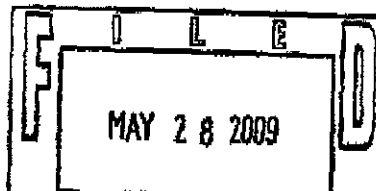


MATTLEMAN, WEINROTH & MILLER, P.C.

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Cherry Hill, New Jersey 08034
856-429-5507
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File No.: 10030,73115
Attorney's for Plaintiff



ALAN DONIA,

Plaintiff,

vs.

**BOROUGH OF MERCHANTVILLE;
MERCHANTVILLE POLICE DEPARTMENT;
SERGEANT JEFFREY BROCIOSUS,
INDIVIDUALLY; AND OFFICER MATTHEW
RULLI, INDIVIDUALLY,**

Defendant(s).

**SUPERIOR COURT - NEW JERSEY
LAW-DIVISION
CAMDEN COUNTY**

Docket No.: **L 2623**

CIVIL ACTION

COMPLAINT

Plaintiff, Alan Donia, by way of Complaint against the Defendants, says the following:

1. Plaintiff is an adult individual residing at 2672 Union Avenue, Pennsauken, New Jersey 08109.
2. Defendant Borough of Merchantville is a unicipal corporation located within the County of Camden, State of New Jersey, with an administrative office address of Municipal Building, 1 West Maple Avenue, Merchantville, 08109.
3. Defendant Merchantville Police Department is an agency of the Borough of Merchantville and is currently headquartered at 1 West Maple Avenue, Merchantville, 08109.
4. Defendant Jeffrey Brociosus is an adult individual employed as a police sergeant by the Merchantville Police Department.
5. Defendant Matthew Rulli is an adult individual is employed as a police officer by the Merchantville Police Department.
6. On or about September 23, 2007, a white van operated by Plaintiff, Alan Donia, was stopped by Defendant Rulli, a Merchantville police officer, in Pennsauken Township.
7. Said stop was made after a radio call from Defendant Brociosus to Defendant Rulli that a suspected drunk driver was walking across the parking lot of Buzzzi's Pizza in Merchantville towards a white van.

8. Neither Defendant saw Plaintiff operate or move said vehicle from where it was parked in the parking lot.
9. Upon seeing a white van stopped at a traffic light in Pennsauken, Defendant Rulli followed the vehicle for approximately a quarter of a mile before pulling it over.
10. Defendant Brocius acted as back-up to Defendant Rulli in a separate police vehicle.
11. Subsequent to the stop, Plaintiff performed field sobriety tests at Defendant Rulli's request and was subsequently arrested for Driving Under the Influence, Refusal to Submit to the Breathalyzer and Careless Driving.
12. All observations of Defendant's operation of the motor vehicle and the subsequent field sobriety tests occurred in Pennsauken Township.
13. Plaintiff was convicted of all charges on or about January 10, 2008. He filed an appeal with the Superior Court of New Jersey-Criminal Part, in Camden County on or about January 28, 2008.
14. By order dated May 29, 2008, Judge Cook overturned Plaintiff's convictions on the grounds that no probable cause for the stop existed and that Merchantville Municipal Court lacked jurisdiction. See Order attached hereto as Exhibit "A".
15. Specifically, Judge Cook found that:

There was no probable cause for the police to stop Alan Donia's vehicle and arrest him, no was there any other lawful basis for the motor vehicle stop under the community caretaking function, nor was there any other lawful basis. Thus the evidence obtained or seized from or as a result of the motor vehicle stop, as well as the fruits of that stop, including any statements of Alan Donia, are suppressed as unlawfully obtained.

There was no motor vehicle law violation nor any other offense that originated or otherwise occurred within the territory of Merchantville. Under facts and circumstances of this case, the Merchantville Municipal Court lacked jurisdiction. See Exhibit "A".

COUNT ONE
FALSE IMPRISONMENT UNDER 42 U.S.C. §. 1983

16. Plaintiff repeats, re-alleges, and incorporates paragraphs one (1) through fifteen (15) of this Complaint as though fully set-forth at length herein.
17. Plaintiff was arrested and taken into custody by Defendant Rulli without probable cause in violation of U.S.C. §. 1983.
18. Defendant Brocius provided back-up to Defendant Rulli during the arrest.
19. Subsequent to his arrest, Plaintiff was taken into custody and unlawfully detained by the Merchantville Police Department.

