incident involving Plaintiff, including but not limited to the arrival time of the initially responding officer or officers;
- (h) the time of Plaintiff's first interaction with an officer or officers;

(i) the presence and actions of other officers at the scene refused to be identified by Defendants;

(j) the time that officers radioed dispatch that they had Plaintiff in custody and/or called for ambulance assistance, and the reasons for said call; and

(k) the length of time that Plaintiff was unlawfully under arrest, illegally detained by officers, and denied the provision of necessary and appropriate medical treatment and/or assistance;

87. Defendants, acting intentionally, outrageously and with deliberate indifference to the rights of Plaintiff, destroyed, concealed and/or failed to retain, preserve, and maintain the DVD from the day of the incident with actual knowledge that a complaint of police misconduct was being made by the Plaintiffs against them and that litigation was pending or probable.

88. Defendants received numerous requests for the preservation and/or production of police records from within days after the incident. Such requests and/or notices of impending litigation include but are not limited to the following:

(a) Oral requests by Plaintiffs' daughter for the production and/or preservation of "anything and everything" regarding her father's encounter with the police shortly after the incident took place;

(b) A formal WTPD Request for Police Records Form ("WTPD-RPR") executed by Theresa Pino, who was the wife of a WTPD Captain, on May 27, 2005;

(c) An alleged oral request for a copy of the 911 tape made by Captain Boisvert on May 28, 2005;

(d) A formal WTPD-RPR executed by Plaintiffs' daughter on May 31, 2005;

(e) A letter of representation, received by Defendants on July 20, 2005 from Plaintiffs' previous counsel requesting the preservation of all documents, photographs, videotapes, statements, investigative notes and all other documents and/or items related to the 5/25/05 incident. This letter was received a mere fifty-six (56) days after the incident involving Plaintiff, and well-within the time frame that a recording of all 911 calls and radio transmissions regarding the incident could be made. This letter effectively placed a "litigation hold" on all records pertaining to Plaintiff, including the DVD recordings;

(f) A formal WTPD-RPR executed by Plaintiffs' previous counsel on July 27, 2005;

(g) A Notice of Tort Claim dated August 18, 2005 and received by the Winslow Township Administrator's Office eighty-nine (89) days after the incident on August 22, 2005, which, again, was well-within the time frame that a recording of all 911 calls and radio transmissions regarding the incident could be made or the DVD preserved.

(h) A formal WTPD-RPR executed by a representative of WTPD's Insurance Company on January 13, 2006;

(i) A formal WTPD-RPR executed by Defense counsel on August 16, 2006;

(j) A letter dated October 31, 2006 from Plaintiffs' current counsel sent via facsimile to the WTPD Records Department requesting all materials related to the incident, including all documents, photographs, videotapes, statements, investigative notes, electronically stored information, 911 tapes, logs, timelines, and all other documents and/or items related to this incident;

(k) A letter dated November 1, 2006 from Plaintiffs' current counsel thanking the WTPD Records Department for information faxed on October 31, 2006 and requesting the provision of all other requested records;

(l) A "Notice to Preserve and Maintain" letter, dated October 1, 2007 from Plaintiffs' current counsel to Defense counsel; and

(m) A letter dated October 19, 2007 from Plaintiffs' current counsel to Defense counsel requesting the forwarding and preservation of all 911 tapes/transcripts of the incident; any and all audio or videotapes of the incident; any and all audio and videotapes of any statements provided by witnesses, police officers and/or other individuals pertaining to the incident, investigation and/or subject matter of the litigation; and all calls related to radio traffic communications between police officers, township agents, employees, officials, and EMS agents involved in the incident, investigation and/or subject matter of the litigation.

89. With actual knowledge of imminent litigation, Defendants, acting intentionally, outrageously and with deliberate indifference to the rights of Plaintiff, failed to retain, preserve, maintain and/or intentionally destroyed police records and evidence including the DVD in violation of New Jersey State law, its constitution and the constitution and laws of the United States, thereby violating the civil rights of Plaintiff and denying him due process.

