

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

SHELBY VATTELLE

Plaintiff,

vs.

UNITED STATES DISTRICT COURT
DISTRICT COURT OF NEW JERSEY
NEWARK

Civil Action No.: - (-)

CITY OF PLAINFIELD;
MICHAEL J. AURICCHIO;
JOHN DOES 1-5, Personnel of the
City of Plainfield Police Department;
MARTIN HELLWIG, Director of Police;
JOHN DOES 6-10, Personnel of the
City of Plainfield Police Department in
supervisory capacities;

Defendants.

COMPLAINT

JURISDICTION

1. This action is brought pursuant to 42 U.S.C. Section 1983 and in accordance with the Fourth and Fourteenth Amendments of the Constitution of the United States of America. Jurisdiction is conferred under 28 U.S.C. Section 1331 and Section 1343(3). This Court has supplemental jurisdiction over Plaintiff's State law claims pursuant to 28 U.S.C. Section 1367.

PARTIES

2. Plaintiff Shelby Vattelle, residing at 718 East 7th Street, Plainfield, New Jersey, is and was, at all times herein, a citizen of the United States and a resident of the State of New Jersey.

3. Defendants Michael Auricchio and/or John Does 1-5 were at all times mentioned herein duly appointed and acting police officers of the City of Plainfield Police Department and at all times herein were acting in such a capacity as the agents, servants and/or employees of the City of Plainfield and were acting under the color of law.

4. Defendants Director of Police Martin Hellwig and/or John Does 6-10 were at all times mentioned herein duly appointed and acting members of the City of Plainfield Police Department and at all times herein were acting in such capacities as the agents, servants and/or employees of the City of Plainfield and were acting under the color of law.

5. Defendants Director of Police Martin Hellwig and/or John Does 6-10 were acting in supervisory capacities over Defendants Michael Auricchio and/or John Does 1-5, and responsible by law for the training, supervision and conduct of Defendants Michael Auricchio and/or John Does 1-5.

6. Defendant City of Plainfield is a duly designated municipality of the state of New Jersey, under the laws of the state of New Jersey.

7. At all times relevant hereto, Defendant City of Plainfield employed the aforementioned Defendants. As such, it was responsible for the training, supervision and conduct of Defendants Michael Auricchio, Director of Police Martin Hellwig and/or John Does 1-10.

8. Suit is brought against all individually named Defendants in their personal and official capacities.

FACTUAL ALLEGATIONS

1. On December 19, 2010, Plaintiff Shelby Vattelle pulled into the Kennedy's Fried Chicken parking lot on Park Ave and 5th Street in Plainfield, New Jersey.
2. Defendant Michael Auricchio initiated a motor vehicle stop of Plaintiff's vehicle.
3. Plaintiff attempted to present Defendant Michael Auricchio with her paperwork when she was assaulted without justification and with excessive force.
4. Specifically, Defendant Auricchio, without justification, threw Plaintiff to the concrete, smashed Plaintiff's face into the pavement, and verbally abused her.
5. Defendant Auricchio then intentionally, recklessly and/or negligently applied inordinate pressure in handcuffing Plaintiff, causing her extreme pain.
6. Plaintiff was arrested by Defendant Michael Auricchio and brought to Plainfield Police Headquarters.
7. At the Plainfield Police Headquarters, Defendant Michael Auricchio assaulted the Plaintiff a second time, again throwing Plaintiff to the ground without justification.
8. An unknown male Plainfield Police Officer, John Doe 2, ripped Plaintiff's boots from her feet, breaking one of the heels.
9. An unknown female Plainfield Police Officer, John Doe 3, witnessed the entire event.
10. The criminal charges against Plaintiff are still pending.
11. As a direct and proximate cause of the malicious and outrageous conduct of Defendants as set forth above, Plaintiff suffered bodily injuries, medical expenses and will suffer additional special damages in the future in an amount which cannot yet be determined.

