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 Attorney for Defendant Richard Etienne

Richard Etienne  
 Plaintiff,  
 vs.  
 Township of Irvington, Township of  
 Irvington Police Department, Detective  
 Shaun Green, Joseph Demarco, and JOHN  
 DOES 1-10 (fictitious names for  
 individuals whose identities are unknown  
 Defendants.

SUPERIOR COURT OF NEW JERSEY  
 LAW DIVISION: ESSEX COUNTY  
 DOCKET NO.:

Civil Action

**COMPLAINT**

Plaintiff, Richard Etienne residing in Irvington, New Jersey, by way of complaint against defendants, state:

FIRST COUNT

1. On or about August 9, 2013, plaintiff Richard Etienne was wrongly and falsely arrested, charged and imprisoned for an alleged violation of N.J.S.A. 2C:51A(1); N.J.S.A. 2C:11-3; N.J.S.A. 2C:12-1B (1); N.J.S.A. 2C: 39-4A; N.J.S.A. 2C: 39-5B; N.J.S.A. 2C:39-7B.
2. Defendant Township of Irvington is a municipal corporate body politic which provides a number of services to those residing within its borders, including provisions of police protection.
3. Defendant Township of Irvington Police Department, is in charge of and responsible for providing a professional level of service to all its residents and visitors, treating all persons in a dignified and courteous manner, recruiting and

retaining the highest quality employees and providing them with proper supervision, guidance and training.

4. At all relevant times, defendant Detective Shaun Green, was the employee, agent and servant of defendant Township of Irvington Police Department.
5. Defendants Township of Irvington and Township of Irvington Police Department are vicariously liable for the actions of their employees, agents, and servants.
6. Defendant, Joseph Demarco is an individual residing in the State of New Jersey.
7. The statements and allegations set forth in the complaints by defendants were false and were known to defendants to be false.
8. On or about August 4, 2013, defendants did present the false charges allegedly made against plaintiff by Joseph Demarco in the form of a warrant to the Judge of the Superior Court for an issuance of a warrant.
9. The statements and allegations presented by defendants were false.
10. Upon information and belief, at the time the said false allegations were presented, the law enforcement officers, by their failure to properly investigate and adhere to proper law enforcement policies and procedures.
11. The conduct of Detective Shaun Green and Joseph Demarco resulted in plaintiff being falsely, maliciously and or negligently unlawfully arrested and detained and thereby deprived plaintiff of his right to be free from unreasonable and unlawful seizure of his person, to the equal protection of law and to due process of law in violation of the 4<sup>th</sup> and 14<sup>th</sup> Amendments of the Constitution of the United States, 42 U.S.C. § 1983, and the Constitution and laws of the State of New Jersey.
12. As a direct result of the failure to truthfully and completely inform the issuing judge of the nature and circumstances, the plaintiff was arrested and incarcerated.
13. Plaintiff Richard Etienne was arrested and incarcerated with a bail set at \$2,000,000 without a 10% cash alternative.
14. In addition, employees, servants, and agents of the Township of Irvington Police Department had the duty to comply with the requirements of conducting an investigation in a reasonable manner, or as required by rule or policy, and failed to comply.

15. As a result of the filing of the false charges by defendants, plaintiff was arrested, photographed, fingerprinted, and caused to have a criminal record made of the filing of the charges and his arrest.
16. All of the acts described above were undertaken in a willful, malicious and or negligent manner, with an immoral purpose, to unjustly enrich defendants and to injure the reputation, standing and integrity of plaintiff, to his detriment. Defendants are, therefore, liable to plaintiff for punitive damages in addition to compensatory damages.
17. The charges were filed without any basis in fact, were continued because of defendants' false statements, and all complaints were ultimately found to be without any merit whatsoever. As a direct and proximate result of defendants' actions as described above, and particularly of their willful, intentional, false, malicious, reckless, or grossly negligent actions in arresting, detaining and imprisoning plaintiff, plaintiff was greatly humiliated and disgraced; suffered great mental and physical anguish, suffered severe damage to his reputation and standing in the community, was forced to undergo the rigors and strain of a false arrest, detention and imprisonment and has otherwise been damaged and injured in diverse other manners, to his great detriment.
25. Plaintiff has also suffered damages and will continue to incur damages. These damages include legal fees incurred to defend the charges and the fees for expungement of plaintiff's arrest record, photograph record, and fingerprint record as well as emotional injury and social disruption.
26. Defendants are responsible to plaintiff for all of these damages.

