

Oct. 4. 2010 9:28AM Vineland Municipal Utilities

No. 1097 P. 8

CHRISTOPHER A. GRAY, ESQUIRE  
ALTERMAN & ASSOCIATES, LLC  
8 S. Maple Ave.  
Marlton, New Jersey 08053  
(856) 334-5737  
Attorneys for Plaintiff

SUPERIOR COURT OF N.J.  
CUMBERLAND COUNTY  
LAW DIVISION

JUL 23 2010

REC'D & FILED  
CIVIL CASE  
MANAGEMENT OFFICE

BRAD MARCHESANO

Plaintiff

v.

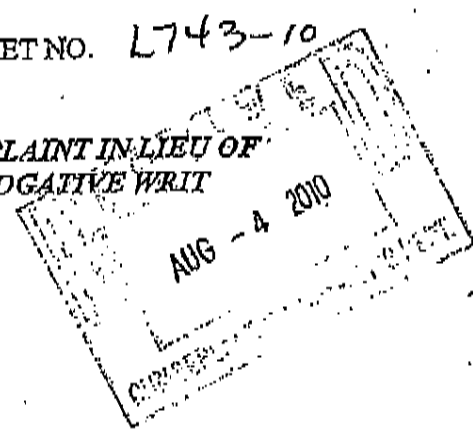
CITY OF VINELAND, VINELAND  
POLICE DEPARTMENT  
its Agents, Servants, Employees, and /or  
representatives, and JOHN or  
JANE DOES 1-10, those being  
fictitious names of persons or entities  
whose identities are not yet known,  
who unlawfully disciplined the  
Plaintiff and/or otherwise violated  
her rights

Defendants

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - CUMBERLAND COUNTY

DOCKET NO. L743-10

COMPLAINT IN LIEU OF  
PREROGATIVE WRIT



Plaintiff, Brad Marchesano, residing at 109 Woodlawn Avenue, Newfield, New Jersey 08344, by way of complaint says that:

FACTUAL ASSERTIONS

1. The Plaintiff, Brad Marchesano, is a resident of the Town of Newfield, County of Cumberland and State of New Jersey, and was employed as a patrolman with the City of Vineland at all times relevant hereto.

2. The Defendants, City of Vineland and Vineland Police Department, are a body corporate and politic in the County of Cumberland and State of New Jersey.

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3. Upon information and belief, at all times relevant hereto, Defendants John Does 1 through 10 were agents and/or employees of the City of Vineland and the Vineland Police Department and have personally acted in regard to this matter.

4. Plaintiff is a Patrolman with the City of Vineland, New Jersey.

5. On or about September 9, 2009, Plaintiff received a Preliminary Notice of Disciplinary Action for Violation of Rule 4:1.4 (Abide by all rules, regulations and departmental procedures), Rule 4:9.2 (Performance of Duty), and Violation of the New Jersey Administrative Code 4A:2-2.3(11) (Other Sufficient Cause). The local hearing was held on December 4, 2009, the hearing officer, Denise Monaco, Business Administrator, for the City of Vineland, upheld the two (2) day suspension against plaintiff and issued her Decision on December 23, 2009.

6. Plaintiff appealed the City of Vineland and Vineland Police Department's two (2) day suspension without pay by filing a Complaint For Declaratory Judgment and Action In Lieu of Prerogative Writ on January 11, 2010 under Docket No. L-51-10.

7. On July 2, 2010, the Honorable Richard J. Geiger, J.S.C. ordered that Plaintiff's demand to set aside the two (2) day suspension be granted. The two (2) day suspension without pay was vacated, and Plaintiff was awarded two (2) days back pay.

8. On or about September 22, 2009, the Plaintiff retained the services of the law firm of Alterman & Associates, LLC. to represent him in the administrative proceedings arising out of the Preliminary Notice of Disciplinary Action dated September 9, 2009.

9. On or about September 9, 2009, the Defendants served the Plaintiff with the Preliminary Notice of Disciplinary Action (31-A) suspending the Plaintiff for two (2) days without pay.