90. Defendants, acting intentionally, outrageously and with deliberate indifference to the rights of Plaintiff, failed to adopt and/or maintain customs, practices, policies or procedures to meet its aforesaid obligations for the creation, preservation and production of public and/or discoverable records and evidence, including but not limited to police radio transmissions and 911 calls.

91. Despite numerous requests for such records and evidence by Plaintiffs and others on their behalf, Defendants intentionally and outrageously destroyed the requested records, or were deliberately indifferent to the rights of Plaintiffs in that they knowingly, outrageously and deliberately failed to retain, preserve, maintain and/or produce the records in accordance with the New Jersey Attorney General Guidelines, their own stated policy, legal obligations to preserve such records and evidence, and/or failure to adopt, maintain and/or follow customs, policies, practices and/or procedures reasonably designed to meet its state and federal obligations regarding the creation, preservation and production of public and/or discoverable records and evidence.

92. Defendants were actually aware of and/or had constructive knowledge or should have known of the risk of harm to Plaintiff as a result of Defendants' failure to preserve said records and took no measures to address that risk and acted with deliberate indifference in failing to preserve said records.

93. Defendants conspired to impede, hinder, obstruct or defeat the due course of justice with the intent to deprive Plaintiff of his civil rights, and deny him equal protection of the laws and due process, with Plaintiff suffering damages as a result.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendants Ortiz, Parker, Fanelle, Gingrich, Stimelski, Boisvert, Bello and the Township of Winslow in an amount exceeding Seventy-Five Thousand Dollars (\$75,000.00), including but not limited to compensatory damages for past pain and suffering and future pain and suffering, past and future medical bills, past lost wages, future lost wages, and the loss of earning capacity, punitive damages, reasonable attorneys fees and costs; injunctive relief to be fashioned by the Court to prevent such occurrences in the future in Winslow Township; and such other legal and equitable relief as appears

just and reasonable.

**Sixth Cause of Action  
Declaratory Relief**

94. Plaintiff incorporates paragraphs one (1) through ninety-three (93) as though fully set forth at length herein

95. At all relevant times hereto, whether by intentional decision or otherwise, Defendant Township and WTPD failed and has continued even after the filing of this lawsuit to adopt and maintain customs, policies, practices and/or procedures reasonably designed to meet its state and federal obligations regarding the creation, preservation and production of public and/or discoverable records and evidence, including but not limited to records of police radio transmissions and 911 calls so as to amount to a violation of state and federal laws and the due process rights afforded and guaranteed to the public by said laws and the New Jersey State and Federal Constitutions.

96. Maintenance and storage of police records and evidence is a mandated responsibility of police departments under state and federal law, including where appropriate, electronic storage and production in the same "native" fashion stored.

97. The production of appropriate and complete police records, tapes, incident reports and other evidence, within legally mandated guidelines, is the constitutionally mandated responsibility of police departments.

98. The failure to do so is in disregard to the New Jersey State Attorney General guidelines, New Jersey State Constitution, the WTPD's own stated policy, and the laws and Constitution of the United States.

99. Defendant Township has acted in flagrant disregard of accepted and legally mandated police policies and procedures to maintain and produce discoverable public records and evidence, including but not limited to recordings of police radio transmissions and 911 calls, in that, inter alia:

(a) Police officers in the Township are unaware of any obligation whatsoever to maintain such records;

(b) No procedures were or are in place regarding the preservation or maintenance of said recordings;

(c) No procedures were or are in place regarding documenting (and preserving such documentation) of requests for such records and the response to requests for such records;

(d) No procedures were or are in place regarding the documentation of compliance with the requests for such records; and the maintenance of a record of such compliance;

(e) Such records may be obtained solely by virtue of a verbal request from an officer without any documentation whatsoever and there is no requirement for such requests to be in writing; and

(f) Police officers in the Township are permitted to act in flagrant disregard to the rights of members of the general public by failing to preserve and/or produce such records despite the public's right to obtain such information.

