

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CARL D. POPLAR, P.A.
A PROFESSIONAL CORPORATION
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Attorneys for Plaintiffs

Robert McLoughlin, as Guardian Ad
Litem for Thomas Edward
McLoughlin, a minor; Thomas
Edward McLoughlin, a minor; and
Robert McLoughlin, individually,

Plaintiffs

vs.

Nicholas William Falciocchio;
Joshua Steven Gieroyk; Dennis
Felsing, Sr.; Rosemary Milano;
Bud Boyer; Jon Gansert; Steve
Conte; Anthony Garreff; Frank
Taylor; William J. Kennedy, Chief
of Police; City of Sea Isle, a
body politic and municipal
corporation; and John Does (1-
10), fictitious names,

Defendants

CIVIL CASE NUMBER:
07-cv-5624

CIVIL ACTION

COMPLAINT AND JURY TRIAL
DEMAND

INTRODUCTION

1. The Plaintiffs, Robert McLoughlin, as Guardian Ad Litem
for Thomas Edward McLoughlin, a minor; Thomas Edward McLoughlin,
a minor; and Robert McLoughlin, individually, reside at 5008
Fairway Road, Drexel Hill, Commonwealth of Pennsylvania, 19026.

The individual Defendants, Nicholas William Falcicchio; Joshua Steven Gierczyk; Dennis Felsing, Sr.; Rosemary Milano; Bud Boyer; Jon Gansert; Steve Conte; Anthony Garreffo; Frank Taylor; William J. Kennedy, Chief of Police; and John Does (1-10), fictitious names, are agents, servants and/or employees of the Defendant the City of Sea Isle, which is a body politic, a municipality, in Cape May County, New Jersey. This action/lawsuit asserts that the Defendants, individually and jointly, violated certain rights of the minor Plaintiff Thomas Edward McLoughlin that are guaranteed under the United States Constitution by wrongfully, and without just cause, injuring the minor Plaintiff by use of excessive force against him, wrongfully and without just cause restraining, handcuffing and arresting the minor Plaintiff Thomas Edward McLoughlin, all of which was done without filing charges, wrongfully and without just cause thereafter authoring incorrect and false police report(s), and thereafter filing criminal charges, without probable cause and without any basis in law and ~~fact, wrongfully and without just cause offering false and~~ dishonest testimony in court proceedings, and wrongfully and without just cause withholding the identity of individuals who were complicit in the wrongful conduct with the named Defendants. Further, Defendants knowingly and wrongfully failed to, and otherwise covered up, the false and incorrect report(s), false and incorrect charges and false and incorrect testimony. This

cause of action and Complaint further assert common law and state law causes of actions and claims for assault and battery, unlawful arrest and wrongful and malicious prosecution, on behalf of both the minor Plaintiff Thomas Edward McLoughlin and his father and Guardian Ad Litem, Robert McLoughlin.

JURISDICTION AND VENUE

2. This action arises under the United States Constitution, including, but not limited to, the provisions of the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, and under federal law, particularly the Civil Rights Act, Title 42 of The United States Code § 1903, and under the New Jersey Constitution.

3. Jurisdiction is founded upon 28 U.S.C. § 1331 and 1343 and the aforesaid constitutional and statutory provisions.

4. The Plaintiffs further invoke the supplemental jurisdiction of this court to hear and decide claims arising out of the applicable state laws pursuant to 28 U.S.C. § 1367.

5. Further, this court has subject matter jurisdiction over this matter based upon diversity of citizenship between the Plaintiffs and all of the Defendants pursuant to 28 U.S.C. § 1332(a), and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

6. Venue lies in the United States Federal District Court

For the District of New Jersey pursuant to 28 U.S.C. § 1391.

PARTIES

7. At all relevant times herein, the Plaintiff Robert McLoughlin was and is the father of Thomas E. McLoughlin, a minor, and has consented to act as the Guardian Ad Litem for Thomas E. McLoughlin, and was and is a citizen of the United States and a resident of the Commonwealth of Pennsylvania with an address at 5008 Fairway Road, Drexel Hill, Commonwealth of Pennsylvania, 19026. Robert McLoughlin has no interest contrary to his son, the minor Plaintiff Thomas Edward McLoughlin.

8. At all relevant times herein, the Plaintiff Thomas E. McLoughlin, a minor, was and is a citizen of the United States and a resident of the Commonwealth of Pennsylvania with an address at 5008 Fairway Road, Drexel Hill, Commonwealth of Pennsylvania, 19026.

