

SHIVERS, GOSNAY & GREATREX, L.L.C.
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 Cherry Hill, NJ 08034
 (856) 616-8080
 By: Gregg A. Shivers, Esquire
 Attorney for Plaintiff
 Attorney I.D. #025041983

JOHN SAPONARA,	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION - CAMDEN COUNTY
Plaintiff,	:	
	:	
v.	:	Civil Action
	:	
HADDON TOWNSHIP,	:	
DIAZ CAMACHO,	:	DOCKET NO. CAM-L- 997-15
JOSEPH TALUCCI, and	:	
JOHN DOES 1-10,	:	
	:	COMPLAINT and
Defendants.	:	DEMAND FOR JURY TRIAL

PARTIES:

1. At all times relevant to this action, plaintiff, John Saponara, was a 73-year-old businessman with no criminal history or prior contact with defendants.
2. Defendant, Haddon Township, is a Township in Camden County, New Jersey, which has a police force and has its principal place of business at 135 Haddon Avenue, Haddon Township, NJ, 08108.
3. Diaz Camacho is/was a police officer who was employed by Haddon Township on March 22, 2013.

4. Joseph Talucci is/was a police officer who was employed by Haddon Township on March 22, 2013.

5. John Does 1-10 are individuals unknown and unknowable to plaintiff at this time who are employees/agents of Haddon Township responsible for the supervision and or training of defendants Diaz Camacho and Joseph Talucci on March 22, 2013.

FACTS:

6. On March 22, 2013 defendant Camacho pulled plaintiff's vehicle over in the parking lot of the Tire Corral, a business within Haddon Township, for failure to have a license plate on his vehicle.

7. Early on in the stop plaintiff advised defendant Camacho that he was at the Tire Corral to purchase tires for a car that he was repairing at his own place of business in Collingswood. Plaintiff produced documentation to defendant Camacho which confirmed that he did in fact operate a car repair business. Defendant Camacho repeatedly acknowledged during the course of the stop that she knew plaintiff was at that location for business purposes and that he had business related time constraints.

8. Defendant Camacho ordered plaintiff to sit in his car and wait while she carried on an extended conversation with defendant Talucci and, despite being a police officer for over eight years, she spent significant time researching the proper charge for not having a valid license plate. In all, Camacho ordered plaintiff to sit and wait in his car for an unreasonable period of time under the circumstances while she leisurely prepared the summonses, knowing full well that plaintiff was a businessman working on a deadline.

9. Defendant Camacho refused to allow plaintiff to communicate with employees of the Tire Corral while he sat in his car and waited for her to conclude her conversation and research.

10. While conversing with Officer Talucci, defendant Camacho repeatedly expressed her anger toward plaintiff because he did not immediately comply with her order for him to sit in his car. She stated that she had "never felt so insignificant in my life." Her reaction and anger toward plaintiff was grossly out of proportion to plaintiff's alleged offense of not immediately sitting in his car upon her order. Said anger contributed to her unlawful and unreasonable arrest and use of excessive force toward plaintiff minutes later.

11. Defendant Camacho completed the motor vehicle stop by issuing and handing two motor vehicle summonses to plaintiff while plaintiff was still seated in his car. At this point, by defendant's sworn testimony, "the car stop was done." Nowhere in defendant's report or sworn testimony has she indicated that plaintiff committed any crime or disorderly persons offense up to that point.

12. After defendant Camacho had walked away from plaintiff's car, plaintiff exited his car to finally conduct his business at the Tire Corral. While exiting his car he verbally communicated to defendant Camacho his displeasure with the treatment he had received at her hands. His brief statement contained no threat and no fighting words, but was simply an expression of his frustration and disapproval of the way that defendant Camacho had treated him.

13. Defendant Talucci was standing at the rear of plaintiff's vehicle at the time that defendant Camacho handed plaintiff the summonses. Immediately upon plaintiff's exercise of his right to express his opinion of defendant Camacho's conduct, the defendants, without any authority or lawful reason to do so, ordered plaintiff to get back in his car despite the fact that they both knew that he was anxious to conduct business inside the Tire Corral. When plaintiff did not

immediately comply with the unlawful and unwarranted order by defendants, both defendants charged him, advised him he was under arrest and dragged him to the ground. Despite the fact that plaintiff gave them no resistance while on the ground, defendant Camacho violently drove her knee into plaintiff's back and handcuffed him. Plaintiff suffered multiple abrasions and bruises due to defendants' use of excessive force

14. Despite the fact that plaintiff posed no physical threat to the defendants and despite the fact that plaintiff had previously complied with all of defendant Camacho's verbal orders, defendants made no reasonable attempt to gain plaintiff's cooperation with verbal commands but resorted immediately to excessive physical violence and unlawful physical restraint.