100. The existing practice of Defendant Township and the WTPD is unconstitutional and in direct violation of the Plaintiff's civil rights, and has denied Plaintiff and other persons similarly situated equal protection of the laws and their right due process.



WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter a judgment against Defendant, Township of Winslow, declaring its policy regarding the preservation and production of police records inadequate and unconstitutional and ordering that a proper policy be adopted and maintained.

**PENDANT CLAIMS AGAINST INDIVIDUAL DEFENDANTS  
IN THEIR INDIVIDUAL CAPACITIES  
VII. CIVIL CONSPIRACY**

**Defendants Ortiz, Parker, Fanelle, Gingrich, Stimelski, Boisvert, and Bello**

101. Plaintiff incorporates paragraphs one (1) through one hundred (100) as though fully set forth at length herein.

102. The Defendants Ortiz, Parker, Fanelle, Gingrich, Stimelski, Boisvert, and Bello entered into a conspiracy to commit a criminal assault upon the handcuffed Plaintiff.

103. As a result of the acts of each of the Defendants in furtherance of the conspiracy, Plaintiff has suffered permanent injuries entitling Plaintiff compensatory and punitive damages from each of the Defendants.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendants Ortiz, Parker, Fanelle, Gingrich, Stimelski, Boisvert, and Bello, in an amount exceeding Seventy-Five Thousand Dollars (\$75,000.00), including, but not limited to, compensatory damages for past and future medical expenses, past pain and suffering, future pain and suffering, past lost wages, future lost wages, and loss of earning capacity; punitive damages; reasonable attorney's fees and costs; and such other legal or equitable relief as appears just and reasonable.

**ASSAULT AND BATTERY**

**Defendants Ortiz, Parker, Fanelle, Gingrich, Stimelski, Boisvert, and Bello**

104. Plaintiff incorporates paragraphs one (1) through one hundred and three (103) as though fully set forth at length herein.

105. The Defendants Ortiz, Parker, Bello, Doe and Roe each committed an assault and battery upon the Plaintiff, causing him to suffer permanent injuries entitling Plaintiff to compensatory and punitive damages from each of the Defendants.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendants Ortiz, Parker, Fanelle, Gingrich, Stimelski, Boisvert, and Bello, in an amount exceeding Seventy-Five Thousand Dollars (\$75,000.00), including, but not limited to, compensatory damages for past and future medical expenses, past pain and suffering, future pain and suffering, past lost wages, future lost wages, and loss of earning capacity; punitive damages; reasonable attorney's fees and costs; and such other legal or equitable relief as appears just and reasonable.

**FALSE ARREST**

**Defendants Ortiz, Parker, Fanelle, Gingrich, Stimelski, Boisvert, and Bello**

106. Plaintiff incorporates paragraphs one (1) through one hundred and six (106) as though fully set forth at length herein.

107. Plaintiff was seized without any reasonable suspicion and arrested, placed in handcuffs without any probable cause and in the absence of a warrant.

108. After being wrongfully arrested, Plaintiff was beaten so severely that he has suffered permanent injuries entitling Plaintiff to compensatory and punitive damages from each of the Defendants.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendants Ortiz, Parker, Fanelle, Gingrich, Stimelski, Boisvert, and Bello, in an amount exceeding Seventy-Five Thousand Dollars (\$75,000.00) including, but not limited to, compensatory damages for past and future medical expenses, past pain and suffering, future pain and suffering, past lost wages, future lost wages, and loss of earning capacity; punitive damages; reasonable attorney's fees and costs; and such other legal or equitable relief as appears just and reasonable.

**STATE AND FEDERAL CAUSES OF ACTION**

**Invasion of Privacy**

**Defendants Ortiz, Parker, Gingrich, Stimelski, Boisvert, Fanelle, and Bello**

109. Plaintiff incorporates paragraphs one (1) through one hundred and eight (108) as though fully set forth at length herein.