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10. Alterman and Associates, LLC attorney's fees and costs for representing the Plaintiff in the administrative proceedings are \$9,880.05.

COUNT ONE

VIOLATION OF N.J.S.A. 40A:14-155

11. The Plaintiff hereby repeats all of the allegations of the factual summary set forth above as if set forth at length herein.

12. N.J.S.A. 40A:14-155 provides that whenever a member or officer of a municipal police department or force is a defendant in any action or legal proceeding arising out of and directly related to the lawful exercise of police powers in the furtherance of his official duties, the governing body of the municipality shall provide said member or officer with necessary means for the defense of such action or proceeding, but not for his defense in a disciplinary proceeding instituted against him by the municipality as a result of a complaint on behalf of the municipality. If any such disciplinary or criminal proceeding instituted by or on complaint of the municipality shall be dismissed or finally determined in favor of the member or officer, he shall be reimbursed for the expense of his defense.

WHEREFORE, the Plaintiff demands judgment as follows:

- A. Awarding the Plaintiff's attorney's fees and costs in the amount of \$9,880.05, incurred by him in the defense of his administrative charges;
- B. Interest, attorney's fees and costs in bringing this action; and
- C. Any such other and further relief to which the Plaintiff may be entitled in either equity or law.

JURY TRIAL DEMAND

Plaintiff demands trial by a jury as to all issues raised in all Counts of this Complaint.

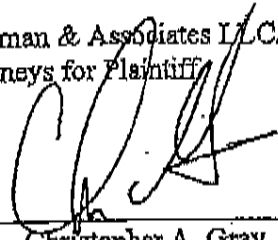
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DESIGNATION OF TRIAL COUNSEL

Christopher A. Gray, Esquire is hereby designated trial counsel of record.

Alterman & Associates L.L.C.  
Attorneys for Plaintiff



By: \_\_\_\_\_  
Christopher A. Gray, Esquire

DATE: 7-21-10

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No. 1097 P. 14

Alterman & Associates, LLC  
8 South Maple Avenue  
Marlton, NJ 08063

Invoice submitted to:
Brad Marchesano
c/o LPP

Invoice Date	Invoice Number	Last Bill Date
July 20, 2010	555	

## Professional Services

		<u>Hrs/Rate</u>	<u>Amount</u>
11/4/2009 SJA	Receipt and review Receipt and review of letter and discovery, review discovery, draft letter to client	3.50 250.00/hr	875.00
12/1/2009 SJA	Preparation Preparation for hearing, outline testimony, CDs and radio calls, review weather reports	3.00 250.00/hr	750.00
12/2/2009 SJA	Review Review and prepare, meet w/client, prepare for case, review w/C. Gray and client	2.00 250.00/hr	500.00
12/3/2009 CG	Preparation Preparation for hearing, meet w/client to prepare	2.00 250.00/hr	500.00
12/4/2009 CG	Appearance for Hearing Attendance at local level hearing/trial	4.50 250.00/hr	1,125.00
12/8/2009 SJA	Phone Call w/Mazzolla, call w/client, w/chief	1.80 250.00/hr	450.00
1/6/2010 CG	Review Review of final, review of transcript	1.20 250.00/hr	300.00
3/21/2010 SJA	Draft Draft of letter to client	0.40 250.00/hr	100.00

