

Richard M. Flynn, Esq.
NJ Attorney 280639

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

EDWARD HABAYEB

PLAINTIFF

NO.: 1:15-CV-05107-JEI-KMW

V.

JUDGE: The Honorable Joseph E. Irenas

CORPORAL SHAUN BUTLER, BOTH INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; OFFICER KRISTA SHIELDS, BOTH INDIVIDUALLY AND IN HER OFFICIAL CAPACITY; OFFICER BRIAN HAUSS, BOTH INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; JOHN DOE OFFICERS 1-15; JANE DOE OFFICERS 16-30; MANTUA TOWNSHIP, NEW JERSEY; RODNEY SAWYER, MANTUA TOWNSHIP CHIEF OF POLICE, BOTH INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY

DEFENDANTS

CIVIL ACTION-LAW

JURY TRIAL DEMANDED

(ELECTRONICALLY FILED)

COMPLAINT

AND NOW comes the Plaintiff, Edward Habayeb, by and through his counsel Richard M. Flynn, Esquire of the firm of Flynn & Associates, LLC, and avers as follows:

Jurisdiction and Venue

1. Jurisdiction is founded upon 28 U.S.C. § 1331 due to this claim arising under 42 U.S.C. § 1983 and the Constitution of the United States. Supplemental jurisdiction for the state law claims asserted is founded upon 28 U.S.C. § 1367 as the claims arise from the same case or controversy.
2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 as all or substantially all of the events that give rise to the claims in this action occurred within this District.

Parties

3. Plaintiff, Edward Habayeb, is a United States naturalized citizen, domiciled in Mantua Township, New Jersey.
4. Defendant, Corporal Shaun Butler, is domiciled in the State of New Jersey and was at all relevant times an officer and agent of Mantua Township Police Department, Mantua, New Jersey.
5. Defendant, Officer Krista Shields, is domiciled in the State of New Jersey and was at all relevant times an officer and agent of Mantua Township Police Department, Mantua, New Jersey.
6. Defendant, Officer Brian Hauss, is domiciled in the State of New Jersey and was at all relevant times an officer and agent of Mantua Township Police Department, Mantua, New Jersey.
7. Defendant, Mantua Township, is a New Jersey Municipality and was at all relevant times the principal under which the other defendants were employed and acting as its agents as members of the police department.

8. Defendant, Rodney Sawyer, Mantua Township Chief of Police, is domiciled in New Jersey and was at all relevant times an officer and agent of Mantua Township Police Department, Mantua, New Jersey and was the superior to Defendants Butler and Shields.

Statement of Facts

9. Plaintiff, Edward Habayeb, was born in Palestine and remained a Palestinian citizen until he was naturalized as a citizen of the United States. He was educated at the University of Buffalo, Drexel University LeBow College of Business and the University of Pennsylvania Wharton School. Mr. Habayeb has worked for General Electric as a global water purification expert for fourteen years and is currently a Senior Marketing Manager at GE Water.
10. On July 5, 2013, Plaintiff Edward Habayeb was driving his Jeep Wrangler home from the New Jersey shore with his passenger, through Mantua Township, New Jersey toward his home. As he drove along a road with a narrow shoulder, Plaintiff Habayeb was forced to pass several trash cans out on the street for collection and briefly crossed the double yellow lane line.
11. Defendant Corporal Shaun Butler, who was driving behind Plaintiff in his police cruiser, commenced a traffic stop. Video and audio of the traffic stop has been preserved.
12. Defendant Butler asked the Plaintiff “Where are you coming from right now?” and Plaintiff replied “Ocean City, I’m sorry, Cape May”. Plaintiff had indeed been in Cape May, New Jersey earlier that day. While in Cape May, at approximately 4:30 pm, the Plaintiff had a single beer at the Ugly Mug restaurant. This traffic stop began over six hours after Plaintiff had consumed alcohol.
13. Plaintiff has a healthy respect for police and government officials, given his Palestinian upbringing and was therefore understandably nervous when stopped by Defendant Butler.

