

File # \_\_\_\_\_  
Clmt: SZABO, PHILLIP

**C) DESCRIBE HOW THE ACCIDENT OR OCCURRENCE HAPPENED. IF A DIAGRAM WILL ASSIST YOUR EXPLANATION, PLEASE USE THE REVERSE SIDE OF THIS FORM:**

A claim is hereby presented against the Borough of Roselle Park, the Roselle Park Borough Police Department and Police Officers A. Lanza, G. Polakoski, V. Kostantinos, P. Picarelli and M. Bell.

On December 9, 2012, Claimants, Phillip Szabo residing at 570 E. Elm Street, Linden, N.J., Mark Salerno and James Redington both residing at 27-D W. Roselle Avenue, Roselle Park, N.J., were violated of their constitutional and civil rights by the illegal and criminal conduct of the aforementioned police officers, which said officers were acting in the normal course of their official duties while employed as agents and/or employees of the Borough of Roselle Park. At said time an illegal search was conducted of the premises, described as 27 West Roselle Avenue, Apartment D, Roselle Park, N.J. Entry to the premises was gained by a deliberate and blatant lie to the effect that said officers were armed with a search warrant, which subsequent discovery proved beyond all reasonable doubt was completely false.

Most importantly, the entire episode of the night in question was captured on video with clear audio and a copy of the CD-ROM has already been forwarded to the Roselle Park Municipal Court Prosecutor, Richard Huxford, Esq. Prior to the police officer's asserting a search warrant, the police were denied entrance of the premises by the tenant. As previously stated, the recording clearly depicts the entire scenario, wherein the police officer demands entry into the residence and it is clearly heard one officer state that he had a search warrant. The video also disproves a number of false allegations stated by the police and in particular in the official arrest report.

By virtue of the above mentioned wrongful and criminal conduct by the police officers in question, the constitutional and civil rights of the claimants were violated and Claimant, Phillip Szabo was arrested, handcuffed and issued a criminal complaint for possession of marijuana and possession of paraphernalia. Prior to the incident in question, Claimant, Philip Szabo had no criminal record whatsoever. Although the charges were ultimately dismissed by Judge Bundy, Mr. Szabo's

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record is now blemished. Claimants Salerno and Redington were issued criminal complaints alleging in essence noise pollution.

**D) STATE THE NAME, ADDRESS OF THE MUNICIPALITY OR AGENCY THAT YOU CLAIM CAUSED YOUR DAMAGE.**

The Borough of Roselle Park Police Department; 110 East Westfield Avenue; Roselle Park, New Jersey 07204-2038

**E) STATE THE NAMES OF MUNICIPALITY'S EMPLOYEES WHOM YOU CLAIM WERE AT FAULT, INCLUDING ANY INFORMATION THAT WILL ASSIST IN IDENTIFYING THEM:**

Roselle Park Police Officers: Alexander Lanza, Gregory Polakoski, Vathianakis Kostantinos, Peter Picarelli and Michael Bell.

**F) STATE IN DETAIL EACH AND EVERY NEGLIGENT OR WRONGFUL ACT OF THE MUNICIPALITY EMPLOYEES WHICH CAUSED YOUR DAMAGE:**

The incident in question was initially a response to a simple noise complaint called in by an unknown party to the Roselle Park Police Department. Claimants were violated of their constitutional and civil rights due to the illegal and criminal conduct of the police officers as aforesaid in answer to question C. More specifically said police officer's actions constituted an "act of misconduct" and abuse of office pursuant to Rule 2C:30-2. Ultimately the charges against claimant Phillip Szabo were dismissed as the police officers in question illegally and wrongfully entered a premise by virtue of falsely stating they were in possession of a search warrant and said entry, search and seizure was absent probable cause and/or exigent circumstances. As a result of the aforesaid, Philip Szabo was falsely arrested and will infinitely have a blemish on his record.

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G) STATE THE NAME AND ADDRESS OF ALL WITNESSES TO THE ACCIDENT OR OCCURRENCE:

Claimants Mark Salerno and James Redington and the five (5) police officers as stated aforesaid.

H) IF VEHICLE ACCIDENT, STATE THE NAMES, ADDRESS, AGE AND RELATIONSHIP TO INSURED OF ALL PASSENGERS IN YOUR VEHICLE:

N/A

I) STATE THE NAMES OF ALL POLICE OFFICERS AND POLICE DEPARTMENTS WHO INVESTIGATED THE ACCIDENT (Incident):

Claimants have no such knowledge but believes the matter was turned over and investigated by Internal Affairs and the Chief of Police at Roselle Park Police Department.