9. At all relevant times herein, the Defendant, Nicholas William Falocchio, was and is a citizen of the United States and a resident of the State of New Jersey, and was employed as a Police Officer by the Defendant City of Sea Isle, Cape May County, New Jersey.

10. At all relevant times herein, the Defendant, Joshua Steven Glexcyk, was and is a citizen of the United States and a resident of the State of New Jersey, and was employed as a Police

Officer by the Defendant City of Sea Isle, Cape May County, New Jersey.

11. At all relevant times herein, the Defendant, Dennis Felsing, Sr., was and is a citizen of the United States and a resident of the State of New Jersey, and was employed as a Police Officer by the Defendant City of Sea Isle, Cape May County, New Jersey.

12. At all relevant times herein, the Defendant, Rosemary Milano, was and is a citizen of the United States and a resident of the State of New Jersey, and was employed as a Police Officer by the Defendant City of Sea Isle, Cape May County, New Jersey.

13. At all relevant times herein, the Defendant, Bud Boyer, was and is a citizen of the United States and a resident of the State of New Jersey, and was employed as a Police Officer by the Defendant City of Sea Isle, Cape May County, New Jersey.

14. At all relevant times herein, the Defendant, Jon Gansert, was and is a citizen of the United States and a resident of the State of New Jersey, and was employed as a Police Officer by the Defendant City of Sea Isle, Cape May County, New Jersey.

15. At all relevant times herein, the Defendant, Steve Conte, was and is a citizen of the United States and a resident of the State of New Jersey, and was employed as a Police Officer by the Defendant City of Sea Isle, Cape May County, New Jersey.

16. At all relevant times herein, the Defendant, Anthony

Garreffl, was and is a citizen of the United States and a resident of the State of New Jersey, and was employed as a Police Officer by the Defendant City of Sea Isle, Cape May County, New Jersey.

17. At all relevant times herein, the Defendant, Frank Taylor, was and is a citizen of the United States and a resident of the State of New Jersey, and was employed as a Police Officer by the Defendant City of Sea Isle, Cape May County, New Jersey.

18. At all relevant times herein, the Defendant, William J. Kennedy, was and is a citizen of the United States and a resident of the State of New Jersey, and at all relevant times was duly appointed as acting Chief of Police of the City of Sea Isle Police Department by the Defendant City of Sea Isle, Cape May County, New Jersey and/or its agents or representatives.

19. At all relevant times herein, the Defendants, John Does (1-10), fictitious names, were and/or are citizens of the United States and residents of the State of New Jersey, and were employed as Police Officers and/or other agents, servants or employees of and by the Defendant City of Sea Isle, Cape May County, New Jersey. The Defendants, John Does (1-10), fictitious names, are not intended to be limited to police officers. These fictitious named Defendants also refer to other representatives and/or officials and/or individuals, whether or not employed by the Defendant City of Sea Isle, who performed acts or events, or

omissions that constitutes the activities as set forth in the lawsuit filed herein whether or not they were direct actors, aiders and abettors, conspirators or complicitors.

20. At all relevant times herein, the Defendant, City of Sea Isle, a body politic and municipal corporation, is a municipality duly established under the laws of the State of New Jersey.

FACTS

21. On or about July 22, 2006 the minor Plaintiff Thomas Edward McLoughlin was present in Sea Isle City at or near a location known as 123 42nd Street.

22. At or about the same and place, the Defendants, Nicholas Falcicchio and Joshua Giercyk, were working as Class II special officers and/or summer Police Officers employed by the Defendant City of Sea Isle, and were in the process of conducting what is commonly known as a field inquiry and/or other acts in the course of the aforesaid employment.

23. At or about the same time and place, the Defendants, Nicholas Falcicchio and Joshua Giercyk, as well as other Defendants, were made known and were advised, that the minor Plaintiff Thomas Edward McLoughlin suffered from hemophilia and was a hemophiliac.

24. At or about the same time and place, the Defendants,

Nicholas Falcicchio and Joshua Gieroyk, as well as other Defendants, without reasonable basis or suspicion, just cause, or probable cause, did wrongfully assault and batter, and otherwise cause an assault and battery and otherwise utilize excessive force on the minor Plaintiff Thomas Edward McLoughlin, and did otherwise together, and with others, force him onto the ground pushing, striking, assaulting and/or battering him, causing serious personal injuries.