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Brad Marchesano

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		<u>Hrs/Rate</u>	<u>Amount</u>
3/22/2010	SJA Receipt and review Receipt and review of letter from A. Bounadone, Asst Solicitor, Vineland, draft reply letter, draft letter to PBA 266, draft letter to client	1.80 250.00/hr	450.00
3/28/2010	SJA Review Review of file, review statute re: prerogative writs	0.80 250.00/hr	200.00
4/9/2010	SJA Receipt and review Receipt and review of notice, draft letter to client	0.60 250.00/hr	125.00
4/23/2010	CG Phone Conference w/Judge Geiger re: case management, dealt w/Motions to Supplement	2.10 250.00/hr	525.00
5/3/2010	SJA Review Discuss status w/EBoard	0.20 250.00/hr	50.00
5/10/2010	CG Review Review of Judge Geiger's Order, letter to client,	0.50 250.00/hr	125.00
5/17/2010	CG Draft Draft of Brief to Judge Geiger	2.10 250.00/hr	525.00
5/18/2010	CG Phone Conference w/adversary and edit brief	0.80 250.00/hr	200.00
6/16/2010	CG Draft Draft of reply brief	1.80 250.00/hr	450.00
	JR Review Review of brief, prepare for hearing	1.70 250.00/hr	425.00
6/18/2010	CG Draft Draft of Trial De Novo	5.50 250.00/hr	1,375.00
	JR Phone Conference w/CG	0.30 250.00/hr	75.00
6/22/2010	SJA Meeting Meet and conf. w/C.Gray re: Court and Inquiry of administrative vs. legal presentation, discuss how minor discipline has been handled for last 20 yrs	1.00 250.00/hr	250.00
	CG Research Additional exhaustion research, affidavit of SJA	0.80 250.00/hr	200.00
For professional services rendered		<u>38.30</u>	<u>\$9,575.00</u>

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Brad Marchesano

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Additional Charges :

		<u>Qty/Price</u>	<u>Amount</u>
12/21/2009 DM	Transcript Cost Transcript Cost - Mary Q. Irelan, CSR	1 105.05	105.05
1/7/2010 SJA	Filing Fee Filing Fee - Superior Court	1 200.00	200.00
Total additional charges			<u>\$305.05</u>
Total amount of this bill			<u>\$9,880.05</u>
Balance due			<u><u>\$9,880.05</u></u>

## RELEASE

THIS RELEASE, dated the 1<sup>st</sup> day of March, 2011, is given by the Releasor, BRAD MARCHESANO, of Vineland, NJ, referred to as "I", to City of Vineland, NJ, 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 in connection with attorneys fees and costs incurred in prosecuting the matter of Brad Marchesano v. City of Vineland, under Docket No. CUM-L-51-10, Superior Court of New Jersey. This releases all claims resulting from anything in connection with the aforesaid matter which has happened up to now.

This Release does not constitute an admission of liability on the part of any of the parties hereto.

2. **Payment.** I have been paid a total of Five Thousand Eight Hundred Thirty-two Dollars and 15 cents (\$5,832.15), 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.

WITNESSED OR ATTESTED BY:

*Debra Ann Maddalena*

*Brad Marchesano*  
BRAD MARCHESANO

Sworn and subscribed to  
before me this 7 day  
of March, 2011.

*Chiff A. G.*  
Notary Public  
*Notary by State*

SUPERIOR COURT OF N.J.  
CUMBERLAND COUNTY  
LAW DIVISION

JUL 23 2010

REC'D & FILED  
CIVIL CASE  
MANAGEMENT OFFICE

CHRISTOPHER A. GRAY, ESQUIRE  
ALTERMAN & ASSOCIATES, LLC  
8 S. Maple Ave.  
Marlton, New Jersey 08053  
(856) 334-5737  
Attorneys for Plaintiff

GREGORY PACITTO

Plaintiff

v.

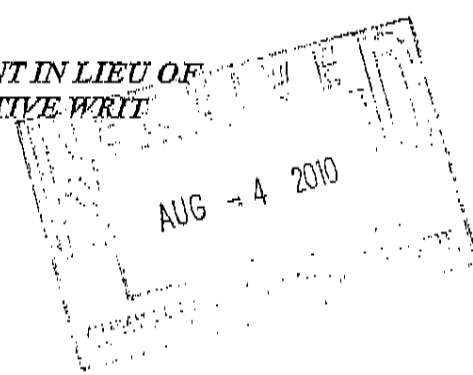
CITY OF VINELAND, VINELAND  
POLICE DEPARTMENT  
its Agents, Servants, Employees, and /or  
representatives, and JOHN or  
JANE DOES 1-10, those being  
fictitious names of persons or entities  
whose identities are not yet known,  
who unlawfully disciplined the  
Plaintiff and/or otherwise violated  
her rights