14. Defendant Butler then began to press Plaintiff as to why he was “soaking wet” with sweat, on the grounds that the officer was “wearing all kinds of extra gear” that was not causing him to sweat. Plaintiff told Defendant Butler that he was afraid of him and the situation made him nervous. Moreover, the Plaintiff informed Defendant Butler that he was driving his soft top Jeep open without the air conditioning and at that time, the temperature in Mantua Township, New Jersey was near eighty five degrees Fahrenheit.
15. Several other unidentified Officers arrived on the scene and upon their arrival, **Defendant Butler told these Officers that he was unable to find an odor of alcohol on Plaintiff.** However, he continued to pursue a charge of driving while intoxicated because “he just smells bad” and was “broken out in a full sweat, all nervous as s--t.”
16. The Defendant Officers performed a field sobriety test on Plaintiff. This was Defendant Shields’ first attempt in her career at a field sobriety test and by her own admission on the video, no one had ever shown her how to conduct such a test. Defendant Butler’s profanity continued as he told Defendant Shields of his claims against the Plaintiff and how the Plaintiff “ran all over this s--t” [debris on the side of the road].
17. The unidentified male officer then made a comment that “this looks like a fake license” to the other officers when reviewing Plaintiff’s New Jersey Driver’s License.
18. Defendant Butler returned to the Plaintiff’s vehicle and removed the Plaintiff from same, informing him that they were going to conduct some tests.
19. After this, Defendant Shields, receiving instruction at the same time, began a straight line walking test in which she read the instructions off her notebook to Plaintiff due to her lack of experience and training for administering this test.

20. Defendant Shields conducted a balance test and then had to ask Defendant Butler “What’s the next one? Is that it?”
21. At that point Defendant Shields had Plaintiff face Defendant Butler’s vehicle, telling him “Here’s what I want you to do sir, *this is the final test*. Put your hands on the car... Put your hands behind your back. You’re under arrest.”
22. Upon returning to the station, he was subjected to further testing by Defendant Shields. Defendant Shields then administered an Alphabet test to Plaintiff, where he informed her that while he is extremely well-educated, English is not his first language. Defendant Shields then required Plaintiff to begin reciting the alphabet at F. After this test, Defendant Shields attempted to administer the finger to nose test, but was unable to read and disseminate the instructions. Eventually, Defendant Hauss stepped in to explain the test to Plaintiff. After this test, a balance and straight line test were conducted equally poorly by Defendant Shields and Defendant Hauss was again required to step in to clarify the proper instructions.
23. Defendant Hauss conducted a breath test on the Plaintiff that came back with a 0.00% BAC. Unbelievably, as is indicated in her investigation report, Defendant Shields, despite the knowledge that Plaintiff had passed the Alcotest and that that result had been confirmed by NCIC 2000 by Defendant Hauss, continued to pursue a DUI charge against the Plaintiff.
24. Contrary to Defendant Shields’ investigation report, Plaintiff was issued two tickets by Defendant Butler that evening, Ticket number 050054 Failure to Give a Proper Signal and Ticket Number 050055 Failure to Maintain a Lane. Despite the Plaintiff being advised that he was arrested for Driving Under the Influence of Alcohol, he was not charged and no tickets were issued contemporaneously with his arrest.

25. On July 6, 2013, Plaintiff returned to the Mantua Police Department to pick up a release form in order to have his car released from impound by Marshall's Towing.
26. Sometime after, Plaintiff contacted the Mantua Police Department and requested a meeting with the Chief of Police to discuss the unprofessional manner in which he was treated by the Defendant Police Officers. In response, **THE MEETING WITH THE CHIEF OF POLICE, DEFENDANT SAWYER, WAS SCHEDULED FOR JULY 8, 2013 AND THEN CANCELLED BY THE POLICE CHIEF.** Not only was his requested meeting denied, but Plaintiff was also mailed two retaliatory tickets on **JULY 8, 2013** signed by Defendant Shields *ex post facto* that were postdated for the night of his arrest; charging him with an additional two violations of New Jersey law. The first summons was ticket number 48811, Driving While Intoxicated. The second summons was ticket number 48812, Reckless Driving. These tickets could not have come from the night in question because the Court date on their face is two weeks after the Court date on the original two tickets. Moreover, on the face of the tickets, the time is earlier than Defendant Butler's tickets, raising a query as to how Defendant Shields could possibly have written tickets before Defendant Butler. Finally, the Plaintiff has retained the original envelope with its postage mark to prove that these tickets were not issued until after the Plaintiff innocently requested a meeting with the Chief of Police. These documents show that the additional, retaliatory charges were mailed July 9, 2013 and received July 10, 2013.
27. Plaintiff's charges of violating N.J.S.A. 39:4-50, Driving Under the Influence of Alcohol or Drugs; N.J.S.A. 39:4-96, Reckless Driving and the N.J.S.A. 39: 4-126, Failure to Give a Proper Signal were all voluntarily dismissed by the Mantua Municipal Prosecutor upon her review of the evidence and lack thereof, on October 24, 2013, the trial date.

