

Nathaniel M. Davis, P.C.  
 40 East Park Street  
 Newark, NJ 07102  
 (973) 792-9005  
 Attorney for the Plaintiff,  
 Diego Diaz

DIEGO DIAZ, by his parent	: UNITED STATES DISTRICT COURT
and guardian ad litem,	: FOR THE STATE OF NEW JERSEY
MARIA LOPEZ,	:
	:
Plaintiff (s)	:
	:
v.	: Civil Action No: 11-2364
	: (CSDW)
	:
TOWNSHIP OF UNION CITY,	:
TOWNSHIP OF UNION CITY POLICE	:
DEPARTMENT, P.O. CORBO, P.O.	: COMPLAINT
CHASMER, P.O. BIDO, ABC CORP.	:
1-3 (Names being fictitious),	:
and JOHN DOE 1-3 (Names being	:
fictitious)	:
	:
Defendant(s)	:

Plaintiff, Diego Diaz, through his parent and guardian ad litem, Maria Lopez, by his attorney, Nathaniel M. Davis of the firm Nathaniel M. Davis, P.C., complains of defendants, Township of Union City, Township of Union City Police Department, P.O. Corbo, P.O. Chasmer, ABC CORP. 1-3, and JOHN DOE 1-3, hereinafter referred to as "defendants", and allege as follows:

**INTRODUCTION**

This action arises under the Fourth, fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution; under federal law, specifically, 42 U.S.C.

§§1983 and 1988 for an unreasonable use of force to effect an arrest, false arrest and under the New Jersey tort liability statutes; New Jersey Constitution; and the New Jersey common law for battery.

While the individual Defendant was acting in the scope of his employment and under color of state law, he used excessive force to arrest the Plaintiff. The Defendant's actions caused injury to the Plaintiff and he seeks compensatory and punitive damages.

Action is also brought against the Township of Union City and the Township of Union City Police Department for its failure to properly train and/or supervise the individual Defendants in the proper use of force and techniques used to secure an arrest of an individual and for its establishment of policies, procedures, practices, and customs regarding arrests that result in the excessive use of force.

#### **JURISDICTION AND VENUE**

1. This action arises under the Constitution of the United States, particularly the Fourth, Fifth, Sixth, Eight and Fourteenth Amendments to the Constitution of the United States, and under the laws of the United States, particularly the Civil Rights Act, Title 42 of the United States Code, Sections 1983 and 1988.

2. The jurisdiction of this court is invoked under the provisions of Title 28 of the United States Code, Sections 1331 and 1343.
3. This court has supplemental jurisdiction pursuant to 28 U.S.C. §1367(a) over any and all state constitutional and state law claims that are so related to the claims within the original jurisdiction of this Court.
4. Venue of this action is proper under 28 USC § 1391(b) because it is where the Plaintiff resides.

#### **PARTIES**

5. Minor-plaintiff, Diego Diaz, is and at all times mentioned was a legal resident of the United States of America, and resident of the State of New Jersey.
6. Upon information and belief, and at all times hereinafter mentioned, minor-plaintiff, Diego Diaz, hereinafter referred to as "Plaintiff", was a fifteen year old at the time of the incident.
7. At all times hereinafter mentioned, the defendant, P.O. Corbo, hereinafter referred to as "Corbo", was employed as a police officer of the Township of Union Police Department located at 3715 Palisade Avenue, Union City, New Jersey. Defendant is sued in his individual and official capacity.

8. At all times hereinafter mentioned, the defendant, P.O. Chasmer, hereinafter referred to as "Chasmer", was employed as a police officer of the Township of Union Police Department located at 3715 Palisade Avenue, Union City, New Jersey. Defendant is sued in his individual and official capacity.
9. At all times hereinafter mentioned, the defendant, Township of Union City, was a municipal corporation organized and existing under and by virtue of the laws of the State of New Jersey.
10. At all times hereinafter mentioned, the defendant, Union City Police Department is a department of the Township of Union City and at all times employed the defendant police officers, Corbo, Chasmer, Bido, and John Doe 1-3.
11. At all times hereinafter mentioned, the defendants, John Doe 1-3, was employed by the Union City Police Department located at 3715 Palisade Avenue, Union City, New Jersey. Defendants are sued in their individual and official capacities.
12. Upon information and belief, at all times hereinafter mentioned, the defendants, ABC Corp. 1-3 were departments of the Township of Union City.