Defendants

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION - CUMBERLAND COUNTY

DOCKET NO. L744-10

COMPLAINT IN LIEU OF  
PREROGATIVE WRIT



Plaintiff, Gregory Pacitto, residing at 1186 Bucks Run, Vineland, New Jersey 08360, by way  
of complaint says that:

FACTUAL ASSERTIONS

1. The Plaintiff, Gregory Pacitto, is a resident of the City of Vineland, County of  
Cumberland and State of New Jersey, and was employed as a patrolman with the City of Vineland at  
all times relevant hereto.

2. The Defendants, City of Vineland and Vineland Police Department, are a body  
corporate and politic in the County of Cumberland and State of New Jersey.

3. Upon information and belief, at all times relevant hereto, Defendants John Does 1 through 10 were agents and/or employees of the City of Vineland and the Vineland Police Department and have personally acted in regard to this matter.

4. Plaintiff is a Patrolman with the City of Vineland, New Jersey.

5. On or about May 20, 2008 plaintiff received a Preliminary Notice of Disciplinary Action. The Notice contained the following charges: Violation of Rule 3.4 (Departmental Property & Equipment), Rule 3.4.5 (Operation of Motor Vehicles), Rule 3.4.1 (Damage Inoperative Property or Equipment) of the Vineland Police Department's Rules and Regulations and Violation of the New Jersey Administrative Code 4a:2-2.3(11) (Other Sufficient Cause). The local hearing was held on December 19, 2008, the hearing officer, Denise Monaco, Business Administrator, for the City of Vineland, upheld the two (2) day suspension against plaintiff and issued her Decision on January 15, 2009.

6. Plaintiff appealed the City of Vineland and Vineland Police Department's two (2) day suspension without pay by filing a Complaint For Declaratory Judgment and Action In Lieu of Prerogative Writ on January 22, 2009 under Docket No. L-80-09.

7. On March 25, 2010, the Honorable Richard J. Geiger, J.S.C. ordered that Plaintiff's demand to set aside the two (2) day suspension be granted. The two (2) day suspension without pay was vacated, and Plaintiff was awarded two (2) days back pay.

8. On May 18, 2010 a letter was directed to Keith Petroskey, RMC of the City of Vineland and Denise Monaco, the City of Vineland's Business Administrator with our law firm's bill for the representation of the Plaintiff. No response was ever received by the City of Vineland.

9. On or about May 20, 2008, the Plaintiff retained the services of the law firm of Alterman & Associates, LLC. to represent him in the administrative proceedings arising out of the

Preliminary Notice of Disciplinary Action dated May 20, 2008.

10. On or about May 20, 2008, the Defendants served the Plaintiff with the Preliminary Notice of Disciplinary Action (31-A) suspending the Plaintiff for two (2) days without pay.

11. Alterman and Associates, LLC attorney's fees and costs for representing the Plaintiff in the administrative proceedings are \$11,304.00.

COUNT ONE

VIOLATION OF N.J.S.A. 40A:14-155

12. The Plaintiff hereby repeats all of the allegations of the factual summary set forth above as if set forth at length herein.

13. N.J.S.A. 40A:14-155 provides that whenever a member or officer of a municipal police department or force is a defendant in any action or legal proceeding arising out of and directly related to the lawful exercise of police powers in the furtherance of his official duties, the governing body of the municipality shall provide said member or officer with necessary means for the defense of such action or proceeding, but not for his defense in a disciplinary proceeding instituted against him by the municipality as a result of a complaint on behalf of the municipality. If any such disciplinary or criminal proceeding instituted by or on complaint of the municipality shall be dismissed or finally determined in favor of the member or officer, he shall be reimbursed for the expense of his defense.