28. After this dismissal, Plaintiff timely filed a Tort Claim Notice, pursuant to New Jersey law, with Mantua Township preserving and asserting his claims against the Township and its Police Department and Officers. Plaintiff has since been precluded from bringing this action due to the mandatory six month waiting period, per New Jersey law.

Count I

Plaintiff v. All Defendants

Violation of 42 U.S.C. § 1983 (Malicious Prosecution)

29. Paragraphs 1 through 28 are incorporated herein by reference as if fully restated.
30. The Defendant Officers were acting, both individually and/or in their official capacities, under color of law when they caused, subjected and/or caused the Plaintiff to be subjected to the deprivation of his rights, privileges, and immunities as secured by the United States Constitution and laws. These Defendants were acting under a custom and/or practice and/or official policy of Mantua Township and its police department and its chief.
31. As stated above, Plaintiff was subjected to prosecution initiated by the Defendants.
32. This prosecution was actuated by the Defendant's malice, as highlighted by the conduct, behavior and foul language of Defendant Butler during the course of Plaintiff's arrest.
33. The Defendants lacked probable cause when they initiated this prosecution. Moreover, they continued to lack probable cause and had actual knowledge of this fact when the Alcotest readings proved Plaintiff was sober at the time of his arrest. However, the Defendants brazenly, unjustifiably and inexcusably refused to allow the truth to interfere with their intended arrest of the Plaintiff.
34. In October 2013, this prosecution was terminated in favor of the Plaintiff when Mantua Township Prosecutor voluntarily dismissed the charges of reckless driving, failure to give a proper signal and, most importantly, driving while intoxicated.
35. Plaintiff has suffered an extraordinary grievance from the prosecution of these meritless charges.
36. Plaintiff's harms were caused by Defendants' actions. These actions were intentional, actuated by actual malice and were accompanied by a wanton and willful disregard of the

foreseeable harm to the Plaintiff, his Constitutional rights as a citizen of the United States and his reputation. There was a high likelihood of harm to the Plaintiff from the Defendants' conduct at the time of their conduct, and they continued to act despite this risk. Moreover, when the retaliatory charges were issued, the conduct continued to occur over a more lengthy period of time.

37. At all times, the Defendant officers were employed by Mantua Township, New Jersey. The Chief of Police is the superior officer to these officers and is an employee of the Township. Defendants Butler, Shields and Hauss, in addition to the other unidentified officers, were under the Chief of Police's direct supervision, employ and control when they committed the wrongful, intentional, and malicious conduct described herein. The Defendant officers were at all times acting in the course and scope of their employment with Mantua Township and/or acted under their *employment-created* apparent authority for the Municipality and the Department.

38. Mantua Township and the Chief of Police granted the Defendant Officers authority to perform as an agent of Mantua Township and on its behalf. Mantua Township and the Chief of Police held these officers out to the community as fit and competent police officers and agents of Mantua Township and the Chief of Police. The Defendant officers committed the acts alleged within the apparent authority arising from their agency. The alleged acts were undertaken in the course and scope of the Defendant officers' employment with Mantua Township and the Chief of Police.

39. The Defendant officers were acting at least in part to serve the interests of their employer when they committed the alleged acts. Specifically, Defendants were acting as agents, as

well as using the trust, power and authority of their position as Police Officers for Mantua Township during all relevant times.

40. By using the power of their position as agents of Mantua Township and the Chief of Police, the Defendant officers purported to act and/or speak on behalf of Mantua Township and the Chief of Police at the time of the acts alleged herein. Plaintiff relied on the Defendant Officer's authority to act on behalf of Mantua Township and the Chief of Police.

41. Mantua Township and the Chief of Police are liable for the wrongful conduct of the Defendant officers under the law of vicarious liability, including the doctrine of Respondeat superior because of the agency relationship described above.

Count II

Plaintiff v. All Defendants

Violation of Equal Protection and/or 42 U.S.C. § 1983 (Racial and/or Ethnic Discrimination)