15. Plaintiff had a well-documented history of panic attacks which he experienced at the outset of the "arrest", creating difficulty breathing and enhancing plaintiff's panic and fear in response to the defendants' sudden and violent conduct toward him.

16. Defendants made false accusations and falsely testified in Municipal Court in an effort to have plaintiff convicted of Disorderly Conduct, N.J.S.A. 2C:33-2A(1), of which he was acquitted.

17. The false accusations and injuries to plaintiff were intentional and solely in retaliation for plaintiff expressing himself in a manner protected by the New Jersey Constitution.

18. The legal defense of the criminal charges wrongly brought by defendants has caused plaintiff to expend significant sums of money for attorney's fees and plaintiff's panic attack condition has been exacerbated by the fear, panic and violent behavior of defendants. Plaintiff, a lifelong law abiding citizen, was and continues to be humiliated and embarrassed by the fact that he was arrested for disorderly conduct.

19. The defendants' conduct described above violated clearly established rights, including, but not limited to, the right to free speech, the right to criticize law enforcement without fear of arrest, the right to be free from arrest without probable cause, the right to freedom and other rights, all protected by the Constitution of the State of New Jersey, the laws of the State of New Jersey, New Jersey common-law, New Jersey public policy and other sources.

20. Defendant Haddon Township's liability and John Does 1-10 defendants' liability for the following claims arise out of its/their knowing that situations such as the one presented in this matter would arise and its/their failure to train its officers to respect the Constitutional rights of citizens, to only initiate an arrest when probable cause exists and to not use more force than is necessary to obtain compliance with the officers' orders. Haddon Township failed to train defendants Camacho and Talucci that police officers may be subjected to offensive expressions but that said expressions are not a basis to arrest people in this state under the New Jersey Constitution.

21. Haddon Township's liability, Defendant Talucci's liability and John Does 1-10's liability for the following claims also arises out said defendant's failure to properly supervise and control defendant Camacho after she had clearly expressed an unwarranted and unreasonable anger toward plaintiff.

COUNT I

22. Plaintiff incorporates by reference all of the preceding paragraphs as though they were more fully set forth herein.

23. Article 1, paragraph 18 of the New Jersey Constitution provides "The People have the right... to make known their opinions to the representatives and to petition for redress of grievances."

24. The New Jersey Constitution's guarantee of the right to free speech is an affirmative right, one of the broadest in the nation.

25. N.J.S.A. 10:6-2(c) provides:

Any person who has been deprived of any substantive due process or equal protection rights, privileges or immunities ... or any substantive rights, privileges or immunities secured by the Constitution or laws of this State, or whose exercise or enjoyment of those substantive rights, privileges or immunities has been interfered with or attempted to be interfered with, by threats, intimidation or coercion by a person acting under color of law, may bring a civil action for damages and for injunctive or other appropriate relief. The penalty provided in subsection (e) of this section shall be applicable to a violation of this subsection.

26. Plaintiff was falsely arrested and charged in violation of his New Jersey Constitutional right to freedom and free speech which includes the right to express frustration, cursing and other expressive conduct.

27. Upper management participated in the foregoing denial of civil rights by failing to properly train and supervise the arresting officers.

28. The conduct was egregious.

29. All conduct of defendants described in this entire Complaint was committed while defendants were acting under color of law.

WHEREFORE, plaintiff demands Judgment against defendants Haddon Township, Camacho, Talucci and John Does 1-10 for compensatory damages, punitive damages, attorneys' fees, interest, costs and such other relief as the Court may find just and equitable.

COUNT II

30. Plaintiff incorporates by reference all of the preceding paragraphs as though they were more fully set forth herein.

31. Article 1, paragraph 7 of the New Jersey Constitution provides: "The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue except upon probable cause, supported by oath or affirmation and particularly describing the place to be searched and the papers and things to be seized."