110. Defendants unlawfully seized Plaintiff's wallet and personal effects for an improper and corrupt purpose and by doing so, violated Plaintiff's state and federal constitutional rights to privacy, and to be free from unreasonable, illegal searches conducted without a warrant and in the absence of any exigent circumstances or probable cause.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendants Ortiz, Parker, Fanelle, Gingrich, Stimelski, Boisvert, and Bello, in an amount exceeding Seventy-Five Thousand Dollars (\$75,000.00) including, but not limited to, compensatory damages for past and future medical expenses, past pain and suffering, future pain and suffering, past lost wages, future lost wages, and loss of earning capacity; punitive damages; reasonable attorney's fees and costs; and such other legal or equitable relief as appears just and reasonable.

**Prayer for Relief**

111. Plaintiff requests a jury trial on all issues and;

(1) as to Defendant Ortiz, Parker, Fanelle, Gingrich, Stimelski, Boisvert, and Bello,

requests an award of:

(a) compensatory damages for past and future medical expenses, past pain and suffering, future pain and suffering, past lost wages, future lost wages, and loss of earning capacity;

(b) punitive damages;

(c) reasonable attorney's fees and costs; and

(d) such other legal or equitable relief as appears just and reasonable; and

(2) as to Defendant, Winslow Township, Plaintiff requests an award of:

(a) compensatory damages for past pain and suffering, future pain and suffering, past and future medical bills, past lost wages, future lost wages, and loss of earning capacity;

(b) punitive damages;

(c) reasonable attorney's fees and costs;

(d) injunctive relief to be fashioned by the Court to prevent such occurrences in the future in Winslow Township; and

(e) such other legal or equitable relief as appears just and reasonable.

Respectfully submitted,

MATTLEMAN, WEINROTH & MILLER, P.C.

/s Albert J. Olizi, Jr.

5/29/2009  
Date: \_\_\_\_\_

By:

\_\_\_\_\_  
ALBERT J. OLIZI, JR., ESQUIRE, CO-COUNSEL  
FOR PLAINTIFFS, GEORGE AND LINDA SNIDER

THE LAW OFFICES OF JEFFREY P. HOYLE

/s Jeffrey P. Hoyle

By:

\_\_\_\_\_  
JEFFREY P. HOYLE, ESQUIRE, CO-COUNSEL  
FOR PLAINTIFFS, GEORGE AND LINDA SNIDER

**DEMAND FOR JURY TRIAL**

Pursuant to the Federal Rules of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury of twelve (12) of all issues so triable.

Respectfully submitted,

MATTLEMAN, WEINROTH & MILLER, P.C.

/s Albert J. Olizi, Jr.

Date: 5/29/2009

By:

ALBERT J. OLIZI, JR., ESQUIRE, CO-COUNSEL  
FOR PLAINTIFFS, GEORGE AND LINDA SNIDER

THE LAW OFFICES OF JEFFREY P. HOYLE

/s Jeffrey P. Hoyle

By:

JEFFREY P. HOYLE, ESQUIRE, CO-COUNSEL  
FOR PLAINTIFFS, GEORGE AND LINDA SNIDER

**GENERAL RELEASE**

This General Release, dated \_\_\_\_\_ is given

BY the Releasor(s) **GEORGE SNIDER and LINDA SNIDER**

referred to as "T",

TO the Releasee(s) **THE TOWNSHIP OF WINSLOW, MICHAEL PARKER, MICHAEL GINGRICH, ROBERT STIMELSKI, ROBERT BOISVERT, ROBIN FANELLE, and ANTHONY BELLO**

referred to as "You"

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

The word "You" shall include the aforementioned entities and individuals as well as their corporate predecessors and/or successors; subsidiaries; parents; affiliates; officers; stockholders; employees; former employees; representatives, whether past or present; agents; attorneys; and assigns.