42. Paragraphs 1 through 41 are incorporated herein by reference as if fully restated.
43. When Plaintiff was stopped on July 5, 2013, his ethnic heritage as a Palestinian and his appearance improperly and impermissively caused him to be subject to heightened scrutiny by the Defendant Officers at the scene of his arrest:
44. This allegation is supported by the unidentified officer's comment that Plaintiff's valid New Jersey driver's license appeared to be a false credential.
45. Reasonable police officers in the Defendant Officer's situation would not have used the Plaintiff's racial or ethnic backgrounds or gender in the inspection of a valid driver's license solely to support their suspicion of his driving under the influence.
46. Defendants failed to meet the standard of reasonable police officers in their situation when they used the Plaintiff's indelible ethnicity as a cause for suspicion during the traffic stop and arrest. Moreover, this traffic stop and subsequent arrest were conducted solely for the purpose of threatening, intimidating and harassing Plaintiff.
47. Plaintiff's claim appears to be similar to other similarly situated persons and indicates that this behavior by Mantua Township Police is part of a larger pattern of selective enforcement by the Defendants that may rise from a custom and/or practice and/or policy of the Defendant Police Chief and Defendant Mantua Township.
48. Defendants' behavior violated the Equal Protection Clause of the Fifth Amendment of the Constitution of the United States of America.

Count III

Plaintiff v. All Defendants

Violation of U.S. Const., Amend. IV and/or 42 U.S.C. §1983
(Unreasonable Search and Seizure of Person and Property)

49. Paragraphs 1 through 48 are incorporated herein by reference as if fully restated.
50. Plaintiff, as a citizen of the United States, had a right to be free from all unreasonable searches and seizures without probable cause under the United States Constitution, Amendment Four.
51. While the Defendant Officers may have had probable cause to stop the Plaintiff and charge him with having failed to maintain a lane, they lacked the probable cause to detain, charge, or arrest him and impound his property for driving while intoxicated. Despite this lack of probable cause, the Defendant Officers, and vicariously the Chief and Township, proceeded to seize not only the Plaintiff's vehicle, but also his person when they placed him under arrest.
52. The Defendants' conduct, under color of law, violated the United States Constitution, Amendment Four.

Count IV

Plaintiff v. All Defendants
False Arrest/False Imprisonment

53. Paragraphs 1 through 52 are incorporated herein by reference as if fully restated.
54. When Mantua Township Prosecutor voluntarily dismissed the charges described above for lack of probable cause in October 2013, she confirmed the police did not have probable cause to arrest the Plaintiff on July 5, 2013.
55. Defendants unlawfully restrained Plaintiff's freedom without cause or justification by his arrest without probable cause.
56. Defendants further unlawfully restrained Plaintiff's freedom and liberty by impounding his vehicle.
57. The Defendant Officers were acting, both individually and/or in their official capacities, under color of law when they caused, subjected and/or caused the Plaintiff to be subjected to this tortious conduct. Moreover, these Defendants were acting under a custom and/or practice and/or official policy of Mantua Township and its police department and its chief.
58. Plaintiff's harms were caused by Defendants' actions. These actions were intentional, actuated by actual malice and were accompanied by a wanton and willful disregard of the foreseeable harm to the Plaintiff, his Constitutional rights as a citizen of the United States and his reputation. There was a high likelihood of harm to the Plaintiff from the Defendants' conduct at the time of their conduct, and they continued to act despite this risk. Moreover, despite the Defendants actual knowledge of the Plaintiff's sobriety, the conduct continued to occur.

59. At all times, the Defendant officers were employed by Mantua Township, New Jersey. The Chief of Police is the superior officer to these officers and is an employee of the Township. Defendants Butler, Shields and Hauss, in addition to the other unidentified officers, were under the Chief of Police's direct supervision, employ and control when they committed the wrongful, intentional, and malicious conduct described herein. The Defendant officers committed this conduct while acting in the course and scope of their employment with Mantua Township and/or accomplished these actions by virtue of their employment-created apparent authority for Mantua Township.

60. Mantua Township and the Chief of Police granted the Defendant Officers authority to perform as an agent of Mantua Township and on their behalf. Mantua Township and the Chief of Police held these officers out to the community as fit and competent police officers and agents of Mantua Township and the Chief of Police. The Defendant officers committed the acts alleged within the apparent authority arising from their agency. The alleged acts were undertaken in the course and scope of the Defendant officers' employment with Mantua Township and the Chief of Police.