SECTION 1983 EXCESSIVE FORCE
COUNT ONE

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. As a direct and proximate result of the above-referenced unlawful and malicious physical abuse of Plaintiff by Defendants Michael Auricchio and John Does 1-5, committed under color of state law, Plaintiff sustained bodily harm and was deprived of her right to be secure in her person against unreasonable seizure of her person, in violation of the Fourth and Fourteenth Amendments of the Constitution of the United States and U.S.C. Section 1983.
3. As a direct and proximate cause of the malicious and outrageous conduct of the Defendants as set forth above, Plaintiff suffered bodily injuries, medical expenses, and will suffer additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Shelby Vattelle demands judgment against Defendants Michael Auricchio and/or John Does 1-5 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

SECTION 1983 FAILURE TO INTERVENE
COUNT TWO

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. Defendants Michael Auricchio and/or John Does 1-5 were City of Plainfield Police Officers and at all times mentioned herein acting under color of state law.
3. Defendants Michael Auricchio and/or John Does 1-5 had a duty to intervene in the unjustified assault of Plaintiff by Defendants Michael Auricchio and/or John Does 1-5.
4. The unjustified assault of Plaintiff by Defendants Michael Auricchio and/or John Does 1-5 deprived Plaintiff of her right to be secure in her person against unreasonable seizure in

violation of the Fourth and Fourteenth Amendments of the Constitution of the United States and made actionable through 42 U.S.C. Section 1983.

5. Defendants Michael Auricchio and/or John Does 1-5 had a reasonable opportunity to intervene in the unjustified assault of Plaintiff by Defendants Michael Auricchio and/or John Does 1-5 and failed to intervene.

6. As a direct and proximate cause of Defendants Michael Auricchio and/or John Does 1-5's failure to intervene, Plaintiff suffered physical injury, medical expenses, and will suffer additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Shelby Vattelle demands judgment against Defendants Michael Auricchio and/or John Does 1-5 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

SECTION 1983 FALSE ARREST
COUNT THREE

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.

2. The aforementioned acts of Defendants Michael Auricchio and/or John Does 1-5 in arresting Plaintiff was undertaken without legal or factual justification, without probable cause or any other exception to the warrant requirement under the Fourth and Fourteenth Amendments of the Constitution of the United States. The criminal proceedings initiated by Defendants are still pending.

3. The aforementioned acts amount to a violation of Plaintiff's constitutional rights to be free from unreasonable seizure under the Fourth and Fourteenth Amendments of the Constitution of the United States, made actionable through 42 U.S.C. Section 1983.

4. By reason of the above, Plaintiff was caused to suffer a deprivation of her constitutional rights as described above, emotional distress; humiliation; legal expenses associated with defending the false and malicious charges brought against her by Defendants, and will suffer additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Shelby Vattelle demands judgment against Defendants Michael Auricchio and/or John Does 1-5 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

SECTION 1983 MALICIOUS PROSECUTION
COUNT FOUR

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. Defendants Michael Auricchio and/or John Does 1-5 maliciously and unlawfully initiated a criminal process against Plaintiff Shelby Vattelle.
3. The charges were without legal or factual justification and were not based upon probable cause.
4. The criminal proceedings initiated by Defendants are still pending.
5. As a direct and proximate cause of the actions initiated by Defendants Michael Auricchio and/or John Does 1-5, Plaintiff suffered a deprivation of her constitutional rights guaranteed by the Fourth and Fourteenth Amendments to the Constitution of the United States, and made actionable through 42 U.S.C. Section 1983.
6. Plaintiff suffered emotional distress, humiliation, and legal expenses to defend the false criminal charges brought against her in connection with the deprivation of her

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constitutional rights guaranteed by the Fourth and Fourteenth Amendments to the Constitution of the United States, and made actionable through by 42 U.S.C. Section 1983, along with additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Shelby Vattelle demands judgment against Defendants Michael Auricchio and/or John Does 1-5 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

**SECTION 1983 UNLAWFUL CUSTOM, PRACTICE, POLICY/ INADEQUATE
TRAINING
COUNT FIVE**

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. Defendants City of Plainfield; Director of Police Martin Hellwig, and/or John Does 6-10 are vested by state law with the authority to make policy on : (1) the use of force; internal affairs investigations and/or administrative reviews pursuant to City of Plainfield Police Department policies, practices and/or customs and/or the New Jersey Attorney General's Use of Force and/or Internal Affairs Guidelines; (2) effectuating arrests; (3) police citizen encounters, and/or (4) disciplining officers. Defendants Director of Police Martin Hellwig and/or John Does 6-10 are responsible for training Police Officers in the use of force and/or were officers in charge when Plaintiff Shelby Vattelle was assaulted.
3. Specifically, Defendant Martin Hellwig is the Director of Police.
4. At all times mentioned herein, Defendants Hellwig and/or John Does 6-10, as police officers, agents, servants and/or employees of Defendant City of Plainfield, were acting under the direction and control of Defendants City of Plainfield Police Department; Hellwig and/or John Does

6-10, and were acting pursuant to the official policy, practice or custom of the City of Plainfield Police Department.