- 20. Defendants Borough of Merchantville and Merchantville Police Department are liable under *respondeat superior* for the conduct of Defendants Rulli and Brocius.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendants, jointly, severally, and in the alternative, for compensatory damages, statutory damages and punitive damages, plus any other relief that the Court deems equitable and just.

**COUNT TWO
UNLAWFUL ARREST UNDER 42 U.S.C. § 1983**

- 21. Plaintiff repeats, re-alleges and incorporates paragraphs one (1) through twenty (20) of this Complaint as though fully set-forth at length herein.
- 22. Defendant Rulli arrested Plaintiff without probable cause in violation of U.S.C. § 1983.
- 23. During said arrest, Defendant Brocius provided back-up to Defendant Rulli.
- 24. Defendants Borough of Merchantville and Merchantville Police Department are liable under *respondeat superior* for the conduct of Defendants Rulli and Brocius.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendants, jointly, severally, and in the alternative, for compensatory damages, statutory damages and punitive damages, plus any other relief that the Court deems equitable and just.

**COUNT THREE
MALICIOUS PROSECUTION UNDER 42 U.S.C. § 1983**

- 25. Plaintiff repeats, re-alleges, and incorporates paragraphs one (1) through twenty-four (24) of this Complaint as though fully set-forth at length herein.
- 26. No probable cause existed for Plaintiff's arrest and the territory of Merchantville lacked jurisdiction to hear the case.
- 27. Defendants pressed charges against Plaintiff for Driving Under the Influence, Refusal to Submit to the Breathalyzer, and Careless Driving in Merchantville Municipal Court.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendants, jointly, severally, and in the alternative, for compensatory damages, statutory damages and punitive damages, plus any other relief that the Court deems equitable and just.

**COUNT FOUR
VIOLATION OF DUE PROCESS UNDER 42 U.S.C. § 1983**

- 28. Plaintiff repeats, re-alleges, and incorporates paragraphs one (1) through twenty-seven (27) of this Complaint as though fully set forth at length herein.
- 29. Plaintiff was arrested and taken into custody by Defendants without probable cause, and therefore in violation of the Due Process clause of the United States Constitution.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendants, jointly, severally, and in the alternative, for compensatory damages, statutory damages and punitive damages, plus any other relief that the Court deems equitable and just.

COUNT FIVE

VIOLATION OF EQUAL PROTECTION UNDER 42 U.S.C. § 1983 AND 42 U.S.C. § 1985(c)

30. Plaintiff repeats, re-alleges, and incorporates paragraphs one (1) through twenty-nine (29) of this Complaint as though fully set forth at length herein.
31. Defendants conspired to arrest Plaintiff and take him into custody without probable cause, and therefore in violation of the Equal Protection clause of the United States Constitution.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendants, jointly, severally, and in the alternative, for compensatory damages, statutory damages and punitive damages, plus any other relief that the Court deems equitable and just.

COUNT SIX

VIOLATION OF EQUAL PROTECTION UNDER NJ STATE CONSTITUTION ART. I, para. 5

31. Plaintiff repeats, re-alleges, and incorporates paragraphs one (1) through thirty (30) of this Complaint as though fully set forth at length herein.
32. Plaintiff was arrested and taken into custody by Defendants without probable cause, and therefore in violation of the Equal Protection clause of the New Jersey State Constitution, Article I, Paragraph 5.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendants, jointly, severally, and in the alternative, for compensatory damages, statutory damages and punitive damages, plus any other relief that the Court deems equitable and just.

COUNT SEVEN

VIOLATION OF DUE PROCESS UNDER NJ STATE CONSTITUTION ART. I, para. 1

33. Plaintiff repeats, re-alleges, and incorporates paragraphs one (1) through thirty-two (32) of this Complaint as though fully set forth at length herein.
34. Plaintiff was arrested and taken into custody by Defendants without probable cause, and therefore in violation of the Due Process clause of the United States Constitution.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendants, jointly, severally, and in the alternative, for compensatory damages, statutory damages and punitive damages, plus any other relief that the Court deems equitable and just.

COUNT EIGHT

COMMON LAW FALSE IMPRISONMENT

35. Plaintiff repeats, re-alleges, and incorporates paragraphs one (1) through thirty-four (34) of this Complaint as though fully set forth at length herein.

- 36. Plaintiff was arrested and subsequently detained by Defendants without probable cause.
- 37. Plaintiff served a Tort Claims Notice as Required by N.J.S.A. 59:8-1 et seq, upon all Defendants on or about August 22, 2008, a copy of which is attached hereto as Exhibit "B".

