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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**JAZMINE FORTENBERRY,**

**Plaintiff,**

vs.

**CITY OF ELIZABETH, ELIZABETH  
POLICE DEPARTMENT AND  
OFFICER WILL TORRES,**

**Plaintiff.**

HON. SUSAN D. WIGENTON

Civil Action No. 13-1640 (SDW)

**AMENDED COMPLAINT**

Plaintiff residing at 248 Broad Street, in the City of Newark, County of Essex and  
State of New Jersey, by way of Amended Complaint against defendants says:

**FIRST COUNT**

1. On or about October 8, 2010, the plaintiff, JAZMINE FORTENBERRY, was lawfully present at Dolce Restaurant, in the City of Elizabeth, County of Union and State of New Jersey for purposes of celebrating her birthday.
2. While present at the aforesaid location, the Plaintiff was caused to exit the rear of the restaurant in order to ascertain the location of her car keys.

3. While outside in the rear of said location, the Plaintiff observed some individuals were also standing outside.
4. Shortly thereafter, the Plaintiff observed two females being removed from Dolce Restaurant.
5. While the Plaintiff was communicating in the rear of the parking with person who appeared to be a Bouncer/Security for the restaurant,
6. The Plaintiff was conversing with the Bouncer/Security at a very loud level because of the noise.
7. The Plaintiff was facing the rear entrance of Dolce, with her back facing the parking lot.
8. Without warning or provocation, the Plaintiff heard an individual, (later identified as Defendant Officer Will Torres) say "fuck this, I'm tired of this" and grabbed the Plaintiff, and swung her around with such force that it caused her to crash through the door window of a motor vehicle that was parked in the rear parking lot.
9. The Plaintiff was thrown with such force into the window, that it shattered to pieces and caused Plaintiff to suffer serious bodily injury to her face and body.
10. Plaintiff was thereafter dragged to a waiting police vehicle causing her shirt to become ripped and causing injuries to her knees and rips to her pants.
11. Plaintiff was thrown into the back seat of a police vehicle and thereafter transported to Trinitas Hospital.
12. Plaintiff had handcuffs placed on her wrists very tightly causing her injuries to her wrists.

13. Plaintiff was thereafter handcuffed her to the bed for five (5) hours at the hospital and ultimately charged with disorderly persons offenses.
14. Plaintiff was caused to receive three (3) sets of sutures to her face.
15. Defendant Torres stated to the Plaintiff "that's what happens when you want to be a man, want to be a gangster", which Plaintiff believed to be directed at her sexual orientation.
16. Defendant Torres also advised the Plaintiff all that she need to do was to "put some coco butter on your face and it will go away", referring to the injuries Plaintiff had on her face.
17. Plaintiff told Defendant Torres that his comments were homophobic and racially insensitive towards African Americans.
18. In response, the Plaintiff's cell phone which had been confiscated by Defendant Torres, was taken outside by him and broken into pieces as well as thrown into water.
19. After the Plaintiff was released from hospital which was transported to the City of Elizabeth Jail and remained there until the following morning.
20. As a direct and proximate result of the false arrest, assault, battery, unlawful imprisonment and malicious prosecution, Plaintiff JAZMINE FORTENBERRY, being a citizen of the United States was subjected to deprivation of her rights, privileges and immunities secured by the Constitution of the United States, causing her to sustain deprivation of her personal liberty, invasion of her privacy and violation of her civil rights, has suffered and will continue to suffer from, physical injury, psychological harm, mental distress, humiliation, embarrassment,

fear and defamation of her character and reputation, was prevented from attending to her usual duties.

21. At all times relevant herein, the defendant TORRES was acting in his capacity as a law enforcement officer for the City of Elizabeth and the Elizabeth Police Department.
22. At the time and place set forth above, the plaintiff, JAZMINE FORTENBERRY, sustained serious and permanent injuries as a result of the actions of Defendant TORRES as defined and delineated by the New Jersey Tort Claims Act.
23. The defendant WILL TORRES, and JOHN DOES (1-10) (fictitious persons whose identities are unknown at this time), and vicariously, their employers, CITY OF ELIZABETH, ELIZABETH POLICE DEPARTMENT were negligent and careless as defined and delineated by the New Jersey Tort Claim Act.
24. The defendants, CITY OF ELIZABETH, ELIZABETH POLICE DEPARTMENT were negligent, reckless and careless, as defined and delineated by the New Jersey Tort Claims Act, in failing to provide adequate training to its officers, including the individual defendants named herein, regarding the standards and methods of appropriate police procedures.
25. The plaintiff provided the defendants named herein with proper notice pursuant to N.J.S.A. 59:1-1, *et seq.*, on or about December 29, 2010.
26. As a result of the aforesaid negligence and carelessness of the defendant, the plaintiff, JAZMINE FORTENBERRY, was severely injured and suffered permanent disability.