5. Acting under color of law pursuant to official policy, practice, or custom, Defendants City of Plainfield; Martin Hellwig, and/or John Does 6-10 intentionally, knowingly, recklessly and/or with deliberate indifference failed to train, instruct, supervise, control, and discipline on a continuing basis, Defendants Auricchio and/or John Does 1-10 in their duties to refrain from: (1) unlawfully and maliciously assaulting, arresting and harassing citizens; (2) intentionally, recklessly and/or negligently misrepresenting the facts of arrests and/or other police-citizen encounters; (3) falsifying police and/or other official records; (4) withholding and/or mishandling evidence; (5) making false arrests, and/or (6) using unreasonable and excessive force.

6. Acting under color of law pursuant to official policy, practice, or custom, Defendants City of Plainfield, Hellwig, and/or John Does 6-10 intentionally, knowingly, recklessly and/or with deliberate indifference implemented and/or conducted superficial and shallow Internal Affairs processes which ignored evidence and patterns of police misconduct on individual and departmental levels. Defendants City of Plainfield; Hellwig; and/or John Does 6-10 failed to professionally, objectively and/or expeditiously investigate instances and patterns of police misconduct in violation of the spirit and substance of the New Jersey Attorney General's Guidelines for Internal Affairs Policy and Procedures.

7. Defendants Hellwig and/or John Does 6-10 failed to adequately track departmental excessive force complaints, administrative complaints and/or use of force incidents in violation of City of Plainfield Police Department policies, practices, customs and/or guidelines and/or the New Jersey Attorney General's Use of Force and/or Internal Affairs Guidelines, and/or failed to discipline officers for such violations.

8. Defendants City of Plainfield; Martin Hellwig; and/or John Does 6-10 were aware of numerous similar police citizen encounters involving, and/or Internal Affairs complaints filed against Defendants Auricchio, John Does 1-5, and/or other City of Plainfield Police Officers whereby they customarily and frequently subjected citizens held in custody to physical and mental abuse; unlawfully and maliciously assaulted, arrested and harassed citizens; intentionally, recklessly and/or negligently misrepresented the facts of arrests and/or other police-citizen encounters; falsified police and/or other official records; made false arrests, mishandled and/or withheld evidence and/or used unreasonable and excessive force on citizens/arrestees.

9. Despite their awareness, Defendants City of Plainfield; Martin Hellwig; and/or John Does 6-10 failed to employ any type of corrective or disciplinary measures against Defendants Auricchio, and/or other City of Plainfield Police Officers.

10. Defendants City of Plainfield; Martin Hellwig; and/or John Does 6-10 had knowledge of, or, had they diligently exercised their duties to instruct, train, supervise, control, and discipline Defendants Auricchio and/or John Does 1-5 on a continuing basis, should have had knowledge that the wrongs which were done, as heretofore alleged, were about to be committed.

11. Defendants City of Plainfield; Martin Hellwig; and/or John Does 6-10 had power to prevent or aid in preventing the commission of said wrongs, could have done so by reasonable diligence, and intentionally, knowingly, recklessly and/or with deliberate indifference failed to do so.

12. Defendants City of Plainfield; Martin Hellwig; and/or John Does 6-10 directly or indirectly, under color of state law, approved or ratified the unlawful, deliberate, malicious, reckless, and wanton conduct of Defendants Auricchio and/or John Does 1-5 heretofore described.

13. As a direct and proximate result of the acts of Defendants City of Plainfield; Martin

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Hellwig; and/or John Does 6-10 as set forth herein, Plaintiff suffered physical injury, medical expenses, and will suffer additional special damages in the future in an amount which cannot yet be determined in connection with the deprivation of her constitutional rights guaranteed by the Fourth and Fourteenth Amendments to the Constitution of the United States and protected by 42 U.S.C. Section 1983.