25. At or about the same time and place, other agents, servants and/or employees of the Defendant City of Sea Isle, including, but not limited to the Defendants, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffl, Frank Taylor and John Does (1-10) (fictitious names) did assist, join and initiate assaults and batteries and/or otherwise commit assault and batteries, and/or utilized excessive force on the minor Plaintiff Thomas McLoughlin, by forcing, pushing, striking, assaulting and/or battering him and/or forcing him onto the ground, causing serious personal injuries. Said Defendants furthermore wrongfully and inappropriately failed to intervene to attempt to cease and/or deter the other Defendants' wrongful and assaultive conduct.

26. The Defendants, Nicholas Falcicchio, Joshua Gieroyk and Dennis Felsing, Sr., have at all times including, but not limited to, court proceedings under oath in or about February 1, 2007 and

February 2, 2007, the trial, did wrongfully, knowingly and maliciously conceal the identity of other Sea Isle City agents, servants and/or employees, and/or police officers, who participated in and/or initiated and/or otherwise assaulted and/or utilized excessive force on the minor Plaintiff Thomas Edward McLoughlin on or about July 22, 2006. Further, the Defendants, Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conta, Anthony Garraffi, Frank Taylor, William J. Kennedy, Chief of Police and John Does (1-10) (fictitious names), concealed the identity of the person or persons who participated and/or joined in the assault and/or batteries and/or the utilization of excessive force on the minor Plaintiff Thomas Edward McLoughlin.

27. On or about July 22, 2006 the Defendants, Nicholas Falcicchio, Joshua Giercyk, Dennis Felsing, Sr., and John Does (1-10) (fictitious names), did wrongfully, maliciously, without basis in law or fact, and without cause, reasonable suspicion or probable cause, did inappropriately and wrongfully restrain, handcuff and arrest the minor Plaintiff Thomas Edward McLoughlin.

28. Notwithstanding that minor Plaintiff Thomas Edward McLoughlin was restrained, handcuffed and/or arrested as set forth above, no charges on or about July 22, 2006 were prepared, preferred, filed, and/or charged against Thomas E. McLoughlin. The Defendants Nicholas William Falcicchio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon

Gansert, Steve Conte, Anthony Garrefffi, Frank Taylor, William J. Kennedy, Chief of Police and John Does (1-10) (fictitious names), did on July 22, 2006, or at times subsequent thereto, did author, contribute to, ratify and/or did knowingly failed to correct a police report and/or police reports concerning the incident of July 22, 2006, that asserted facts and/or information that were false and/or incorrect.

29. On or about August 14, 2006 the minor Plaintiff Thomas Edward McLoughlin was charged in a juvenile delinquency complaint, No. FJ-05-152-07, with a criminal charge in the Superior Court of New Jersey, Chancery Division - Family Part, in the County of Cape May, alleging a violation of N.J.S.A. 2C:12-1B(5)(A) which provides:

"A person is guilty of aggravated assault if he:
(5) commits a simple assault as defined in section (A) (1), (2) or (3) of this section upon: (A) any law enforcement officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority or because of his status as a law enforcement officer,"

The assaults are defined as follows:

"(1) attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; (2) negligently causes bodily injury to another with a deadly weapon; or (3) attempts by physical menace to put another in fear of imminent serious bodily injury."

30. The factual allegations of the criminal charge as set forth above or more specifically:

"The above named juvenile is alleged upon personal knowledge to be delinquent in that on or about

7/22/2006 at 11:04 p.m. the above named juvenile did within this jurisdiction did commit the crime of fourth degree by purposely and knowingly attempting to cause bodily harm to uniform law enforcement officers acting in the performance of their duties."

31. It was further charged that the minor Thomas Edward McLoughlin violated the provisions of N.J.S. 2C:29-2A(3) (a) which provides:

"Obstruction administration of law or other governmental function. (a) A person commits the offense if he purposely obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from lawfully performing an official function by means of flight, intimidation, force, violence or physical interference or obstacle, or by means of any independent unlawful act. . ."

32. The alleged facts of these alleged crimes were set forth as follows:

"The above named juvenile upon personal knowledge to be delinquent in that on or about 7/22/2006 at 11:04 p.m. the above named juvenile did within the jurisdiction did commit the crime of third degree by using physical force against uniform law enforcement officers attempting to affect an arrest."

33. The Complaint for juvenile delinquency alleging the two ~~separate offenses as set forth above was filed with the Superior~~ Court of New Jersey for Cape May County on August 14, 2006. It was purportedly signed by Officer N. Falcicchio of the Sea Isle City Police Department on 8/03/2006. The wrongful, pretextual and/or malicious decision to institute the aforesaid charges was initiated, reviewed, ratified and not corrected by the Defendants, Nicholas William Falcicchio, Joshua Steven Giercyk,

Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffl, Frank Taylor, William J. Kennedy, Chief of Police and John Does (1-10) (fictitious names).