13. At the time of the alleged incident and at all times pertinent hereto, Defendants acted under color of law, of a statute, ordinance, regulation, custom, or usage.

#### NOTICES OF CLAIM

14. Within 90 days after the claim herein arose, on October 22, 2004, a Notice of Claim setting forth the name and post office address of the claimants and of their attorneys, the nature of the claim, the time when, the place where, and the manner in which the claim arose, and the items of damage and injuries claimed to have been sustained so far as then practicable, was served upon the defendant, Township of Union City.
15. At least 30 days have elapsed since the service of aforesaid Notice of Claim, and adjustment or payment thereof has been neglected or refused.
16. This action is being commenced within one year and 90 days after the happening of the event upon which the claim is based.

#### STATEMENT OF FACTS

17. On or about February 6, 2010 at approximately 3:43 a.m., Plaintiff was at 2700 Bergenline Avenue, Union City, New Jersey.

18. Plaintiff was violating curfew at the time and was taken into custody by the Union City Police Department.
19. While in custody with the Union City Police Department, the minor-plaintiff engaged in a verbal altercation with Corbo.
20. As a result minor plaintiff was subject to a physical assault by Corbo.
21. The minor plaintiff was harassed by Chasmer who attempted to assist Corbo in his assaultive behavior

**FIRST CAUSE OF ACTION**  
{42 U.S.C. 1983}  
**DEPRIVATION OF CIVIL RIGHTS**  
**EXCESSIVE USE OF FORCE**

22. The Plaintiff incorporate by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.
23. Prior to and on or about October 22, 2004, at or about 12 noon, defendants the Township of Union City, Union City Police Department, ABC Corp. 1-2 and the Union City Police Department's John Doe 1-3 permitted Corbo and Chasmer to engage in assaultive behavior conduct being wanton, reckless, willful, and a malicious disregard for the safety of minor-plaintiff.

24. Minor-plaintiff was unarmed, helpless and in no way posed a threat to Corbo and/or Chasmer or the safety to any other person.
25. Corbo and/or Chasmer assaulted and battered minor-plaintiff without any reasonable justification, thereby using excessive force to effect an arrest under the law thereby violating Plaintiff's rights under the laws and Constitution of the United States, in particular the Fourth, Fifth and Fourteenth amendment, 42 U.S.C. § 1983 and his rights under the Constitution of the State of New Jersey.
26. In using unreasonable force on minor-plaintiff, Corbo and/or Chasmar violated the departments rules and regulations on the use of force in making arrests of persons who are carrying out a routine activity and either have not committed any crime or infraction or have committed a minor infraction.
27. As a direct and proximate result of the above described unlawful and malicious acts of Corbo and/or Chasmar, all committed under color of his authority as a police officer and while acting in that capacity, Plaintiff, suffered physical and emotional damages, all of which is in violation of minor-plaintiff's rights under the Constitution of the United States, in

particular the Fourth and Fourteenth amendment, and 42 U.S.C. § 1983.

28. Minor-plaintiff in no way threatened or resisted Corbo and/or Chasmar, was the victim of punishment administered in a grossly disproportionate manner to whatever minor-plaintiff's acts may have been, constituted cruel and unusual punishment, and deprived him of the right to due process of law under the Constitution of the United States, in particular the Fifth, Eight and Fourteenth amendments. The use of force by Corbo and/or Chasmar upon minor/plaintiff was unwarranted, unjustifiable and excessive.

29. As a result of the above described acts, minor/plaintiff was deprived of rights and immunities provided to him, under the Constitution of the United States and of the State of New Jersey including, but not limited to, his rights under the Fourth and Fourteenth amendments to be secure in his person, to be free from punishment without due process, and to the equal protection of the laws.

30. The failure of the Township of Union City, the Union City Police Department, ABC Corp. 1-3 and John Doe 1-3 to provide training and/or supervision regarding the lawful use of force to a deliberate



indifference to the safety and lives of the citizens of the Township of Union City. This deliberate indifference to supervision and/or training was a proximate cause of the injuries of plaintiff.

31. Defendants Township of Union City, the Union City Police Department, ABC Corp. 1-3 and John Doe 1-3, are directly liable and responsible for the acts of Corbo and/or Chasmar, because they knowingly failed to enforce the laws of the State of New Jersey and the regulations of the Union City Police Department pertaining to the use of force by the Union City Police Department police officers, thereby creating with the Union City Police Department, an atmosphere of lawlessness in which police officers employ excessive and illegal force in the belief that such acts will be condoned and justified by their superiors. Defendants Township of Union City, Union City Plainfield Police Department, ABC Corp. 1-3 and John Doe 1-3 were, or should have been aware of these unlawful acts and practices prior to and at the time of Plaintiff's physical and emotional injuries.