WHEREFORE, Plaintiff Shelby Vattelle demands judgment against Defendants City of Plainfield; Martin Hellwig; and/or John Does 6-10 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

SECTION 1983 DEMAND FOR PROSPECTIVE INJUNCTIVE RELIEF
COUNT SIX

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. Pursuant to 42 USC Section 1983, given that there exists no adequate remedy at law, Plaintiff is entitled to prospective injunctive relief against the Defendants.
3. The relief sought by Plaintiff includes, but is not limited to, the following:
 - a. An order permanently restraining and enjoining Defendants City of Plainfield; Martin Hellwig; Michael J Auricchio and John Does 1-10 from engaging in, encouraging, teaching, promoting or training City of Plainfield Police Officers in falsely arresting, maliciously prosecuting, maliciously abusing process, and/or using excessive force against citizens and/or arrestees.
 - b. An order compelling Defendant City of Plainfield to take prompt, appropriate and corrective measures to prevent any practices that encourage, teach, engage in, promote or train its officers in falsely arresting, maliciously prosecuting, maliciously abusing process and/or using excessive force against citizens and/or arrestees.
 - c. An order compelling Defendant City of Plainfield to provide regular and consistent training sessions to Plainfield Police Officers.

d. An order compelling Defendant City of Plainfield to implement a system whereby prompt, appropriate action is taken against any Plainfield Police Officer who engages in, teaches and/or condones falsely arresting, maliciously prosecuting, maliciously abusing process and/or using excessive force against citizens and/or arrestees.

e. An order permanently restraining and enjoining Defendants Michael Auricchio and/or John Does 1-10 from arresting citizens without adequate probable cause, physically abusing and using excessive force against citizens and/or arrestees.

f. An order permanently restraining and enjoining Defendant City of Plainfield from employing Defendants Michael Auricchio and/or John Does 1-10 as a police officer or law enforcement personnel in any capacity except for clerical duty, solely and entirely confining them to Police headquarters and limiting them entirely to desk duty; enjoining Defendants Michael Auricchio and/or John Does 1-10 from any patrol duty, and enjoining Defendants Michael Auricchio and/or John Does 1-10 from making arrests, assisting in making arrests and using any force in making arrests and/or assisting in making arrests.

g. Any other relief as the Court deems proper and just.

WHEREFORE, Plaintiff Shelby Vattelle demands judgment against Defendants City of Plainfield; Martin Hellwig; and/or John Does 1-10 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

SUPPLEMENTAL STATE CLAIMS

VIOLATION OF NEW JERSEY CIVIL RIGHTS ACT (NJCR) **COUNT SEVEN**

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. The excessive force used by Defendants Michael Auricchio and/or John Does 1-5, set forth at length above, deprived Plaintiff of her substantive due process right to be free from unlawful seizure of her person and her fundamental right to liberty secured by the Constitution of the United

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States and the Constitution of the State of New Jersey, in violation of N.J.S.A. 10:6-1, *et seq.* ("The New Jersey Civil Rights Act")

3. Plaintiff invokes the supplemental jurisdiction of this Court to hear and determine this claim.

4. As a direct and proximate result of the aforesaid acts of Defendants Michael Auricchio and/or John Does 1-5, Plaintiff suffered physical injury, medical expenses, and will suffer additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Shelby Vattelle demands judgment against Defendants Michael Auricchio and/or John Does 1-5 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

ASSAULT AND BATTERY
COUNT EIGHT

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.

2. Defendants Michael Auricchio and/or John Does 1-5 committed an assault and battery on Plaintiff by physically injuring her without justification and/or by putting her in reasonable apprehension of serious and imminent bodily harm.

3. The assault and battery committed by Defendants Michael Auricchio and/or John Does 1-5 was contrary to the laws of the State of New Jersey, and Plaintiff invokes the supplemental jurisdiction of this court to hear and determine this claim.