WHEREFORE, the Plaintiff demands judgment as follows:

- A. Awarding the Plaintiff's attorney's fees and costs in the amount of \$11,304.00, incurred by him in the defense of his administrative charges;
- B. Interest, attorney's fees and costs in bringing this action; and

C. Any such other and further relief to which the Plaintiff may be entitled in either equity or law.

JURY TRIAL DEMAND

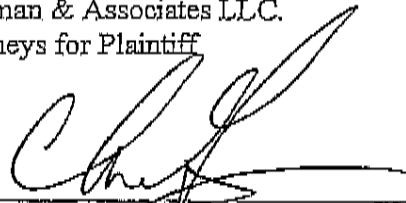
Plaintiff demands trial by a jury as to all issues raised in all Counts of this Complaint.

DESIGNATION OF TRIAL COUNSEL

Christopher A. Gray, Esquire is hereby designated trial counsel of record.

Alterman & Associates LLC.  
Attorneys for Plaintiff

By:



Christopher A. Gray, Esquire

DATE: 7-21-10

Alterman & Associates, LLC  
 8 South Maple Avenue  
 Marlton, NJ 08053

Invoice submitted to:

Greg Pacito

<i>Invoice Date</i>	<i>Invoice Number</i>	<i>Last Bill Date</i>
July 20, 2010	520	

In Reference To: PBA7-0609

Professional Services

		<u>Hrs/Rate</u>	<u>Amount</u>
1/23/2009 SJA	Return call to client Return call to client, review file	0.30 250.00/hr	75.00
1/27/2009 SJA	Review Review of letter	0.20 250.00/hr	50.00
2/9/2009 SJA	Receipt and review Receipt and review of filed Complaint, draft memo to serve same	0.70 250.00/hr	175.00
2/25/2009 SJA	Receipt and review Receipt and review of letter from Sheriff?	0.50 250.00/hr	125.00
3/5/2009 SJA	Preparation Preparation for hearing	1.50 250.00/hr	375.00
3/10/2009 SJA	Receipt and review Receipt and review of letter from adversary, review file, draft reply letter to adversary	1.30 250.00/hr	325.00
SJA	Draft Draft letter to adversary enclosing complaint for prerogative writ	0.50 250.00/hr	125.00
3/17/2009 SJA	Phone Call to adversary	0.30 250.00/hr	75.00
3/25/2009 SJA	Receipt and review Receipt and review of responsive pleading, call w/adversary, draft letter to client, call w/S. Buglio, review rules	2.40 250.00/hr	600.00

Greg Pacito

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			<u>Hrs/Rate</u>	<u>Amount</u>
3/31/2009	SJA	Receipt and review Receipt and review of letter from adversary, call to adversary, draft letter	0.90 250.00/hr	225.00
6/27/2009	SJA	Receipt and review Receipt and review of discovery	2.50 250.00/hr	625.00
8/3/2009	SJA	Phone Call w/adversary, call from Court, trial preparation, conf. w/J.Rowland	0.50 250.00/hr	125.00
	JR	Review Review of file, draft and serve supplemental discovery request, conf. w/SJA	2.30 250.00/hr	575.00
8/11/2009	SJA	Review Check on trial dates	0.20 250.00/hr	50.00
8/24/2009	SJA	Phone Call to Vandez, receive and review docs.	0.50 250.00/hr	125.00
	SJA	Receipt and review Receipt and review of letter from adversary, draft letter to adversary in reply, call to adversary	1.00 250.00/hr	250.00
8/25/2009	SJA	Draft Draft letter to client	0.20 250.00/hr	50.00
8/27/2009	SJA	Phone Call w/adversary, discuss her improper subpoena to client, conf w/C. Gray re: motion to strike, review rules, case law	2.00 250.00/hr	500.00
8/31/2009	CG	Review Review of letter, conf. w/BC	0.90 250.00/hr	225.00
9/1/2009	SJA	Receipt and review Receipt and review of letter from Judge Geiger, conf. w/J. Rowland to handle, draft letter to client	1.00 250.00/hr	250.00
9/3/2009	CG	Draft Draft brief to Geiger re: improper pleading filed by adversary	2.30 250.00/hr	575.00
9/4/2009	SJA	Draft outline and edit brief	0.90 250.00/hr	225.00
9/11/2009	SJA	Phone Call w/Bill Mazzolla re: status, call to adversary	0.60 250.00/hr	150.00
9/26/2009	SJA	Receipt and review Receipt and review of scheduling notice, draft letter to client	0.50 250.00/hr	125.00