AS AND FOR A SECOND CAUSE OF ACTION  
VIOLATION OF 42 U.S.C. § 1983  
FAILURE TO IMPLEMENT APPROPRIATE POLICIES, CUSTOMS AND  
PRACTICES

32. The Plaintiff incorporate by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.
33. Defendants Township of Union City and the Union City Police Department, as employer and supervisor of Corbo and/or Chasmar implicitly or explicitly adopted and implemented careless and reckless policies, customs, or practices, that included, among other things, of allowing police officers of the Union City Police Department to confront citizens of Union City without any reasonable training in when to use force in effecting arrests and in such a way as to cause the deprivation of Minor-Plaintiff's right to be free from unreasonable seizures under the Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States.
34. The failure of the Township of Union City and the Union City Police Department, as employer and supervisor of Corbo and/or Chasmar to adequately train and supervise Corbo and/or Chasmar, amounts to deliberate indifference to the rights of Minor-Plaintiff to be free from excessive force and

unreasonable seizures under the Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States.

35. As a result of this deliberate indifference to the Minor-plaintiffs' rights, defendants were the proximate cause of the Minor-plaintiff's personal physical and emotional injuries and is entitled to relief under 42 U.S.C. §1983.

**AS AND FOR A THIRD CAUSE OF ACTION  
New Jersey Common Law  
BATTERY**

36. The Minor-plaintiff incorporate by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

37. By the actions described above, Corbo and/or Chasmar did inflict a battery upon Minor-Plaintiff when each officer intentionally hit and grabbed Minor-Plaintiff. The acts and conduct of Corbo and/or Chasmar were the direct and proximate cause of injury and damage to the Plaintiff in violation of the laws of the State of New Jersey and the United States.

38. Defendants, The Union City Police Department, John Doe 1-3, as employer and supervisor of Corbo and/or Chasmar, are responsible for the defendant

police officers battery under the doctrine of  
Respondeat superior.

39. Defendant Township of Union City, their officers,  
agents, servants, and employees were responsible for  
Plaintiffs' battery under the doctrine of Respondeat  
superior.

40. As a result of the foregoing, Minor-plaintiff was  
deprived of his liberty, suffered specific and serious  
bodily injury, pain and suffering, emotional distress  
and psychological injury, great humiliation, loss of  
income, costs and expenses, and was otherwise damaged  
and injured.

**AS AND FOR A FOURTH CAUSE OF ACTION  
VIOLATION OF NEW JERSEY STATE CONSTITUTION**

41. The Plaintiff incorporate by reference the  
allegations set forth in all preceding paragraphs as  
if fully set forth herein.

42. By the aforementioned acts of defendants,  
defendants have violated Minor-Plaintiff's rights  
under the New Jersey State Constitution including but  
not limited to Article I, Paragraph 1, Paragraph 5,  
and Paragraph 12 of the New Jersey State Constitution  
thereby giving rise to the constitutional protections  
pursuant to Article I.

43. The conduct and actions, set forth above, of defendants, Corbo, Chamsar and John Doe 1-3, acting under color of law, violated Minor-Plaintiffs rights under the New Jersey State Constitution and proximately caused the harms, already set forth above, to Plaintiff.

44. The Township of Union City and The Union City Police Department through their officers, agents, servants, and employees violated Minor-Plaintiff's rights under the New Jersey State Constitution because they knew or should have known about the lack of training and supervision of police officers and where they made a deliberate choice to follow this willful course of conduct, risking harm to the citizens of the State of New Jersey and proximately causing the harms, as set forth above, to Minor-Plaintiff.

#### **ALLEGATIONS**

45. As a result of the foregoing, Minor-Plaintiff was deprived of his liberty, suffered fear and humiliation, physical injuries, public ridicule, loss of personal reputation, loss of income, costs and expenses, and was otherwise damaged.