4. As a result of the intentional, reckless, negligent and/or objectively unreasonable assault and battery, as specifically alleged above, Plaintiff sustained diverse substantial and permanent physical and emotional injuries; medical expenses; pain and suffering, and will suffer

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additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Shelby Vattelle demands judgment against Defendants Michael Auricchio and/or John Does 1-5 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
COUNT NINE

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. The actions of Defendants Michael Auricchio and/or John Does 1-5, in their use of excessive force upon Plaintiff, their assault and battery of Plaintiff, and their malicious prosecution of Plaintiff was intentional, extreme and outrageous.
3. As a result of said conduct, Plaintiff sustained severe emotional distress that no person should be expected to endure.
4. As a result of said conduct, as specifically alleged above, Plaintiff sustained diverse substantial and permanent emotional injuries, medical expenses, and will suffer additional special damages in the future in an amount which cannot yet be determined.
5. The acts of Defendants Michael Auricchio and/or John Does 1-5 were in violation of the law of the State of New Jersey, and Plaintiff invokes the supplemental jurisdiction of this court to hear and determine this claim.

WHEREFORE, Plaintiff Shelby Vattelle demands judgment against Defendants Michael Auricchio and/or John Does 1-5 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

NEGLIGENCE
COUNT TEN

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. Defendant Defendants Michael Auricchio and/or John Does 1-5 had a duty to the Plaintiff to not expose her to an unreasonable risk of injury.
3. Through the acts and omissions set forth at length above, Defendants Michael Auricchio and/or John Does 1-5 breached that duty.
4. The acts of Defendants Michael Auricchio and/or John Does 1-5 were in violation of the common law of the State of New Jersey, and Plaintiff invokes the supplemental jurisdiction of this court to hear and determine this claim.
5. As a direct and proximate result of their breach of duty to Plaintiff, Plaintiff was caused to suffer significant and permanent physical and emotional injury; medical expenses; pain and suffering, and will continue to incur same in the future for some time to come along with additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Shelby Vattelle demands judgment against Defendants Michael Auricchio and/or John Does 1-5 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

MALICIOUS PROSECUTION
COUNT ELEVEN

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. Defendants Michael Auricchio and/or John Does 1-5 maliciously and unlawfully initiated a criminal process against Plaintiff Shelby Vattelle.

3. The charges were without legal or factual justification and were not based upon probable cause.
4. The criminal proceedings initiated by Defendants are still pending.
5. The acts of Defendants Michael Auricchio and/or John Does 1-5 were contrary to the laws of the State of New Jersey, and Plaintiff invokes the supplemental jurisdiction of this court to hear and determine this claim.
6. As a direct and proximate cause of the actions initiated by Defendants Michael Auricchio and/or John Does 1-5, Plaintiff suffered emotional distress, humiliation, and legal expenses to defend the false criminal charges brought against her in connection with the deprivation of her constitutional rights guaranteed by the State of New Jersey, along with additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Shelby Vattelle demands judgment against Defendants Michael Auricchio and/or John Does 1-5 on this Count together with compensatory and punitive damages, attorney's fees, interest and costs of suit incurred, and for any such further relief as the court deems proper and just.

DEMAND FOR TRIAL BY JURY

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

DESIGNATION OF TRIAL COUNSEL

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

Dated: November 26, 2012

/s/ Thomas J. Mallon, Esquire
THOMAS J. MALLON, ESQUIRE

SETTLEMENT AGREEMENT AND GENERAL RELEASE

THIS AGREEMENT OF SETTLEMENT AND GENERAL RELEASE ("Agreement and General Release"), made on this 1st day of may, 2014, by and among SHELBY VATTELLE ("Plaintiff" or "Releasor") and the City of Plainfield, Michael J. Auricchio and Martini Hellwig ("Defendants" or "Releasee") (collectively hereinafter "the Parties"); and

WHEREAS, the Parties wish to resolve finally and completely all disputes, differences, controversies or claims asserted in the Complaint in this action entitled SHELBY VATTELLE *Plaintiff* v. CITY OF PLAINFIELD, MICHAEL J. AURICCHIO, MARTIN HELLWIG, and JOHN DOES 1-10, *Defendants*, Docket No.: 2:12-CV-07255-KSH-PS, previously filed in the United States District Court, District of New Jersey, Newark, New Jersey, and further as to any and all other claims that have been or could have been asserted by Plaintiff;

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable considerations:

1. **Terms.**

- a. Plaintiff shall receive, in full and final satisfaction of all claims, the sum of Twenty-Five Thousand (\$25,000.00) Dollars, within forty-five (45) days of the date of this Agreement. Said funds will be delivered to counsel for plaintiff and made payable to "Shelby Vattelle and Thomas J. Mallon, Esq., Attorney Trust Account."