4. A) CLAIM FOR DAMAGES (CHECK APPROPRIATE BOX):

BODILY INJURY       PROPERTY DAMAGE       OTHER

A claim for damages in the sum of \$500,000.00 is made herein for the violation of claimant Philip Szabo's constitutional and civil rights.

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Clmt: REDINGTON, JAMES

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Claimants have no such knowledge but believes the matter was turned over and investigated by Internal Affairs and the Chief of Police at Roselle Park Police Department.

4. A) CLAIM FOR DAMAGES (CHECK APPROPRIATE BOX):

     BODILY INJURY           PROPERTY DAMAGE        X   OTHER

A claim for damages in the sum of \$250,000.00 is made herein for the violation of claimant James Redington's constitutional and civil rights.

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Clmt: SALERNO, MARK

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N/A

I) STATE THE NAMES OF ALL POLICE OFFICERS AND POLICE DEPARTMENTS WHO INVESTIGATED THE ACCIDENT (Incident):

Claimants have no such knowledge but believes the matter was turned over and investigated by Internal Affairs and the Chief of Police at Roselle Park Police Department.

4. A) CLAIM FOR DAMAGES (CHECK APPROPRIATE BOX):

       BODILY INJURY             PROPERTY DAMAGE        X   OTHER

A claim for damages in the sum of \$250,000.00 is made herein for the violation of claimant Mark Salerno's constitutional and civil rights.

## CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE

This Confidential Settlement Agreement and Release ("Agreement") is made by and between Plaintiffs Phillip Szabo, James Redington and Mark Salerno (hereinafter "Plaintiffs") on the one hand, and the New Jersey Intergovernmental Insurance Fund ("NJIF") on behalf of its insureds, Defendants Officers Alexander Lanza, Gregory Polakoski, Vathianakis Kostantinos, Peter Picarelli and Michael Bell individually and in their representative capacities, Borough of Roselle Park and Roselle Park Police Department (herein collectively referred to as "Defendants"). Plaintiffs and the NJIF shall jointly be referred to as "the Parties" or individually as a "Party". The Agreement shall be deemed entered into as of the date of signature of the last Party or Party representative to sign this Agreement.

### WITNESSETH

WHEREAS, Plaintiffs filed suit on June 21, 2013 against Defendants by way of Complaint in a matter listed in the New Jersey Superior Court, Union County under Docket No. UNN-13-2254-13, which set forth factual and legal allegations against Defendants; and

WHEREAS, Defendants filed a Notice of Removal to the United States District Court for the District of New Jersey and the matter was docketed as Case 2:13-cv-05022-SRC-CLW on August 21, 2013 (the "Action"); and

WHEREAS, on August 29, 2013 the Defendants filed an Answer denying all allegations asserted against them in the Action; and

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

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

1. Within forty-five (45) days following the last to occur of (a) the NJIF's receipt of fully executed copies of this Agreement and the Stipulation of Dismissal with Prejudice attached hereto as Exhibit A; (b) delivery to the NJIF of the date of birth of Plaintiffs, their current addresses and complete social security numbers, tax identification numbers and a copy of clear Charles Jones searches; and (c) an executed W-9 form from Plaintiffs' attorney, the NJIF shall provide Plaintiffs' attorney with payments in the total amount of twenty-five thousand dollars (\$25,000.00) for Plaintiff Phillip Szabo, five thousand dollars (\$5,000.00) for Plaintiff James Redington and five thousand dollars (\$5,000.00) for Plaintiff Mark Salerno, for a total of thirty-five thousand dollars (\$35,000.00), referred to herein as the "Settlement Sum".

2. The Settlement Sum shall be made via three (3) checks payable to "Ronald F. Esposito, Esq. Trust Account" for the amounts set forth in paragraph 1, and shall be delivered to Ronald Esposito, Esq. ("Attorney") at the following address:

Ronald Disposito, Esq.  
540 North Avenue  
Suite #1  
Union, New Jersey 07083

3. 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 the NJIF and Defendants 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.