46. By reason of the above premises Minor-Plaintiff is entitled to damages.

47. Minor-Plaintiff has incurred attorneys' fees and other expenses in defending himself against defendant's malicious and unreasonable conduct.
48. Defendants, jointly and separately, acted maliciously and with the intent to injure Minor-Plaintiff.
49. By reason of the above premises Minor-Plaintiff is entitled to punitive damages.
50. Pursuant to 42 USCA, Section 1988, Minor-Plaintiff is entitled to a reasonable allowance for attorneys fees as part of his costs.

**PRAYER FOR RELIEF**

**WHEREFORE**, minor-plaintiff, Diego Diaz, requests that this Court:

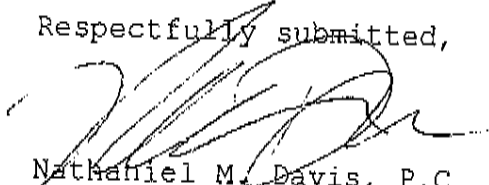
- (1) Accept jurisdiction over the parties;
- (2) Empanel and charge a jury with respect to this action;
- (3) Award to minor-plaintiff, Diego Diaz, compensatory and punitive damages with pre and post-judgment interest to compensate him for the injuries he has suffered;
- (4) Order defendants to pay cost of suit

(5) Order defendants to pay the reasonable attorneys fees and other costs incurred by Plaintiff as provided by Section 1988 of Title 42 and the Civil Rights Acts;

(6) Award plaintiff, Diego Diaz, any other relief deemed necessary, just and proper.

Dated: April 22, 2011

Respectfully submitted,



Nathaniel M. Davis, P.C.  
40 East Park Street  
Newark, NJ 07102  
(973) 792-9005

**CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE**

This Confidential Settlement Agreement and Release ("Agreement") is made by and between Plaintiffs, Diego Diaz ("Diaz"), individually and by his parent and guardian ad litem, Maria Lopez (Diego Diaz and his parent and guardian ad litem, Maria Lopez being individually and jointly referred to herein "Plaintiffs"), on the one hand, and the New Jersey Intergovernmental Insurance Fund (hereinafter, referred to as the "NJIF"), on behalf of Defendants, City of Union City, City of Union City Police Department, Police Officer Corey Corbo ("Corbo"), Police Officer David Chasmer ("Chasmer") and Police Officer Robert Bido ("Bido") (Defendants City, City Police Department, Corbo, Chasmer and Bido being individually and collectively, referred to as "Defendants"), on the other hand, (the Plaintiffs and NJIF being hereinafter referred to individually as a "Party" and jointly as the "Parties"), and shall be deemed entered into as of the date of signature of the last Party or Party representative to sign this Agreement.

**WITNESSETH**

**WHEREAS**, Maria Lopez as parent and guardian ad litem of Diaz ("Lopez") commenced this action with the filing of a Complaint in the United States District Court-District of New Jersey under Civil Action Number 11-2364 (the "Action"); and

**WHEREAS**, the Action asserts the following causes of action: Count One of the Complaint alleges violations of 42 U.S.C. §1983, specifically, excessive use of force. Count Two of the Complaint alleges violations of 42 U.S.C. §1983, specifically, failure to implement appropriate policies, customs and practices. Count Three of the Complaint alleges battery as to Corbo and Chasmer. Count Four of the Complaint alleges violations of plaintiff's rights under the New Jersey State Constitution and



**WHEREAS**, Diaz was a minor at the time the Action was initially filed and now has reached majority and wishes to join in this Agreement as a settling party notwithstanding the fact that he was not a plaintiff in the Action; and

**WHEREAS**, Defendants have denied all allegations asserted against them in the Action; and

**WHEREAS**, Defendants are provided with insurance as a result of the membership of the City of Union City in the NJIF; and

**WHEREAS**, the Parties have mutually agreed to resolve the claims that form the basis for the Action and wish to memorialize their settlement herein;

**NOW THEREFORE**, in consideration of the mutual promises, agreements and covenants made herein, the Parties hereby covenant and agree as follows:

1. Within forty-five (45) days following its receipt of fully executed copies of this Agreement and a Stipulation of Dismissal with Prejudice as to the Defendants in the form attached hereto as Exhibit A (the "Stipulation"), the NJIF shall provide Plaintiffs with payment of Eighty Thousand Dollars, \$80,000.00, (referred to herein as the "Settlement Sum"). The Settlement Sum shall be made payable to "Diego Diaz c/o Nathaniel M. Davis, Esq. and shall be delivered to:

Nathaniel M. Davis, Esq.  
40 East Park Street  
Newark, New Jersey 07102

2. Plaintiffs acknowledge and agree that all federal and state income taxes and/or penalties relating to the payments set forth in this Agreement are their sole responsibility. Plaintiffs further covenant and agree that they will indemnify Defendants and the NJIF for any taxes and/or penalties sought from or assessed to Defendants and/or the NJIF by any state or

federal governmental agency, including without limitation, Social Security payroll taxes ("FICA"), state and/or federal disability payments, unemployment taxes, and/or state and/or federal income taxes. Plaintiffs represent that there are no Medicare, Medicaid, ERISA or other liens outstanding with regard to bodily injury claims arising under the Action.