2. **Release.**

- a. In consideration of the payment referred to in paragraph 1(a), Plaintiff for himself and for his heirs, and assigns (hereinafter collectively referred to as the "Releasors"), forever releases and discharges the City of Plainfield

("City"), Michael J. Auricchio, Martin Hellwig, and any and all of the City's employees, officials, and agents, (whether acting as agents for the City or in their individual capacities), from any and all claims, demands, causes of action, fees and liabilities of any kind whatsoever (based upon any legal or equitable theory, whether contractual, common-law, statutory, federal, state, local or otherwise), whether known or unknown, which Releasor ever had, now has or may have against Releasees by reason of any actual or alleged act, omission, transaction, practice, conduct, occurrence, or other matter up to and including the Release Effective Date.

- b. Without limiting the generality of the foregoing, this Agreement and Release shall release and forever discharge the Releasees of and from any claim arising out of or in any way relating to the incident that is the subject of the aforementioned Complaint, occurring on or about December 19, 2010, including, but not limited to claims for civil rights violations, discrimination, harassment and any alleged violation of the following: Sections 1981 through 1988 of Title 42 of the United States Code; the Federal or State Constitution, the New Jersey Law Against Discrimination, common law or any other federal, state or local law, regulation or ordinance, as well as any public policy, express or implied contract, tort, or common law.
- c. Plaintiff covenants not to commence, maintain, prosecute or participate in any action, charge, complaint, arbitration or proceeding of any kind (on his own behalf and/or on behalf of any other person or entity and/or on behalf of or as a member of any alleged class of persons) in any court, or before any

administrative or investigative body or agency (whether public, quasi-public or private) against Releasees with respect to any act, omission, transaction or occurrence up to and including the date of the execution of this Agreement. Plaintiff further represents that, apart from this action, he has not commenced, maintained, prosecuted or participated in any action, charge, complaint, arbitration or proceeding of any kind (on his own behalf and/or on behalf of any other person and/or on behalf of or as a member of any alleged class of persons) that is presently pending in any court, or before any administrative or investigative body or agency (whether public, quasi-public, or private), against or involving the City, its agents, officers or employees. Plaintiff acknowledges that any such action, charge or complaint would be released pursuant to this Agreement.

3. **Knowing and Voluntary Waiver.** The parties acknowledge that in the execution of this Agreement they are affecting a knowing and voluntary waiver of any claims, liabilities or causes of action against the Plaintiff and Defendants or any of the City's employees, officials, representatives and agents.
4. **Representations and Warranties.** The Parties hereby represent and warrant as follows:
 - a. **Read Agreement and Exhibits.** They have read this Agreement in its entirety.
 - b. **Advice of Counsel.** The Parties received, analyzed and discussed all aspects of this Agreement with counsel and both Parties represent that they have had sufficient time within which to discuss all aspects of this Agreement with independent counsel, and both Parties represent and warrant that they fully

understand all of the terms and conditions of this Agreement and the legal and practical effect thereof.

- c. Voluntary Act. They are executing this Agreement freely and voluntarily, without coercion of any kind, and with full knowledge and understanding of its contents.
 - d. No Reliance. In executing this Agreement they are not relying in any way on any statements, representations or promises made by each to the other or by any party agent, attorney or representative other than the representations and warranties contained herein.
 - e. No Admission of Liability. This Agreement is not to be construed as an admission of liability on the part of any of the parties.
 - f. No Assignment or Transfer. The parties represent that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or right, or any portion thereof or interest therein.
 - g. Binding Effect. This Agreement is valid and binding upon and shall inure to the benefit of the Parties, their heirs, successors, executors, administrators and assigns.
5. Confidentiality. This Agreement is confidential to the limits as defined under the law. Accordingly, the terms shall not be disclosed to any third party, except as may be required by law or court order.
 6. Modification. This Agreement may not be modified or amended unless done so by a written instrument duly signed by each of the parties or their respective successors or assigns.