32. Defendants Camacho and Talucci violated Plaintiff's rights by:

(a) Arresting him without a legitimate basis as retaliation for plaintiff's exercise of his freedom of speech;

(b) Preventing plaintiff from the free conduct of business after the traffic stop was complete and restricting his freedom of movement by ordering him to sit in his car for no legitimate reason other than to stifle and extinguish plaintiff's exercise of his freedom of speech;

(c) Employing excessive force in the arrest of plaintiff who had repeatedly demonstrated his willingness to comply with verbal orders.

33. Said conduct as described above was a violation of Article 1, paragraph 7 as well as other provisions of the New Jersey Constitution.

34. Said violation is actionable under N.J.S.A. 10:6-2(c).

35. Upper management participated in the foregoing denial of civil rights by failing to properly train and supervise the arresting officers.

WHEREFORE, plaintiff demands Judgment against defendants Haddon Township, Camacho, Talucci and John Does 1-10 for compensatory damages, punitive damages, attorneys' fees, interest, costs and such other relief as the Court may find just and equitable.

COUNT III

36. Plaintiff incorporates by reference all of the preceding paragraphs as though they were more fully set forth herein.

37. Article 1, paragraph 1 of the New Jersey Constitution provides: "All persons are by nature free and independent and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty... and of pursuing and obtaining safety and happiness."

38. Each and all of defendants' conduct described above was a violation of Article 1, paragraph 1 and other provisions of the New Jersey Constitution.

39. Said violation is actionable under N.J.S.A. 10:6-2(c).

40. Upper management participated in the foregoing denial of plaintiff's civil rights.

WHEREFORE, plaintiff demands Judgment against defendants Haddon Township, Camacho, Talucci and John Does 1-10 for compensatory damages, punitive damages, attorneys' fees, interest, costs and such other relief as the Court may find just and equitable.

COUNT IV

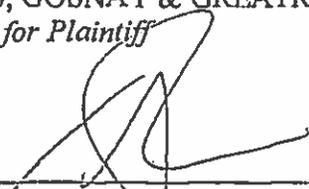
41. Plaintiff incorporates by reference all of the preceding paragraphs as though they were more fully set forth herein.

42. Plaintiff is entitled to and requests equitable relief permanently enjoining defendants from violating plaintiff's rights as described above.

43. Plaintiff is entitled to and further demands a declaration under the New Jersey Declaratory Judgment Act that defendants violated plaintiff's rights as described above.

WHEREFORE, plaintiff demands a judgment against each and all defendants for equitable and declaratory relief barring defendants permanently from violating plaintiff's rights as described above and declaring that defendants had violated plaintiff's rights as described above.

SHIVERS, GOSNAY & GREATREX, L.L.C.
Attorneys for Plaintiff

By: 

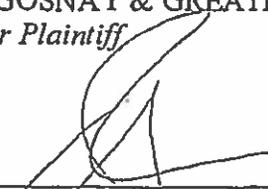
Gregg A. Shivers, Esquire

Dated: 3/13/15

DESIGNATION OF TRIAL COUNSEL

Designated Trial Counsel, pursuant to Court Rule 4:5-1, shall be Gregg A. Shivers, Esquire.

SHIVERS, GOSNAY & GREATREX, L.L.C.
Attorneys for Plaintiff

By: 

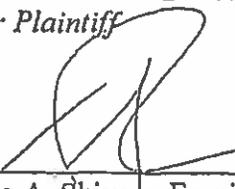
Gregg A. Shivers, Esquire

Dated: 3/13/15

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury.

SHIVERS, GOSNAY & GREATREX, L.L.C.
Attorneys for Plaintiff

By: 

Gregg A. Shivers, Esquire

Dated: 3/13/15

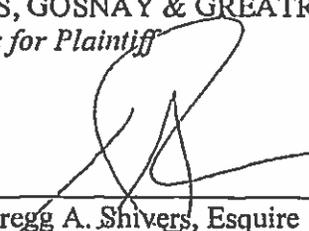
CERTIFICATION PURSUANT TO RULE 4:5-1

1. I hereby certify that to my knowledge the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding.

2. To my knowledge, no other action or arbitration procedure is contemplated at this time by this counsel, other than possibly claims to be made in later bankruptcy actions.

3. I have no knowledge at this time of the names of any other parties who should be joined in this action and I anticipate that further discovery will identify John Does 1-10 set forth above in the Complaint.

SHIVERS, GOSNAY & GREATREX, L.L.C.
Attorneys for Plaintiff

By: 

Gregg A. Shivers, Esquire

Dated: 3/13/15