**WHEREFORE**, plaintiff JAZMINE FORTENBERRY demands judgment

against defendant, WILL TORRES, and JOHN DOES (fictitious persons whose identities are unknown at this time), and vicariously, their employers, CITY OF ELIZABETH, ELIZABETH POLICE DEPARTMENT, jointly and severally for compensatory and punitive damages and further demands judgment against each of said defendant's jointly and severally, for punitive damages, plus the cost of this action, together with interest, reasonable attorney fees pursuant to 42 USC 1983 and 1988, and such other relief as the Court may deem equitable and just.

**SECOND COUNT**

27. Plaintiff repeats and realleges and incorporates each and every allegation contained in Paragraph 1 through 12 of the Complaint as it fully set forth herein.
28. The defendants, WILL TORRES, CITY OF ELIZABETH, ELIZABETH POLICE DEPARTMENT and JOHN DOES (fictitious persons whose identities are unknown at this time), committed an assault and battery upon the plaintiff. JAZMINE FORTENBERRY, thereby causing serious and permanent injuries to the plaintiff.
29. The defendants, WILL TORRES, CITY OF ELIZABETH, ELIZABETH POLICE DEPARTMENT and JOHN DOES (fictitious persons whose identities are unknown at this time), committed intentional acts which constituted false imprisonment upon the plaintiff.
30. As a result of the aforesaid intentional acts of the defendants, the plaintiff, JAZMINE FORTENBERRY, was severely injured and suffered permanent disability.

**WHEREFORE**, plaintiff demands judgment for damages against the defendants **WILL TORRES, CITY OF ELIZABETH, ELIZABETH POLICE DEPARTMENT** and **JOHN DOES** (fictitious persons whose identities are unknown at this time), and vicariously, their employers, jointly and severally for compensatory and punitive damages and further demands judgment against each of said defendants jointly and severally for punitive damages, plus the cost of the action, together with interest reasonable attorney fees pursuant to 42 USC Section 1983 and 1988.

**THIRD COUNT**

31. Plaintiffs repeats and realleges all of the allegations of the First Count and Second Count as though set forth herein verbatim.
32. The detention, assault and battery of the plaintiff by defendant **WILL TORRES, CITY OF ELIZABETH, the ELIZABETH POLICE DEPARTMENT** and **JOHNDOES** (fictitious persons whose identities are unknown at this time), was unlawful and unjustified and without any consent of the Plaintiff.
33. The detention assault and battery constituted an unreasonable search and seizure in violation of the Fourth Amendment of the United States Constitution and a deprivation of **JAZMINE FORTENBERRY's** rights to freedom from unreasonable and excessive force and unlawful arrest and false imprisonment.
34. The defendants named herein violated the civil rights of the plaintiff **JAZMINE FORTENBERRY'S**, resulting in the deprivation of her rights, privileges and/or immunities secured by the Constitution and Federal Laws, which violations

proximately caused serious injury, disability and other damages to the plaintiff,  
JAZMINE FORTENBERRY.

35. Plaintiff alleges that the defendants are liable to the plaintiff, JAZMINE  
FORTENBERRY, for the aforesaid violations of her civil rights pursuant to and  
in accordance with the provisions of the applicable Federal Statutes, 42 U.S.C.A.  
Section 1983, et seq.

**WHEREFORE**, plaintiff demands judgment for damages against the  
defendants, together with interest and costs of suit.

**HUNT, HAMLIN & RIDLEY**  
Attorneys for Plaintiff

By: RAYMOND L. HAMLIN/S/  
RAYMOND L. HAMLIN

**JURY TRIAL**

**WHEREFORE**, plaintiff demands a Trial by Jury on all issues.

**HUNT, HAMLIN & RIDLEY**  
Attorneys for Plaintiff

By: RAYMOND L. HAMLIN/S/  
RAYMOND L. HAMLIN

DATED: July 23, 2013

**BY CITY COUNCIL AS A WHOLE:**

**WHEREAS**, a case is currently pending in the US District Court of New Jersey, Newark Vicinage, Docket No. 2:13-CV-1640, **Jazmine Fortenberry v. City of Elizabeth** in the amount of \$145,000.00; and

**WHEREAS**, the Law Department and Christopher J. Kinsella, Esq. have recommended the settlement of \$145,000.00; and

**WHEREAS**, the Chief Financial Officer has certified sufficient funds are available and appropriated for this purpose in Certification No. 16-03158, charging the amount of \$145,000.00 to Account No. 06-21-56-248 of the Municipal Budget is on file in the Office of the City Clerk; now, therefore, be it

**RESOLVED**, that the City Council of the City of Elizabeth hereby approves and authorizes the settlement in an amount of \$145,000.00 payable to **Jazmine Fortenberry, 248 Broad Street, Newark, New Jersey 07104, and Attorney for the Plaintiff: Raymond L. Hamilton, ESQ., Hunt, Hamlin & Ridley, Military Park Building, 60 Park Place, 16<sup>th</sup> Floor, Newark, New Jersey 07102.**

ADOPTED BY CITY COUNCIL OF  
ELIZABETH, NJ AT MEETING  
**OCT 27 2015**  
YOLANDA M. ROBERTS  
CITY CLERK