3. Plaintiffs, for themselves and on behalf of their successors, heirs, beneficiaries, estates and assigns, (individually and collectively referred to herein as "Releasors"), do hereby fully and forever release, remit, acquit, remise, hold harmless and discharge, (the "Release"), Defendants and the NJIIF, as well as the Defendants' and the NJIIF's past and present officials, agents, volunteers, attorneys, departments, officers and employees, (for individuals, said Release runs to them in their official and personal capacities), and all of their respective heirs, successors and assigns, (hereinafter, individually and collectively referred to as "Releasces"), jointly and individually, from any and all liabilities, claims, causes of action, charges, appeals, complaints, obligations, costs, losses, damages, injuries, attorneys' fees, and other legal responsibilities, (collectively, referred to as "Claims"), of any form or kind whatsoever, whether vested or contingent, known or unknown, which Releasors have or may have against Releasces from the beginning of time through the date of this Agreement, including, but not limited to, any Claims in law, equity, contract, tort, public policy, any Claims or causes of action for breach of contract, negligence, retaliation, harassment and/or discrimination based upon, among other things, illness, disability, handicap, sex, religion, age or race, intentional infliction of emotional distress, defamation, any claims which were raised or could have been raised in the Action, or any claims under Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, as amended, the Reconstruction Era Civil Rights Act, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act of 1967, as amended, the Fair Labor Standards

Act, the Employee Retirement Income Security Act of 1974, as amended, (except for claims for vested benefits under ERISA), the Uniformed Services Employment and Reemployment Act of 1994, as amended, the New Jersey Law Against Discrimination, the New Jersey Civil Rights Act, the New Jersey Constitution, or any other federal, state or local statute, ordinance or law whether known or unknown, unforeseen, unanticipated, unsuspected or latent, and any Claims which were raised or could have been raised in the Action, whether known or unknown, unforeseen, unanticipated, unsuspected or latent. Notwithstanding anything set forth herein to the contrary, the Releasees do not waive any defenses or affirmative defenses in any pending or future litigation or claim, including, but not limited to the entire controversy doctrine, estoppel, joinder, etc., whether with regard to the Action, any Claims or otherwise.

4. Releasors covenant and agree that they will not file, re-file, appeal, initiate, or cause to be filed, re-filed or initiated any claim, suit, action or other proceeding based upon, arising out of, or related to any Claims released herein; nor shall they solicit, encourage, participate, assist or cooperate in any claim against any of the Releasees, whether before a court or administrative agency, unless required to do so by law. If a court order or subpoena is served on Releasors requiring that they testify in any claim in which Releasees have an interest, they agree to immediately notify and provide a copy of the court order or subpoena to the NJIIF's General Counsel c/o Eric J. Nemeth, P.C. 55 Madison Avenue, Suite 400, Morristown, New Jersey, 07960, phone (973-539-2122), fax (973-539-4677). Releasors shall provide the NJIIF's General Counsel with a copy of the court order or subpoena as soon as possible and reasonably in advance of his/her appearance and/or compliance with the court order or subpoena. Plaintiffs agree to take actions to lawfully cooperate with and assist the City of Union City and NJIIF in connection with any lawful efforts to quash or limit the scope of the subpoena or court order.

5. Releasees acknowledge and agree that this Agreement is not an admission by the NJIIF and/or Defendants and/or any of their agents, employees or representatives of any wrongdoing or liability and is being entered into solely for the purpose of economic expediency.

6. Releasees and Plaintiffs' attorney agree that they shall engage in no act and shall make no statement which is intended, or reasonably may be expected to harm the reputation, business, prospects, or operations of Releasees.