**1. RELEASE:** I release and give up any and all present, past, and future claims and/or rights, whether known or unknown, which I may have against you. This General Release applies, but is not limited to, the following claims: claims for New Jersey state or U.S. federal constitutional violations; claims for attorneys' fees; claims for consequential damages; claims for punitive damages; claims for compensatory damages; claims for negligence; claims for civil rights violations; claims for fraud; claims for injunctive relief and/or breach of any duty imposed by statute, constitution, common law, or administrative rule or regulation. I specifically release the following claims:

All claims arising out of the incident referred to in plaintiffs' Complaint including, but not limited to, all claims which were asserted in, should have been asserted in, or could have been asserted in, the lawsuit captioned George Snider and Linda Snider v. The Township of Winslow, Michael Parker, Michael Gingrich, Robert Stimelski, Robert Boisvert, Robin Fanelle, and Anthony Bello, filed in the United States District Court for the District of New Jersey, Civil Action No.: 07-CV-2428 (RBK), including, but not limited to, claims for wrongful arrest, false imprisonment, wrongful detention, negligence, civil rights violations, constitutional violations, attorney's fees, and/or claims of any type.

I agree that all claims against the Releasees as set forth in the lawsuits captioned above shall be dismissed with prejudice and without costs upon receipt of the payment set forth in paragraph two (2), below. All claims for attorney's fees are also expressly released in their entirety. It is intended that this General Release be interpreted in accordance with New Jersey law.

2. **PAYMENT:** You have paid a total of \$280,000.00 in full payment for making this General Release. I agree that I will not seek anything further including any other payment from you and that any and all claims for attorney's fees have also been released. The \$280,000.00 settlement payment draft will be delivered upon the full execution of this General Release and upon counsel's execution of Stipulation of Dismissal with Prejudice.

3. **WHO IS BOUND:** I am bound by this General Release. Anyone who succeeds to my rights and responsibilities, such as my heirs or the executor of my estate, is also bound. This General 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, corporate successors or assigns. If this General Release is made by a corporation its proper corporate officers sign and its corporate seal is affixed.

4. **NO ADMISSION OF LIABILITY OR FAULT:** The payments described above are not an admission of liability by the Township of Winslow, Michael Parker, Michael Gingrich, Robert Stimelski, Robert Boisvert, Robin Fanelle, and Anthony Bello, or their agents, employees, representatives, officers, stockholders, attorneys, insurance carriers, or corporate successors or predecessors. The Township of Winslow, Michael Parker, Michael Gingrich, Robert Stimelski, Robert Boisvert, Robin Fanelle, and Anthony Bello deny any liability and, by their payment in settlement, intend merely to avoid litigation and to buy their peace.

5. **THIS RELEASE IS A CONTRACT:** The terms of this General Release are contractual and not a mere recital. I expressly assume the risk of loss arising from any and all claims which exist as of this date or which may arise in the future but of which I do not know or suspect to exist and which, if known, might materially affect my decision to enter into this General Release.

6. **SIGNATURES:** I understand and agree to the terms of this General Release. The undersigned acknowledges that they have read this General Release, that they have had the benefit of consultation with their attorneys in connection therewith and that they understand all of its terms and executes it voluntarily and with full knowledge of its significance and consequences thereof.

Witnessed or Attested by:

  
GEORGE SNIDER

  
LINDA SNIDER


STATE OF New Jersey COUNTY OF Gloucester SS:

I CERTIFY that on January 27, 2010,

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

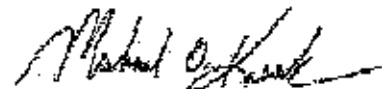


- (a) is named in and personally signed this document; and
- (b) signed, sealed and delivered this document as his act and deed.

  
\_\_\_\_\_  
Notary Public

Prepared by:

MEGHAN M. SCHUBERT  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires April 26, 2011



MICHAEL O. KASSAK, ESQUIRE