Count V

Plaintiff v. All Defendants
Intentional and/or Negligent Infliction of Emotional Distress

61. Paragraphs 1 through 60 are incorporated herein by reference as if fully restated.
62. The common law tort of intentional infliction of emotional distress requires that the Defendants intentionally or recklessly engage in extreme or outrageous behavior which is the proximate cause of Plaintiff enduring such emotional distress as not reasonable person should be forced to endure.
63. Through the above alleged conduct, the Defendants caused Plaintiff to experience a severe emotional trauma.
64. Moreover, Plaintiff's fear of the police is reasonable when considering his situation and ethnic background, specifically his knowledge of the practices of Palestinian police authorities and his lack of familiarity with American law enforcement.
65. No person should have to suffer the legal and personal nightmare that this Plaintiff has been forced to endure at the hands of an overzealous police department who intentionally tried to entrap him in honest statements during his traffic stop and then humiliated him in front of a colleague by using tests he was bound to fail, even though he was sober. Moreover, the embarrassment of contacting his neighbors and informing them that he was under arrest inflicted great emotional damage and humiliation upon the Plaintiff, as any reasonable person would be distressed by the false imputation of criminal conduct upon them.
66. Furthermore, the Plaintiff was not informed of what would happen to his passenger that night, and as is evidenced by the videotape, was greatly concerned for her safety and well-being. In addition, the same holds true for his vehicle and personal property as he was not informed of what was happening or where his property was being taken.

67. The Defendants further aggravated the emotional distress the Plaintiff felt when he tried to grasp an understanding of the charges against him by their actions of issuing retaliatory criminal charges.
68. The Defendant Officers were acting, both individually and/or in their official capacities, under color of law when they caused, subjected and/or caused the Plaintiff to be subjected to this tortious conduct. These Defendants were acting under a custom and/or practice and/or official policy of Mantua Township and its police department and its chief.
69. Plaintiff's harms were caused by Defendants' actions. These actions were intentional, actuated by actual malice and were accompanied by a wanton and willful disregard of the foreseeable harm to the Plaintiff, his Constitutional rights as a citizen of the United States and his reputation. There was a high likelihood of harm to the Plaintiff from the Defendants' conduct at the time of their conduct, and they continued to act despite this risk. Moreover, despite the Defendants actual knowledge of the Plaintiff's sobriety, the conduct continued to occur.
70. At all times, the Defendant officers were employed by Mantua Township, New Jersey. The Chief of Police is the superior officer to these officers and is an employee of the Township. Defendants Butler, Shields and Hauss, in addition to the other unidentified officers, were under the Chief of Police's direct supervision, employ and control when they committed the wrongful, intentional, and malicious conduct described herein. The Defendant officers committed this conduct while acting in the course and scope of their employment with Mantua Township and/or accomplished these actions by virtue of their employment-created apparent authority for Mantua Township.

Count VI

Plaintiff v. All Defendants

Gross Negligence and/or Deliberate Indifference in Violation of 42 U.S.C. §1983

71. Paragraphs 1 through 70 are incorporated herein by reference as if fully restated.
72. In New Jersey, gross negligence is the failure to exercise slight care or diligence.
73. Defendants were grossly negligent and/or deliberately indifferent during the Plaintiff's traffic stop, subsequent arrest and detention, release, and at other times for reasons including, but not limited to the following:
- a) Plaintiff told Defendant Officers multiple times, clearly and articulately that he was sober and the Defendant Officers failed to exercise even the slightest care or caution that his statements were true.
 - b) Plaintiff told Defendant Officers multiple times, clearly and articulately that he was quite nervous of the situation because of their authority. Indeed, little did he know he had great cause to be terrified of their authority at the outset of this incident.
 - c) Defendant Officers did not question the Plaintiff's passenger or inspect his person for any proof of the trip to Cape May and the subsequent drive back to Mantua Township. Had the Defendants exercised this due diligence, they would have confirmed the Plaintiff's statements to them that he was indeed sober.
 - d) The Defendant Officers continued to detain a person for driving while intoxicated despite the lack of any indicia of intoxication, including the odor of alcohol, staggering or swaying, belligerent behavior, or the presence of alcohol or drugs in the Plaintiff's body, as proven by the Alcotest.
 - e) The Defendant Officers, Township and Chief of Police, particularly Officer Hauss, made no efforts to protect the Plaintiff from a false arrest after receiving actual knowledge that

the Plaintiff was sober. None of the Officers or other Agents of Mantua Township acted to stop this false arrest and indeed it required the Municipal Prosecutor to finally dismiss the baseless charges.

f) When Plaintiff requested a meeting with the Defendant Police Chief, further charges were issued in retaliation and the meeting was scheduled but cancelled by Defendants.

74. But for the failure of the Defendants to exercise even slight care, Plaintiff would not have been forced to suffer through these events.

75. The Defendant Officers were acting, both individually and/or in their official capacities, under color of law when they caused, subjected and/or caused the Plaintiff to be subjected to this tortious conduct. These Defendants were acting under a custom and/or practice and/or official policy of Mantua Township and its police department and its chief.