7. Plaintiffs represent and warrant that no other person or entity has any interest in the Claims that compromise or could have been raised in the Action, or in any other demands, obligations, or causes of action referred to in this Agreement, and that they have the sole right and exclusive authority to execute this Agreement and receive the benefits specified. Plaintiffs further represent that they have not sold, assigned, transferred, conveyed or otherwise disposed of any of the Claims which comprise the Action, or any other demands, obligations, or causes of action referred to in this Agreement. Plaintiffs further acknowledge that the only consideration for signing this Agreement are the terms stated in this Agreement, and that no other promise or agreement of any kind have been made to them or with them by any person or entity whatsoever to cause them to sign this Agreement; that they are competent to execute this Agreement; that they have been advised in writing and given the opportunity to consult advisors, legal or otherwise, of their own choosing; and that they fully understand the meaning and intent of this Agreement. No change to or modification of this Agreement shall be valid or binding unless it is in writing and signed by Plaintiffs and the NJIIF.

8. For \$1.00 in hand and other valuable consideration not otherwise herein stated, Plaintiffs, for themselves and on behalf of all Releasees, and their Attorney, covenant and agree that they shall not disclose, or cause to be disclosed, the terms of this Agreement, the

negotiations leading up to this Agreement, or the fact that this Agreement exists, except to their, accountants and/or tax advisors, or to the extent otherwise required by law. Each such person who is provided information regarding the terms of this Agreement by Releasors or their attorney shall first be required to review this Agreement and agree to abide by these limitations on disclosure. Plaintiffs and their Attorney acknowledge and agree that this confidentiality provision is an express and absolute condition of this Agreement, is bargained for consideration for this Agreement and that any violation of the terms and conditions of this confidentiality provision shall constitute a material breach of this Agreement. In the event that this Agreement is required to be disclosed pursuant to applicable law, Plaintiffs and their Attorney agree that their communication with any person or the media regarding the Action shall be limited to the statement that the **"litigation was resolved to my satisfaction."** If Plaintiffs and/or their attorney breach the provisions of this Paragraph 8, Defendants and/or the NJJIF shall be authorized to proceed summarily for enforcement of these covenants and shall be entitled to receive repayment from Releasors of fifty (50) percent of the Settlement Sum as liquidated damages.

9. If any provision of this Agreement or the application thereof is held invalid, the invalidity shall not affect other provisions or applications and to this end the provisions of this Agreement are declared to be severable.

10. No waiver or any breach of any term or provision of this Agreement shall be construed to be, nor shall it be, a waiver of any other breach of this Agreement. No waiver shall be binding unless in writing and signed by the party waiving the breach.

11. This Agreement shall inure to the benefit of and be binding upon the heirs, representatives, successors, and assignees of each of the Parties to it. Each of the Releasees who

are not signatories to this Agreement is intended to be third-party beneficiaries of this Agreement. Each such Releasee shall be entitled to enforce this Agreement and each of its terms. Each Releasor not a signatory hereto is intended to and shall be bound by the terms, restrictions and covenants herein. In the event of any breach of this Agreement, an aggrieved Releasee may move to enforce the terms hereof and shall be awarded legal fees if it is the prevailing party in such action.

12. Releasors hereby agree to jointly and severally indemnify, defend and hold harmless Releasees, jointly and individually, from any and all liabilities, claims, causes of action, charges, demands, administrative actions, appeals, complaints, crossclaims, obligations, costs, losses, damages, injuries, attorneys' fees, and other legal responsibilities of any form or kind whatsoever, whether vested or contingent, which any person, party or potential party or their successors or assigns have or may have against the Releasees arising from the subject matter of the Action, including, but not limited to, any claims based upon payment of the Settlement Sum as well as those based in law, equity, contract, tort, regulation, statute, public policy, any claims or causes of action for breach of contract, negligence, retaliation, wrongful discharge, harassment and/or discrimination based upon, among other things, illness, disability, handicap, religion, sex, age or race, intentional infliction of emotional distress, defamation, and any claims which were raised or could have been raised in the Action, whether known or unknown, unforeseen, unanticipated, unsuspected or latent.

13 This Agreement represents the entire agreement and understanding between the Parties, constitutes the complete, final and exclusive embodiment of their agreement with respect to the subject matter hereof, and supersedes and replaces any and all prior agreements and understandings, both written and oral, concerning the subject matter hereof. The terms of this

Agreement are contractual and not mere recitals. This Agreement may not be changed or modified, except by a writing signed by the Parties hereto.