4. As additional, partial consideration for payment of the Settlement Sum, Plaintiffs, individually, jointly and severally, for themselves and on behalf of their respective successors, spouses, 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 NJIF, as well as their past and present officials, agents, commissioners, attorneys, departments, volunteers, officers and employees (for individuals, said Release runs to them in their official and personal capacities), and all of their respective heirs, estates, successors and assigns (hereinafter, individually and collectively referred to as "Releasees"), jointly and individually, from any and all liabilities, claims, causes of action, charges, appeals, complaints, obligations, costs, losses, damages, injuries, emotional distress damages, past and future medical costs, attorneys' fees and other legal responsibilities, of any form or kind whatsoever, whether vested or contingent, which Releasors had, have or may have against Releasees from the beginning of time through the date of this Agreement, including without limitation 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, any losses or causes of action based upon disability, handicap, sex, age or race, negligent or intentional infliction of emotional distress, defamation, any claims arising under The Civil Rights Act of 1871 as amended by 42 U.S.C. §1983, 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 New Jersey Law Against Discrimination, the United States Constitution, the New Jersey Constitution, or any other federal, state or local statute, ordinance or law whether such claims are known or unknown, unforeseen, unanticipated, unsuspected or latent, and any claims which were raised or could have been raised prior to the date of this Agreement, whether known or unknown, unforeseen, unanticipated, unsuspected or latent (all of the foregoing being collectively referred to herein as "Claims").

5. Plaintiffs promise and agree that they will not file, re-file, appeal, initiate or cause to be filed or initiated any claim, suit claim or other proceeding based upon, arising out of, or related to any Claims subsumed within the Release, nor shall any of them 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 lawful subpoena is served on Plaintiffs requiring that they testify in any matter in which Releasees have an interest,

they agree to immediately notify and provide a copy of the Court Order or subpoena to all of the attorneys for Defendants in this case and to the NJIF's counsel c/o Eric J. Nemeth, P.C., 55 Madison Avenue, Suite 400, Morristown, New Jersey 07960. Plaintiffs shall provide the NJIF with a copy of the Court Order or subpoena as soon as possible and reasonably in advance of their appearance and/or compliance with the Court Order of subpoena. Plaintiffs agree to cooperate with and assist the Defendants and NJIF in connection with any lawful efforts to quash or limit the scope of the subpoena or Court Order.

6. This Agreement is not an admission by any of the Parties 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.

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

8. Plaintiffs represent and warrant that no other person or entity has any interest in the claims that comprise 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 has been made to 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 NJIF.

9. The Parties acknowledge and agree that as a governmental entity and as governmental employees, the Borough of Roselle Park and its employees and/or the NJIF may be obligated to disclose a copy of this Agreement to persons under the New Jersey Open Public Records Act or common law. Notwithstanding the foregoing, for \$10.00 in hand and other good and valuable consideration not otherwise herein stated, Releasees and Plaintiffs' Attorney agree that they shall not disclose, or cause to be disclosed, the terms of this Agreement 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 shall first be required to review this Agreement and agree to abide by the limitations on disclosure. In the event that this Agreement is required to be disclosed pursuant to applicable law, the Releasees and Plaintiffs' Attorney agree that their communication with any person or the media regarding the Action shall be limited to the statement that the "claim was resolved to my satisfaction". The Releasees and Plaintiffs' Attorney acknowledge and agree that this confidentiality provision is an express and absolute condition of 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 any Plaintiff or their Attorney violates this non-disclosure provision, the NJIF may move in a

summary action to enforce same and shall be entitled to 50% of the Settlement Sum as liquidated damages, along with court costs and legal fees. Plaintiffs and their attorney acknowledge and agree that the liquidated damages provision herein stated is not a penalty but has been negotiated as part of this Agreement due to the difficulty in calculating the Releasees' actual damages.

10. 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.

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

12. 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 Parties who are not signatories to this Agreement is intended to be third-party beneficiary of this Agreement. Each such Party shall be entitled to enforce this Agreement and each of its terms. In the event of any breach of this Agreement, any aggrieved Party may move before the District Court for the District of New Jersey to enforce the terms hereof.

13. Plaintiffs hereby agree to jointly and severally indemnify, defend and hold harmless Defendants and NJIF 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 of any form or kind whatsoever, whether vested or contingent, which any party to the Action or any other person or their successors or assigns has or may have against the Defendants and NJIF arising from the subject matter of the Action, including without limitation 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, disability, handicap, sex, age or race, intentional or negligent 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.

14. This Agreement represents the entire agreement 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.

15. 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.

16. 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 that part of each of the undersigned.