76. Plaintiff's harms were caused by Defendants' actions. These actions were intentional, actuated by actual malice and were accompanied by a wanton and willful disregard of the foreseeable harm to the Plaintiff, his Constitutional rights as a citizen of the United States and his reputation. There was a high likelihood of harm to the Plaintiff from the Defendants' conduct at the time of their conduct, and they continued to act despite this risk. Moreover, despite the Defendants actual knowledge of the Plaintiff's sobriety, the conduct continued to occur.

77. At all times, the Defendant officers were employed by Mantua Township, New Jersey. The Chief of Police is the superior officer to these officers and is an employee of the Township. Defendants Butler, Shields and Hauss, in addition to the other unidentified officers, were under the Chief of Police's direct supervision, employ and control when they committed the wrongful, intentional, and malicious conduct described herein. The Defendant officers

committed this conduct while acting in the course and scope of their employment with Mantua Township and/or accomplished these actions by virtue of their employment-created apparent authority for Mantua Township.

78. Mantua Township and the Chief of Police granted the Defendant Officers authority to perform as an agent of Mantua Township and on their behalf. Mantua Township and the Chief of Police held these officers out to the community as fit and competent police officers and agents of Mantua Township and the Chief of Police. The Defendant officers committed the acts alleged within the apparent authority arising from their agency. The alleged acts were undertaken in the course and scope of the Defendant officers' employment with Mantua Township and the Chief of Police.

79. The Defendant officers were acting at least in part to serve the interests of their employer when they committed the alleged acts. Specifically, Defendants were acting as agents, as well as using the trust, power and authority of their position as Police Officers for Mantua Township during all relevant times.

80. By using the power of their position as agents of Mantua Township and the Chief of Police, the Defendant officers purported to act and/or speak on behalf of Mantua Township and the Chief of Police at the time of the acts alleged herein. Plaintiff relied on the Defendant Officer's authority to act on behalf of Mantua Township and the Chief of Police.

81. Mantua Township and the Chief of Police are liable for the wrongful conduct of the Defendant officers under the law of vicarious liability, including the doctrine of Respondeat superior because of the agency relationship described above.

County VII

Plaintiff v. All Defendants

Intentionally Inflicting Harm through Generally Culpable, Yet Unjustifiable, Conduct
(Restatement Second of Torts §870)

82. Paragraphs 1 through 81 are incorporated herein by reference as if fully restated.
83. As specifically referenced earlier in the Factual Allegations section of this Complaint, various intentional acts committed by the Defendants against Plaintiff have been alleged.
84. Through their intentional acts, Defendants have intentionally caused substantial injuries to Plaintiff. The conduct of Defendants in this regard was generally culpable and was not justifiable under the circumstances. Defendants are liable to Plaintiff for all such injuries to the legally protected interests of the Plaintiff.
85. Further liability should be imposed upon Defendants for any injuries or other intentional harms inflicted that do not fall into the traditional tort categories, as expressed in the Counts herein, under the Restatement (Second) of Torts §870, specifically as interpreted by its official Comments from its author, the American Law Institute, Philadelphia, Pennsylvania and other legal opinions in this jurisdiction.

Count VIII

Plaintiff v. Defendant Mantua Township
Violation of 42 U.S.C. §1983 (Failure to Train/ Supervise)

86. Paragraphs 1 through 85 are incorporated herein by reference as if fully restated.
87. Defendant Mantua Township had a duty to train its Police Officers.
88. Defendant Mantua Township breached this duty to train its Police Officers by failing to adequately train those Officers.
89. Defendant Mantua Township's breach of its duty was the result of deliberate indifference.
90. This inadequate training caused the harms Plaintiff alleges herein.
91. At all times relevant hereto, Defendant Mantua Township, by and through its agents, exercised a deliberate indifference to the well-being and legal rights of the Plaintiff.

Count IX

Plaintiff v. All Defendants
Violation of 42 U.S.C. §1985 (Conspiracy)

92. Paragraphs 1 through 91 are incorporated herein by reference as if fully restated.
93. Conspiracies intended to deprive citizens or protected classes from equal protection under the law are prohibited by 42 U.S.C. §1985.
94. Defendant Mantua Township and the Defendant Officers and the Defendant Police Chief engaged in a conspiracy to deprive Plaintiff of his right to equal protection
95. By and through the facts alleged above, including, but not limited to, Plaintiff being subjected to heightened scrutiny for his color and race, Plaintiff's arrest and ongoing detention despite the lack of probable cause and a 0.00 BAC and the subsequent retaliatory charges issued after he requested a meeting with the Defendant Chief of Police, the Defendants committed acts in furtherance of this conspiracy.
96. As a consequence of these actions, Plaintiff's federal civil rights, guaranteed under both the United States Constitution and Federal Statutes, were violated by Defendants.