14. This Settlement Agreement will be governed by and construed under the laws of the State of New Jersey and shall not be construed for or against any party based on attribution of drafting to any party.

15. This Settlement Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as an original and shall constitute an effective, binding agreement on the part of each of the undersigned.

16. Plaintiffs hereby certify that if any liens exist against the Settlement Sum, they will be paid in full, compromised or satisfied and released by them. If a lien exists which is not satisfied as required by this Agreement, and a claim is made by anyone to enforce that lien, Plaintiffs agree that they will pay that lien in full. This representation is intended to include all liens, including, but not limited to, attorneys' liens, medical provider liens, Medicare and Medicaid liens, workers' compensation liens, all statutory or common law liens, and judgment liens. Plaintiffs agree to indemnify and hold the Releasees harmless in connection with any claim made by reason of liens against or tax obligations associated with payment of the Settlement Sum. If a claim is hereafter made against the Releasees by anyone seeking payment of the liens, Plaintiff will indemnify and hold the Releasees harmless for any such liens and/or defending against such a claim, including, but not limited to, attorneys' fees, costs of suit, and interest.

17. Each Party represents that it has had the opportunity to consult with an attorney, and has carefully read and understands the scope and effect of the provisions of this Agreement, and signs this Agreement of its own free will. No Party to the Agreement has relied upon any

representations or statements made by any other Party hereto which are not specifically set forth in this Agreement. The Parties each understand how this Agreement will affect their legal rights and voluntarily enter into this Agreement with such knowledge and understanding.

18. This Settlement Agreement is executed voluntarily and without any duress coercion or undue influence on the part or behalf of the Parties hereto, with the full intent of releasing all claims asserted in the Action. The Parties acknowledge that:

(a) They have read this Agreement;

(b) They have been represented in the preparation, negotiation, and execution of this Agreement by legal counsel of their own choice or that they have voluntarily declined to seek such counsel;

(c) They understand the terms and consequences of this Agreement and of the releases it contains;

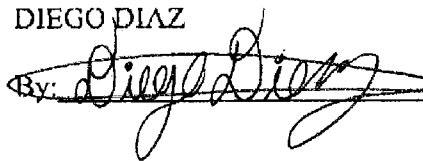
(d) They are fully aware of the legal and binding effect of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the respective dates set forth below.

  
\_\_\_\_\_  
Witness

**IVAN H. SUTHERLAND**  
Attorney At Law  
State of New Jersey

DIEGO DIAZ

By: 

Date: 10/10/12



*Ivan H. Sutherland*

Witness

**IVAN H. SUTHERLAND**  
Attorney At Law  
State of New Jersey

**MARIA LOPEZ, individually and as the parent and guardian ad litem of Diego Diaz**

By: *Maria Lopez*

Date: *10/10/12*

Witness

**THE NEW JERSEY INTERGOVERNMENTAL INSURANCE FUND** on Behalf of the City of Union City, City of Union City Police Department, Police Officer Corbo, Police Officer Chasmer and Police Officer Bido

By: \_\_\_\_\_

Eric J. Nemeth, Esq. General Counsel  
New Jersey Intergovernmental Insurance Fund  
55 Madison Avenue  
Suite 400  
Morristown, New Jersey 07960

Date:

Nathaniel M. Davis, Esq.  
40 East Park Street  
Newark, New Jersey 07102  
(Solcly as to Paragraphs 6 and 8)

By: \_\_\_\_\_

Date:

Witness

*Ivan H. Sutherland*

Witness

**IVAN H. SUTHERLAND**  
Attorney At Law  
State of New Jersey

**MARIA LOPEZ**, individually and as the  
parent and guardian ad litem of Diego Diaz

By: *Maria Lopez*

Date: *10/10/12*

Witness

**THE NEW JERSEY  
INTERGOVERNMENTAL INSURANCE  
FUND** on Behalf of the City of Union City,  
City of Union City Police Department, Police  
Officer Corbo, Police Officer Chasmer and  
Police Officer Bido

By: \_\_\_\_\_

Eric J. Nemeth, Esq. General Counsel  
New Jersey Intergovernmental Insurance  
Fund  
55 Madison Avenue  
Suite 400  
Morristown, New Jersey 07960

Date:

Nathaniel M. Davis, Esq.  
40 East Park Street  
Newark, New Jersey 07102  
(Solely as to Paragraphs 6 and 8)

By: *Nathaniel M. Davis*

Date: *11/26/2012*

Witness