

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

IAN WOLFER,
Plaintiff,

UNITED STATES DISTRICT COURT
DISTRICT COURT OF NEW JERSEY
TRENTON

vs.

Civil Action No.:

STAFFORD TOWNSHIP;
JOSEPH GIBBERSON, Chief of Police;
JOHN DOES 6-10 (fictitious individuals),
Personnel of the Stafford Township
Police Department in supervisory
capacities; **CHRISTOPHER SMITH;**
ALBERT HALDENWANG;
ROBERT WOODRING, and **JOHN DOES 1-5**
(fictitious individuals), members of the
Stafford Township Police Department,

Defendants.

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).

PARTIES

2. Plaintiff Ian Wolfer, residing at 31A Atlantic Avenue, Manahawkin, New Jersey, 08050, Ocean County, is and was, at all times herein relevant, a citizen of the United States and a resident of the State of New Jersey.

3. Defendants Christopher Smith; Albert Haldenwang; Robert Woodring, and/or John Does 1-5 were at all times mentioned herein duly appointed and acting police officers of the Stafford Township Police Department and at all times herein were acting in such a capacity as the agents, servants and/or employees of Stafford Township and were acting under the color of law.

4. Defendants Chief of Police Joseph Gibberson and/or John Does 6-10 were at all times mentioned herein duly appointed and acting members of the Stafford Township Police Department and at all times herein were acting in such capacities as the agents, servants and/or employees of Stafford Township and were acting under the color of law.

5. Defendants Chief of Police Joseph Gibberson and/or John Does 6-10 were acting in supervisory capacities over Defendants Smith; Haldenwang; Woodring, and/or John Does 1-5 and responsible by law for the training, supervision and conduct of Defendants Smith; Haldenwang; Woodring, and/or John Does 1-5.

6. Defendant Stafford Township 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 Stafford Township employed the aforementioned Defendants. As such, it was responsible for the training, supervision and conduct of Defendants Gibberson, Smith; Haldenwang; Woodring, and/or John Does 1-10.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

1. On 10/15/11, Plaintiff Ian Wolfer was assaulted without justification and with excessive force by Defendants Smith; Haldenwang; Woodring, and/or John Does 1-5.
2. As a result of Defendants' assault and use of unjustified excessive force on his person, Plaintiff sustained bodily injuries.

COUNT ONE
SECTION 1983 USE OF EXCESSIVE FORCE

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 Smith; Haldenwang; Woodring, and/or John Des 1-5 committed under color of state law, Plaintiff sustained bodily harm and was deprived of his right to be secure in his person against unreasonable seizure of his 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 Defendants as set forth above, Plaintiff suffered bodily injuries and will suffer additional special damages in the future in an amount which cannot yet be determined.

WHEREFORE, Plaintiff Ian Wolfer demands judgment against Defendants Smith; Haldenwang; Woodring, 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.

COUNT TWO
SECTION 1983 FAILURE TO INTERVENE

1. The previous paragraphs are incorporated herein inclusively as if fully set forth.
2. Defendants Smith; Haldenwang; Woodring, and/or John Does 1-10 were Stafford Township Police Officers and at all times mentioned herein were acting under color of state law.
3. Defendants Smith; Haldenwang; Woodring, and/or John Does 1-10 had a duty to intervene in the unjustified assault and use of excessive force on Plaintiff by Defendants Smith; Haldenwang; Woodring, and/or John Does 1-10.
4. The unjustified assault and use of excessive force on Plaintiff by Defendants Smith; Haldenwang; Woodring, and/or John Does 1-10 deprived Plaintiff of his right to be secure in his 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 Smith; Haldenwang; Woodring, and/or John Does 1-10 had a reasonable opportunity to intervene in the unjustified assault and use of excessive force on Plaintiff by Defendants Smith; Haldenwang; Woodring, and/or John Does 1-10 and failed to intervene.
6. As a direct and proximate cause of Defendants' Smith; Haldenwang; Woodring, and/or John Does 1-10 failure to intervene, Plaintiff suffered bodily injuries and will suffer additional special damages in the future in an amount which cannot yet be determined in connection with the deprivation of his Constitutional Rights guaranteed by the Fourth and Fourteenth Amendments to the Constitution of the United States and made actionable through by 42 USC Section 1983.

WHEREFORE, Plaintiff Ian Wolfer demands judgment against Defendants Smith; Haldenwang; Woodring, 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.

COUNT THREE
SECTION 1983 UNLAWFUL POLICY, CUSTOM, PRACTICE
INADEQUATE TRAINING

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

2. Defendants Stafford Township's Police Department, Joseph Gibberson and/or John Does 6-10, are vested by state law with the authority to make policy on the use of force, effectuating arrests and police citizen encounters. Specifically, Defendant Joseph Gibberson is the chief of police. Defendants John Does 6-10 are responsible for training Police Officers in the use of force and/or were officers in charge when Plaintiff was assaulted and falsely arrested.

3. At all times mentioned herein, Defendants Smith; Haldenwang; Woodring, and/or John Does 1-10, as police officers, agents, servants and/or employees of Defendant Stafford Township, were acting under the direction and control of Defendants Stafford Township's Police Department, Joseph Gibberson and/or John Does 6-10, and were acting pursuant to the official policy, practice or custom of the Stafford Township Police Department.