Whereas, Plaintiff respectfully prays for the following relief against the named Defendants on each and every of the above Counts:

1. Compensatory damages for the economic losses Plaintiff suffered as a result of the actions of the Defendants;
2. Compensatory damages for the loss and infringement on Plaintiff's rights, as guaranteed by the Constitution of the United States of America and Federal Statutes, as a result of the actions of the Defendants;

3. Punitive damages for Defendants' malicious acts to deter other police departments and officers from this conduct in the future;
4. Attorney's fees, including, but not limited to, recovery under 42 U.S.C. §1988, and other costs;
5. Interest;
6. A jury trial as to each Defendant; and,
7. Such other and further relief as the Court deems equitable, just, and proper.

Respectfully submitted,

Dated: July 2, 2015

Flynn & Associates, LLC

by

s/ Richard M. Flynn, Esquire

Flynn & Associates, LLC
439 Monmouth Street
Gloucester City, NJ 08030
rflynnlawllc@gmail.com

Release

This Release, dated 7/12, 2016, is given

BY the Releasor(s), EDWARD HABAYEB his successors, assigns and heirs,
referred to as "I,"

TO TOWNSHIP OF MANTUA, its agents, servants and employees (CORPORAL SHAUN BUTLER, OFFICER KRISTA SHIELDS, OFFICER BRIAN HAUSS, RODNEY SAWYER, MANTUA TOWNSHIP CHIEF OF POLICE, are individuals previously named in this lawsuit who have had all claims against them dismissed voluntarily with prejudice by plaintiff)

referred to as "You."

If more than one person signs this Release, "I" shall mean each person who signs this Release.

1. **Release.** I release, give up and forever discharge any and all claims and rights which I may have against You. This releases all claims, including those of which I am not aware and those not mentioned in this Release. This Release applies to claims resulting from anything which has happened up to now. I specifically release any and all claims of any kind for damages arising out of the incidents described in the Complaint filed on or about July 5, 2013 and the Amended Complaint filed on April 18, 2016 and specifically but not limited to all claims asserted in the Complaint including claims for compensatory damages, punitive damages, interest, attorneys' fees as well as claims for damages based on the violation of 42 U.S.C. §1983 (Malicious Prosecution), violation of U.S.C. §1983 (Unreasonable Search and Seizure of Personal Property), violation of the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 and any claims that could be brought under the New Jersey State and United States Constitution as well as all claims based on the doctrines of False Arrest/False Imprisonment, Intentional and/or Neglect Infliction of Emotional Distress, Gross Negligence and/or Deliberate Indifference in Violation of §1983, Intentionally Inflicting Harm Through Generally Culpable, Yet Unjustifiable, Conduct (Restatement Second of Torts §870) all of which are more particularly described in the action entitled Edward Habayeb v. Corporal Shaun Butler, both individually and in his official capacity; Officer Krista Shields, both individually and in her official capacity; Officer Brian Hauss, both individually and in his official capacity; John Doe Officers 1-15; Jane Doe Officers 16-30; Mantua Township, New Jersey; Rodney Sawyer, Mantua Township Chief of Police, both individual and in his official capacity, United District Court for the District of New Jersey, Civil Action No. 1:15-cv-05107-JEI-KMW.

For and in consideration of the sum below, the undersigned hereby agrees to satisfy any and all liens or encumbrances which may apply to the above sum and

hereby agrees to indemnify the above named Releasee and its insurance carrier against any further liability for the satisfaction of any such liens or encumbrances.

The undersigned hereby agrees to indemnify and hold harmless the defendants from any and all welfare liens, Medicare, Medicaid, workers' compensation liens, or any other social service agency liens or bills that may have arisen as a result of this injury or been incurred during the course of this injury or be in any way related to payments received by me during the pendency of this claim or my family members.

2. **Payment.** I have been paid a total of Twenty Five Thousand Dollars (\$25,000.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, in full payment for making this Release. I agree that I will not seek anything further, including any other payment, from You.

It is expressly **UNDERSTOOD** and **AGREED** that the acceptance of said amount is in full accord and satisfaction of and in compromise of a disputed claim and that payment thereof is not an admission of liability but is made for the purpose of terminating all disputes and litigation between the parties hereto.