WHEREFORE, Plaintiff demands judgment in its favor and against Defendants, jointly, severally, and in the alternative, for compensatory damages, statutory damages and punitive damages, plus any other relief that the Court deems equitable and just.

**COUNT NINE
DEFAMATION**

- 38. Plaintiff repeats, re-alleges, and incorporates paragraphs one (1) through thirty-seven (37) of this Complaint as though fully set forth at length herein.
- 39. As a result of Plaintiff's unlawful arrest, his reputation within his community was irreparably damaged.
- 40. Plaintiff's girlfriend at the time broke up with him subsequent to his arrest, citing the arrest as the reason she was breaking up with him.
- 41. The loss of his girlfriend is evidence of the fact that Plaintiff's reputation was damaged by his false arrest.

WHEREFORE, Plaintiff demands judgment in its favor and against Defendants, jointly, severally, and in the alternative, for compensatory damages, statutory damages and punitive damages, plus any other relief that the Court deems equitable and just.

MATTLEMAN, WEINROTH & MILLER, P.C.


 By: Kimberley Kluchnick
 Attorneys for plaintiff

Dated: 08/28/2009

CERTIFICATION OF COUNSEL

1. I am the attorney for the Plaintiff in this matter.
2. The matter in controversy herein is not the subject of any other action pending in any Court or of any pending arbitration contemplated at this time.
3. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false I am subject to punishment.

MATTLEMAN, WEINROTH & MILLER, P.C.

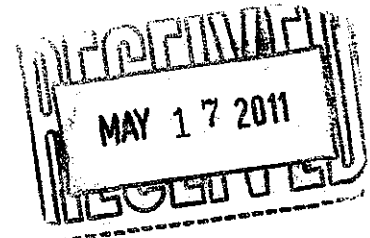
Dated: 5/28/2007



By: Kimberley Kluchnick
Attorneys for plaintiff

U62975

RELEASE



THIS RELEASE, dated May 11, 2011, is given
BY the Releasor(s), Alan Donia, referred to as "I",

TO Borough of Merchantville, Merchantville Police Department, Sergeant Jeffrey Brocious, individually, Office Matthew Rulli, individually and Scibal Associates, Inc., 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 claim:

Relating to claims alleging False Imprisonment, Unlawful Arrest, Malicious Prosecution, Violation of Due Process and Equal protection under 42 U.S.C. 1983 and State and Common Law and Defamation on or about September 23, 2007 in the Borough of Merchantville, County of Camden, New Jersey, which claims are the subject of a lawsuit filed in the Superior Court of New Jersey, Law Division, Camden County, captioned Alan Donia v. Borough of Merchantville, et al., Docket No. CAM-L-2623-09 to be dismissed simultaneously herewith.

It is expressly understood and agreed that the acceptance of the amount herein recited is in full accord and satisfaction and in compromise of all disputed claims, and that the payment thereof is not an admission of liability, but is made for the purpose of terminating all disputes and litigation between the parties hereto.

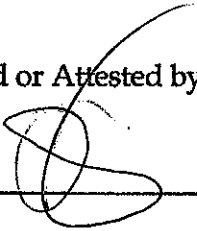
It is further expressly understood and agreed by and between the parties that, in consideration for the payment of the amount herein recited, the Releasor(s) shall be fully responsible for any and all past, present or future expenses, lost wages or the like that was incurred in conjunction with the alleged incident.


2. **PAYMENT.** I have been paid a total of \$11,000.00 from Defendant, Merchantville, Merchantville Police Department, Sergeant Jeffrey Brocious, individually, Office Matthew Rulli, individually and Scibal Associates, Inc. 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. Any one 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:






ALAN DONIA

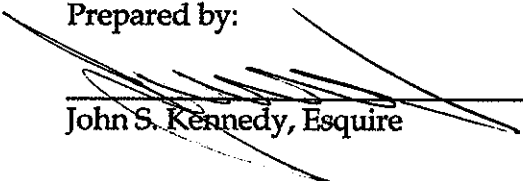
Pennsylvania
STATE OF ~~NEW JERSEY~~ :
: COUNTY OF *Philadelphia* :

I CERTIFY that on *May 11*, 2011, Alan Donia, 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.



Notary Public

Prepared by:

John S. Kennedy, Esquire

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
MATTHEW LYNCH, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires July 22, 2012