WHEREFORE, plaintiff demands judgment for damages against defendants as follows:

- (a) for compensatory damages;
- (b) for punitive damages;
- (c) for interest, costs, and attorneys' fees; and
- (d) for such other relief as the court deems proper.

#### SECOND COUNT

1. Plaintiff repeat the allegations contained in the First Count.
2. Defendants instituted the above criminal proceedings against plaintiffs.
3. Defendants continued the prosecution of the above criminal prosecution of the above criminal proceedings against plaintiff.

4. The criminal proceedings terminated favorably to plaintiff.
5. Defendants lacked reasonable or probable cause for the institution and prosecution of the above criminal proceedings against plaintiff.
6. Defendants instituted and prosecuted the above criminal proceedings with malice and with specific intent to harm and injure plaintiffs.
7. Defendants had malicious motives in prosecuting the above criminal proceedings against plaintiff.
8. Plaintiff suffered damages as a proximate result of the malicious prosecution instituted and continued by defendants and continues to suffer damages.
9. Defendants are responsible to plaintiff for all of these damages.

WHEREFORE, plaintiff demands judgment for damages against defendants as follows:

- (a) for compensatory damages;
- (b) for punitive damages;
- (c) for interest, costs, and attorneys' fees; and
- (d) for such other relief as the court deems proper.

THIRD COUNT

1. Plaintiff repeat the allegations contained in the First and Second Counts.
2. As a result of the above intentional actions of defendants, plaintiff was caused to be arrested, and his freedom and liberties were restricted in that he was required to be photographed and fingerprinted by the police and was confined for a period of time during that process.
3. The restraint upon plaintiff's freedom and liberty was wrongful and was the direct result of the improper filing of the criminal charges by defendants.
4. As a result of the foregoing, plaintiff has been damaged and will continue to incur damages.
5. Defendants are responsible to plaintiff for all of these damages.

WHEREFORE, plaintiff demands judgment for damages against defendants as follows:

- (a) for compensatory damages;
- (b) for punitive damages;
- (c) for interest, costs, and attorneys' fees; and
- (d) for such other relief as the court deems proper.

FOURTH COUNT

1. Plaintiff repeat the allegations contained in the First, Second and Third Counts.
2. As a result of the above intentional actions of defendants, plaintiff was caused to be arrested, and his freedom and liberties were restricted in that he was required to be photographed and fingerprinted by the police and was confined for a period of time during that process.
3. The restraint upon plaintiff's freedom and liberty was wrongful and was the direct result of the improper filing of the criminal charges by defendants negligence.
4. As a result of the foregoing, plaintiff has been damaged and will continue to incur damages.
5. Defendants are responsible to plaintiff for all of these damages.

WHEREFORE, plaintiff demands judgment for damages against defendants as follows:

- (a) for compensatory damages;
- (b) for punitive damages;
- (c) for interest, costs, and attorneys' fees; and
- (d) for such other relief as the court deems proper.

FIFTH COUNT

1. Plaintiffs repeat the allegations contained in the First, Second, Third and Fourth Counts.
2. At all relevant times, defendants Township of Irvington Police Department were the employer of the individual defendants and the individual defendant, Detective Shaun Green and John Does were acting as its agents, servants and employees.
3. The Township of Irvington Police Department failed to use reasonable care in the selection of its employees, agents and servants, failed to properly train and supervise the individual defendants and failed to provide appropriate safeguards to prevent the false arrest, detention, imprisonment and malicious prosecution of plaintiff.

- 4. The Township of Irvington Police Department acted under color of law pursuant to the official policy or custom and practice of their office/department and intentionally, knowingly, recklessly or with deliberate indifference, failed to properly and adequately control and discipline on a continuing basis the individual defendants in the performance of their duties and otherwise failed to refrain the individual defendants from unlawfully and maliciously and or negligently causing the false arrest and malicious prosecution of plaintiff in violation of the rights, privileges and immunities guaranteed to plaintiff by the Constitution and laws of the United States and the State of New Jersey.
- 5. The Township of Irvington Police Department had knowledge of, or had it diligently exercised its duties to instruct, supervise, control and discipline the individual defendants on a continuing basis should have had knowledge of, the wrongs that were done as alleged above and intentionally, knowingful, or with deliberate indifference to plaintiff's rights, failed or refused to prevent their commission.
- 6. Defendant Township of Woodbridge Police Department, directly, or indirectly and under color of law, thereby approved or ratified the unlawful, deliberate, malicious, reckless and or negligent and wanton conduct of the individual defendants.

WHEREFORE, plaintiff demands judgment for damages against defendants as follows:

- (a) for compensatory damages;
- (b) for punitive damages;
- (c) for interest, costs, and attorneys' fees; and
- (d) for such other relief as the court deems proper.