7. **Delivery of Documents.** Prior to the execution of this Agreement, plaintiff has filed a Voluntary Stipulation of Dismissal with prejudice against the individual named and unnamed party defendants. The Parties shall deliver to each other, upon the complete execution of this Agreement, duly executed copies of this Agreement, and a Stipulation of Dismissal, with prejudice, of all claims relating to the City of Plainfield, Michael J. Auricchio, Martin Hellwig and any other individually named Defendants in this herein action.
8. **Applicability to New Jersey Law.** This Agreement has been executed in New Jersey and shall be interpreted and applied in accordance with New Jersey Law.
9. **Action for Breach.** In the event any claim is filed for or resulting from alleged breach of this Agreement, or any provision herein, the prevailing party shall be entitled to recover its costs, disbursements and attorneys' fees incurred therein.
10. **Captions.** The captions or headings of the sections and subsections of this Agreement are included for the purpose of convenience only and shall not effect the construction or interpretation of any of the terms of the Agreement of Settlement and General Release.
11. **Severability.** Any provision of this Agreement which is invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.
12. **Entire Agreement.** This Agreement sets forth the entire agreement between the parties and supersedes any and all prior agreements and understandings between

them, whether or not in writing. Neither the Agreement nor the documents to be delivered by the parties pursuant to it may be modified, amended or revised, except in writing and signed by the party against whom any such modification, amendment or revision is sought to be enforced.

13. **Counterparts.** This Agreement may be executed in any number of counterparts and any party hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. This Agreement shall become binding when one or more counterparts taken together shall have been executed and delivered by the parties. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

IN WITNESS WHEREOF, the undersigned have caused this Settlement Agreement and

General Release to be duly executed below.

SHELBY VATTELLE, PLAINTIFF

BY: [Signature]
SHELBY VATTELLE

CITY OF PLAINFIELD, DEFENDANT

BY: [Signature]
David L. Minichello, Esq.
Cooperation Counsel

MICHAEL J. AURICCHIO, DEFENDANT

BY: _____

MARTIN HELLWIG, DEFENDANT

BY: [Signature]
David L. Minichello
Attorney for Martin Hellwig

BE IT REMEMBERED that on this 1 day of May 2014,
before me, the subscriber an Attorney at Law of the State of New Jersey, personally appeared
SHELBY VATTELLE, who I am satisfied is the person named in and who executed the
foregoing Agreement, and to whom I first made known the contents thereof, and thereupon he
acknowledged that he/she signed, sealed, and delivered the same as his voluntary act and deed
for the uses and purposes therein expressed.

[Signature]
Notary Public Alex R. DeSera
Attorney at Law State of New Jersey

BE IT REMEMBERED that on this 3rd day of June 2014,
before me, the subscriber an Attorney at Law of the State of New Jersey, personally appeared
David L. Minichello who I am satisfied is the person named in and who executed the foregoing
Agreement, and to whom I first made known the contents thereof, and thereupon she
acknowledged that he/she signed, sealed, and delivered the same as her voluntary act and deed
for the uses and purposes therein expressed.

[Signature]
Notary Public
PEGGY LYNN PAGE-BROWN
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES March 30, 2016

BE IT REMEMBERED that on this _____ day of _____ 2014,

BE IT REMEMBERED that on this _____ day of _____ 2014,
 before me, the subscriber an Attorney at Law of the State of New Jersey, personally appeared
 _____, who I am satisfied is the person named in and who executed the foregoing
 Agreement, and to whom I first made known the contents thereof, and thereupon she
 acknowledged that he/she signed, sealed, and delivered the same as her voluntary act and deed
 for the uses and purposes therein expressed.

 Notary Public

BE IT REMEMBERED that on this _____ day of _____ 2014,
 before me, the subscriber an Attorney at Law of the State of New Jersey, personally appeared
 _____, who I am satisfied is the person named in and who executed the foregoing
 Agreement, and to whom I first made known the contents thereof, and thereupon she
 acknowledged that he/she signed, sealed, and delivered the same as her voluntary act and deed
 for the uses and purposes therein expressed.

 Notary Public