Greg Pacito

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		<u>Hrs/Rate</u>	<u>Amount</u>
10/12/2009	SJA Phone Discuss status w/Mazzolla and Buglio	0.50 250.00/hr	125.00
10/16/2009	JR Preparation Preparation for status conference, review issues	1.50 250.00/hr	375.00
10/19/2009	JR Court Appearance Court Appearance at Cumberland Co. Superior	3.50 250.00/hr	875.00
11/2/2009	SJA Phone Call w/client, call to Court, review J. Rowland notes from status conference	0.90 250.00/hr	225.00
11/19/2009	JR Review Review of file for conference w/Judge, conf. w/SJA	1.20 250.00/hr	300.00
11/20/2009	CG Phone Phone conference w/Geiger	0.80 250.00/hr	200.00
12/9/2009	JR Phone Conference w/Judge	0.30 250.00/hr	75.00
12/10/2009	JR Phone Conference w/Judge and Secretary	0.30 250.00/hr	75.00
12/16/2009	SJA Receipt and review Receipt and review of multiple pleadings from adversary, mark up and conf. w/JR	2.00 250.00/hr	500.00
12/17/2009	JR Review Review of transcripts	1.10 250.00/hr	275.00
1/4/2010	JR Draft Draft of brief for submission of appeal	3.50 250.00/hr	875.00
1/5/2010	JR Draft Finish brief, submission of brief	2.80 250.00/hr	700.00
2/1/2010	JR Review Review of adversary brief	1.00 250.00/hr	250.00
3/29/2010	JR Review Review of Decision, conf. w/SJA	0.70 250.00/hr	175.00
	JR Phone Call to SJA re: decision, call to client, leave message	0.30 250.00/hr	75.00
3/30/2010	JR Phone Call to client, call to Mazzolla and Buglio re: decision	0.60 250.00/hr	150.00

Greg Pacito

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For professional services rendered

<u>Hours</u>	<u>Amount</u>
45.00	\$11,250.00

Additional Charges :

2/13/2008 PK	Service Fee		
	Service Fee -Sheriff		

<u>Qty/Price</u>	
1	54.00
54.00	

Total additional charges

\$54.00

Total amount of this bill

\$11,304.00

Balance due

\$11,304.00

RELEASE

This RELEASE, dated the 10<sup>th</sup> day of January, 2011, is given by the Releasor, Gregory Pacitto, of Vineland, New Jersey (hereinafter referred to as "T") to the City of Vineland and its agents, servants, employees and/or representatives, (hereinafter referred to as "you").

1. Release

I release and give up any and all claims and rights which I may have against you in connection with attorneys' fees and costs incurred in prosecuting the matter of Gregory Pacitto v. City of Vineland, et al., captioned at Docket No.: L-80-09, Superior Court of New Jersey, Law Division, Cumberland County, and the matter of Gregory Pacitto v. City of Vineland, et al., captioned at Docket No.: L-744-10, Superior Court of New Jersey, Law Division, Cumberland County. This releases any and all claims resulting from anything in connection with the aforesaid matters which has happened from the beginning of time up to now.

This release does not constitute an admission of liability on the part of any of the parties hereto.

2. Payment

I have been paid a total of Six Thousand Eight Hundred Sixty-Two Dollars and Ninety Cents (\$6,862.90) 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.

4. Signatures

I understand and agree to the terms of this Release.

SIGNED, SEALED AND DELIVERED in the presence of:

Deborah Ann Maddal  
WITNESS

[Signature]  
GREGORY PACITTO

SWORN AND SUBSCRIBED TO BEFORE  
ME THIS DAY OF 10th day of June, 2011.

[Signature]  
NOTARY PUBLIC