Dated: August 7, 2015

BY: Rhea L. Moore  
 Rhea L. Moore, Esq.  
 Attorney for Plaintiff

DEMAND FOR JURY TRIAL

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

Dated: August 7, 2015

BY: Rhea L. Moore  
Rhea L. Moore, Esq.  
Attorney for Plaintiff

DESIGNATION OF TRIAL COUNSEL

Rhea L. Moore, Esq. is designated as trial counsel in this matter.

Dated: August 7, 2015

BY: Rhea L. Moore  
Rhea L. Moore, Esq.  
Attorney for Plaintiff

DEMAND FOR PRODUCTION OF INSURANCE AGREEMENTS

Pursuant to R. 4:10-2(b), demand is hereby made that you disclose to the undersigned whether there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy all or part of a judgment which may be entered in the action or to indemnify or reimburse for payment made to satisfy the judgment. If so, please attach a copy of each, or in the alternative state, under oath and certification: (a) policy number; (b) name and address of insurer; (c) inception and expiration date; (d) names and addresses of all persons insured thereunder; (e) personal injury limits; (f) property damage limits; and (g) medical payment limits.

Dated: August 7, 2015

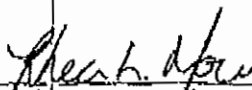
BY: Rhea L. Moore  
Rhea L. Moore, Esq.  
Attorney for Plaintiff

CERTIFICATION PURSUANT TO R. 4:5-1

I certify that the matters in controversy in this action are not the subject of any other action pending in any other court or of a pending arbitration proceeding, and that no other action or arbitration proceeding is contemplated.

Dated: August 7, 2015

BY:



Rhea L. Moore, Esq.  
Attorney for Plaintiff



## SETTLEMENT AGREEMENT AND GENERAL RELEASE

THIS AGREEMENT OF SETTLEMENT AND GENERAL RELEASE ("Agreement and General Release"), made on this      day of                      , 2016 , by and among RICHARD ETIENNE ("Plaintiff" or "Releasor") and the Township of Irvington and Irvington Police Department, and Township of Irvington Police Officer Shaun Green (collectively "Township" 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 RICHARD ETIENNE, Plaintiff, -vs.- TOWNSHIP OF IRVINGTON, TOWNSHIP OF IRVINGTON POLICE DEPARTMENT, DETECTIVE SHAUN GREEN, JOSEPH DEMARCO, and JOHN DOES 1-10 (fictitious names for individuals whose identities are unknown), *Defendants*, 2:15-cv-08948-CCC-JBC, originally filed in the Superior Court of New Jersey under Docket No. ESX-L-5690-15, and removed to 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.** Plaintiff shall receive, in full and final satisfaction of all claims, the sum ten thousand (\$10,000.00) dollars, within thirty (30) days of the date of this Agreement. Said funds will be delivered to counsel for plaintiff and made payable to "Rhea Moore, Esq., Attorney Trust Account, on behalf of Richard Etienne."
2.     **Release & Indemnification.**
  - 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 Township of Irvington and

Irvington Police Department (“Township”) and any and all of the Township’s employees, officials, and agents, (whether acting as agents for the Township or in their individual capacities), including but not limited to named defendant Irvington Police Officer Green, (collectively referred to as “Releasees”), 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 on or about August 9, 2013, including, but not limited to claims for wrongful arrest, civil rights violations, failure to provide medical attention, 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, the New Jersey Civil Rights Act, 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 Township, its agents, officers or employees. Plaintiff acknowledges that any such action, charge or complaint would be released pursuant to this Agreement.

- d. In the event Plaintiff files any action against any other individual or party, whether named or unnamed in the original Complaint, including but not limited to named Defendant Joseph Demarco, and a cross-claim, counterclaim, third-party or fourth-party complaint is filed against the Releasees, Plaintiff agrees to defend, indemnify, save and hold harmless Releasees from and against any and all such claims, lawsuits, liens (including multipliers), subrogation interests and/or reimbursement obligations, fines and/or penalties of any type, kind or nature made by any person not a party 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 Township or any of Township'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. 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 as to all parties.
  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 be 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.

**RICHARD ETIENNE, PLAINTIFF**

BY: \_\_\_\_\_  
Richard Etienne

**BE IT REMEMBERED** that on this \_\_\_\_\_ day of \_\_\_\_\_ 2012, before me, the subscriber an Attorney at Law of the State of New Jersey, personally appeared **RICHARD ETIENNE**, 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