4. Acting under color of law pursuant to official policy, practice, or custom, Defendants Stafford Township, Joseph Gibberson 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 Gibberson, Smith; Haldenwang; Woodring, 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.

5. Defendants Stafford Township, Gibberson and/or John Does 6-10 were aware of numerous similar police citizen encounters involving Defendants Gibberson, Smith; Haldenwang; Woodring, John Does 1-10 and/or other Stafford Township 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 citizen/arrestees.

6. Despite their awareness, Defendants Stafford Township, Joseph Gibberson and/or John Does 6-10 failed to employ any type of corrective or disciplinary measures against Defendants Gibberson; Smith; Haldenwang; Woodring; John Does 1-10, and/or other Stafford Township Officers.

7. Defendants Stafford Township, Joseph Gibberson and/or John Does 6-10 had knowledge of, or, had they diligently exercised their duties to instruct, train, supervise, control, and discipline Defendants Gibberson; Smith; Haldenwang; Woodring, and/or John Does 1-10 on a continuing basis, should have had knowledge that the wrongs which were done, as heretofore alleged, were about to be committed.

8. Acting under color of law pursuant to official policy, practice, or custom, Defendants Stafford Township; Gibberson 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 Stafford Township, Gibberson 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.

9. Defendants Stafford Township, Gibberson 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 Stafford Township 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.

10. Defendants Stafford Township, Joseph Gibberson and/or John Docs 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.

11. Defendants Stafford Township, Joseph Gibberson 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 Gibberson, Smith; Haldenwang; Woodring, and/or John Does 1-10 heretofore described.

12. As a direct and proximate result of the acts of Defendants Stafford Township, Joseph Gibberson and/or John Does 6-10 as set forth herein, Plaintiff suffered physical injury and will suffer additional special damages in the future in an amount which cannot yet be determined in connection with the deprivation of his 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 Ian Wolfer demands judgment against Defendants Stafford Township, Joseph Gibberson 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.

COUNT FOUR
SECTION 1983 DEMAND FOR PROSPECTIVE INJUNCTIVE RELIEF

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

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.

2. The relief sought by Plaintiff include, but is not limited to, the following:

- a. An order permanently restraining and enjoining Defendants Joseph Gibberson, Christopher Smith; Albert Haldenwang; Robert Woodring, and John Does 1-10 from engaging in, encouraging, teaching, promoting or training Stafford Township 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 Stafford Township 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 Stafford Township to provide regular and consistent training sessions to Stafford Township Police Officers.
- d. An order compelling Defendant Stafford Township to implement a system whereby prompt, appropriate action is taken against any Stafford Township 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.

- c. An order permanently restraining and enjoining Defendants Christopher Smith; Albert Haldenwang; Robert Woodring, and/or John Does 1-5 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 Stafford Township from employing Defendants Christopher Smith; Albert Haldenwang; Robert Woodring and John Does 1-10 as police officers or law enforcement personnel in any capacity except for clerical duty, solely and entirely confining them to Stafford Township Police headquarters and limiting them entirely to desk duty; enjoining Defendants Christopher Smith; Albert Haldenwang; Robert Woodring and John Does 1-10 from any patrol duty, and enjoining Defendants Christopher Smith; Albert Haldenwang; Robert Woodring, and 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 Ian Wolfer demands judgment against Defendants Stafford Township; Joseph Gibberson; Christopher Smith; Albert Haldenwang; Robert Woodring, 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.

DEMAND FOR TRIAL BY JURY

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

DESIGNATION OF TRIAL COUNSEL

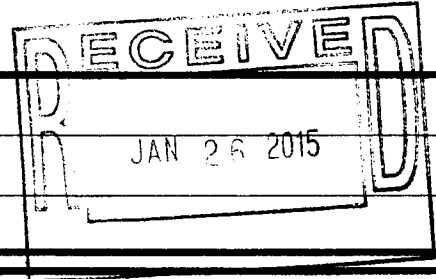
Please be advised that Thomas J. Mallon, Esquire is hereby designated trial counsel in the above captioned matter.

Dated: October 14, 2013

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

Chris Koutsouris

Rapid Memo



~~JOE HARVEY + ASSO.
123 W. 15TH AVE.
N. WILDWOOD, N.J. 08260~~

To TOM MALLON
ATTORNEY-AT-LAW
FREEHOLD, N.J.

Date 1-22-2015
Subject WOLFER V. STAFFORD
OUR FILE-2014-101

Confidential High Priority Proprietary Shred

DEAR MR. MALLON,
THIS CONFIRMS OUR CONVERSATION OF 1/21/2015 THAT THE ABOVE MATTER HAS BEEN CONCLUDED FOR \$13750. A MEMBER OF OUR DEFENSE PANEL WILL PREPARE THE NECESSARY RELEASE AND FORWARD SAME TO YOUR ATTENTION.

Thank you for your cooperation in this matter.
CC: LAURA SABLE # X75740
PETER VAN DYKE, ESQ.
STEVE ZABARSKY, ESQ.
CHRIS BOTTA, ESQ.
GUY RYAN, ESQ.
C. KOUTSOURIS, ESQ. ✓

Very Truly Yours,
Joseph M. Harvey