17. Plaintiffs hereby covenant that if any liens exist against the Settlement Sum, they will be obligate to and shall ensure that they are paid in full, compromised or satisfied and release by them. Plaintiff James Redington warrants and represents that there currently exists a child support judgment against him for \$13,984.00 as of June 3, 2014, plus post-judgment interest, and that any amount to which Plaintiff James Redington is entitled under this Agreement shall be paid by Plaintiffs' attorney to the appropriate governmental authority as payment toward or in furtherance of child support judgment (see Certification of Child Support Arrears and Judgment Search for Plaintiff James Redington attached hereto as Exhibit A and made a part hereof). Additionally, Plaintiff Mark Salerno and Plaintiffs' counsel warrant and represent that Mark Salerno is not the judgment debtor identified in connection with child support judgment J-236245-2012 (see Judgment Search attached hereto as Exhibit B and made a part hereto) as he has never been married and has no children. If any lien exists which is not satisfied as required by this Agreement, and a claim is made by anyone to enforce that lien against the Defendants or NJIF, Plaintiffs agree that they will defend and indemnify the Defendants and NJIF from and against all such claims. This representation is intended to include all liens, past, present and future, including, but not limited to, governmental liens, Social Security liens, child support or custody liens, attorneys' liens, medical provider liens, Medicare and judgment liens. Plaintiffs agree to indemnify and hold the Defendants and the NJIF and all of their insurance carriers 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 Defendants and/or NJIF or their insurance carriers by anyone seeking payment of the liens, Plaintiffs will indemnify and hold the Defendants and NJIF and their insurance carriers harmless for any such liens and/or defending against such a claim, including, but not limited, attorneys' fees, costs of suit, and interest.

In furtherance of the foregoing, Plaintiffs state as follows:

"We agree to satisfy and personally guarantee payment for any and all liens, including but not limited to liens asserted by any workers' compensation insurance carrier or governmental entity, including but not limited to Medicare and/or Medicaid, that has paid, or will pay, any benefits to me, or on my behalf, out of the monies you are paying pursuant to this Release. We further agree to satisfy any and all child support judgment liens and unpaid medical bills of any medical provider or facility out of the proceeds of this settlement.

In recognition of my obligations to satisfy all such liens out of the monies being paid pursuant to this Release, We further agree to indemnify and defend you, your attorneys and your liability insurance carriers from and against any and all claims made or actions filed against you, your attorneys, your liability insurance carriers for payment of any such liens upon prompt presentation and tender of such claims. We further acknowledge that we have specifically discussed this provision of this Release with our attorneys."

18. Plaintiffs represent and warrant that they are not Medicare eligible and/or enrolled and that Medicare has not (pursuant to 42 U.S.C. §1395y(b) and the corresponding regulations) made any conditional payments for medical services or items provided to Plaintiffs and arising from or relating to any claim, accident, occurrence, act, error, omission, bodily injury, disease, loss, or damages that are subject to the release herein. The Parties agree that all representations and warranties made herein shall survive settlement. In consideration of the promises made by the Plaintiffs in this Agreement, including but not limited to the Settlement Sum to be paid by the NIIIF pursuant to this Agreement, Plaintiffs agree that they shall be responsible for satisfying any future claims for reimbursement of conditional payments that may be asserted by Medicare, and that the Settling Defendants shall have no obligation to satisfy any such claims for reimbursement.


Plaintiffs and/or their estates agree to investigate and assume any responsibility and/or liability to pay any current Medicare liens that may be related to the injury in question. Further, Plaintiffs and/or their estates agree to pay any future Medicare liens that may arise that are determined to be related to the injury that is the subject of the Action.

19. 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.

20. 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; and
- (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.

  
\_\_\_\_\_  
Phillip Szabo, Plaintiff

Sworn to before me this

17 day of June, 2014

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

LISA ANN KRAFT  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires 7/14/2018

  
\_\_\_\_\_  
James Reington, Plaintiff

Sworn to before me this

17 day of June, 2014

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

LISA ANN KRAFT  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires 7/14/2018

  
\_\_\_\_\_  
Mark Salerno, Plaintiff

Sworn to before me this

17 day of June, 2014

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

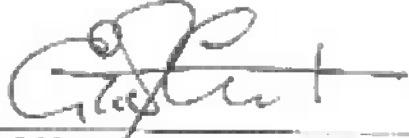
LISA ANN KRAFT  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires 7/14/2018



Ronald F. Esposito, Esq.  
On behalf of Plaintiffs

By:   
\_\_\_\_\_  
Ronald F. Esposito, Esq.

New Jersey Intergovernmental Insurance Fund  
On behalf of Defendants

By:   
\_\_\_\_\_  
Eric J. Nemec, General Counsel