3. **Who is bound.** I am bound by this Release. Anyone who succeeds to my rights and responsibilities, such as my heirs or the executor of my estate, is also bound. This Release is made for your benefit and all who succeed to your rights and responsibilities, including your agents, servants and employees.

4. **Signatures.** I understand and agree to the terms of this Release. If this Release is made by a corporation, its proper corporate officers signed and its corporate seal is affixed.

Witnessed or Attested by:

Geraldyn E. McCarron

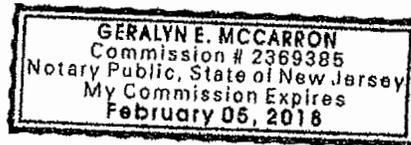
Edward Habayeb
Edward Habayeb

STATE OF NEW JERSEY :
COUNTY OF Camden : SS

I CERTIFY that on July 12, 2016, Edward Habayeb
personally came before me and stated under oath to my satisfaction that this person (or
if more than one, each person):

- (a) was the maker of the attached instrument; and
- (b) executed this instrument as his or her own act.

Geraldyn E. McCarron
Notary Public



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

EDWARD HABAYEB

Plaintiff,

v.

CORPORAL SHAUN BUTLER, BOTH INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; OFFICER KRISTA SHIELDS, BOTH INDIVIDUALLY AND IN HER OFFICIAL CAPACITY; OFFICER BRIAN HAUSS, BOTH INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; JOHN DOE OFFICERS 1-15; JANE DOE OFFICERS 16-30; MANTUA TOWNSHIP, NEW JERSEY; RODNEY SAWYER, MANTUA TOWNSHIP CHIEF OF POLICE, BOTH INDIVIDUAL AND IN HIS OFFICIAL CAPACITY,

Defendants.

Case No. 1:15-CV-05107-JEI-KMW

**PARTIAL STIPULATION OF DISMISSAL
WITH PREJUDICE**

THIS MATTER having been amicably resolved and settled by and between the undersigned parties, it is hereby agreed that all claims against the defendants Corporal Shaun Butler, Officer Krista Shields, Brian Hauss and Rodney Sawyer ONLY are hereby dismissed with prejudice.

FLYNN & ASSOCIATES


Richard M. Flynn, Esquire
*Attorney for Plaintiff
Edward Habayeb*

CRAIG, ANNIN & BAXTER, LLP


Robert A. Baxter, Esquire
*Attorneys for Defendants
Mantua Township, Corporal Shaun Butler,
Officer Krista Shields,
Officer Brian Hauss and
Rodney Sawyer*

Date:

Date:

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

EDWARD HABAYEB

Plaintiff,

v.

CORPORAL SHAUN BUTLER, BOTH INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; OFFICER KRISTA SHIELDS, BOTH INDIVIDUALLY AND IN HER OFFICIAL CAPACITY; OFFICER BRIAN HAUSS, BOTH INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; JOHN DOE OFFICERS 1-15; JANE DOE OFFICERS 16-30; MANTUA TOWNSHIP, NEW JERSEY; RODNEY SAWYER, MANTUA TOWNSHIP CHIEF OF POLICE, BOTH INDIVIDUAL AND IN HIS OFFICIAL CAPACITY,

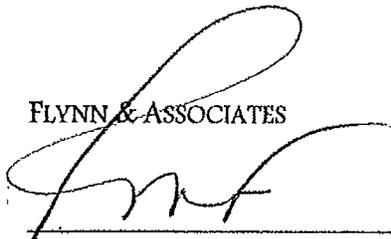
Defendants.

Case No. 1:15-CV-05107-JEI-KMW

**PARTIAL STIPULATION OF DISMISSAL
WITH PREJUDICE**

THIS MATTER having been amicably resolved and settled by and between the undersigned parties, it is hereby agreed that all claims against the defendant Mantua Township, ONLY are hereby dismissed with prejudice.

FLYNN & ASSOCIATES



Richard M. Flynn, Esquire
*Attorney for Plaintiff
Edward Habayeb*

CRAIG, ANNIN & BAXTER, LLP

Robert A. Baxter, Esquire
*Attorneys for Defendants
Mantua Township, Corporal Shaun Butler,
Officer Krista Shields,
Officer Brian Hauss and
Rodney Sawyer*

Date:

Date:

Trust account deposit authorization

I hereby authorize Richard M. Flynn, Esquire to execute and deposit the settlement check[s] in the Attorney Trust Account of Flynn & Associates, LLC and the firm shall notify me when the check is received and cleared for disbursement.


Edward Habayeb

July 12, 2016