34. There was no basis in fact and/or law for the criminal complaints in juvenile delinquency alleging assault in violation of N.J.S.A. 2C:12-1B(5) (A) and obstruction in violation of N.J.S. 2C:29-2A as set forth above or any other charge. The allegations and charges were false and untrue and were pretextual.

35. The aforesaid charges were filed without factual or legal basis, and without reasonable suspicion or probable cause, and were done maliciously, wrongfully and falsely for purposes that include, but are not necessarily limited to, efforts to protect and camouflage the Defendants and potentially others from their wrongful and illegal conduct in their use of excessive force, their assault and batteries, and their false detention and false arrest of on the minor Plaintiff Thomas Edward McLoughlin as set forth above.

36. A trial of the aforesaid charges of allegations of violations of N.J.S.A. 2C:12-1B(5) (A) and N.J.S. 2C:29-2A occurred in the Superior Court of New Jersey, Chancery Division - Family Part, County of Cape May before the Honorable Kyran Connor, J.S.C. on February 1, 2007 and February 2, 2007, hereinafter referred to as "the trial".

37. Christine L. Smith, Esquire, an Assistant Prosecutor

and representative of the Office of the Prosecutor of Cape May County, represented by letter of December 28, 2006 that "after a good faith inquiry, the following officers, not listed in the discovery, have been identified by the Sea Isle City Police Department as being present at the scene on July 22, 2006:

Det. Jon Gansert
Det. Bud Boyer
Officer Steve Conte
Officer Tony Garreffa
Officer Frank Taylor

Based upon the information imparted and communicated to the assistant prosecutor by the Defendants herein, the assistant prosecutor was caused to erroneously seek and attempt to obtain a conviction of the minor Plaintiff Thomas Edward McLoughlin, of the offenses that are set forth herein for which he was innocent, and further caused her to seek a custodial disposition.

38. The Investigative Police Reports included in "the discovery", included the initial investigation report dated August 3, 2006 which listed the police officers as Nicholas Falcicchio and Officer Joshua Giercyk and Det. Jon Gansert. A supplemental report, dated July 22, 2006, listed as officers present Sgt. D. R. Felsing and Sgt. Milano. Said reports were inaccurate, incomplete and/or false.

39. The testimony of the Defendant Officer Nicholas Falcicchio at the trial set forth that the persons present besides himself were Officer Giercyk, Sgt. Milano, Sgt. Felsing,

Det. Gansert and Det. Sgt. Boyer. His testimony did not refer to Officers Conte, Garreffl or Taylor.

40. On February 23, 2007 the Honorable Kyran Connor, J.S.C. rendered a "Memorandum of Decision."

41. Included within the Memorandum of Decision, the court stated:

"At the trial, it was something of a chore to get a listing of the names of all of the police officers who ended up in or around Ms. Miller's driveway on that night. Not without some persistence on the part of defense counsel, we eventually heard that, in addition to Officer Falcicchio, Officer Giercyk, and Det. Gansert, these other officers were there:

- Sgt. Dennis Felsing, Sr.
- Sgt. Rosemary Milano
- Sgt. Thomas D'Intino
- Det. Sgt. Boyer
- Officer Steve Conte
- Officer Anthony Garreffl

42. The Defendants, Nicholas William Falcicchio, Joshua Steven Giercyk and Dennis Felsing, Sr., were witnesses at the trial, and carelessly, negligently, intentionally, willfully and maliciously testified falsely and untruthfully, under oath in

order to attempt to convict the minor Plaintiff Thomas Edward McLoughlin of a criminal and/or juvenile offense of which he was innocent and not guilty, and did otherwise attempt to cover up their wrongdoings and wrongdoings of the other Defendants referred to herein.

43. The Honorable Kyran Connor, J.S.C., in his Memorandum of Decision of February 23, 2007, found Thomas E. McLoughlin not

guilty of both charges.

44. As a direct and proximate result of the conduct of the Defendants, Nicholas William Falcicchio, Joshua Steven Clercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffi, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (fictitious names), the minor Plaintiff Thomas Edward McLoughlin received interim emergency care at Burdette Tomlin Hospital, Cape May Court House, New Jersey and thereafter had to be taken by ambulance to the Children's Hospital of Philadelphia, for emergency/emergent treatment, and thereafter was required to receive medical and dental care and assistance.

45. As a direct and proximate result of the wrongful conduct, assaults, batteries and excessive force of the Defendants, the minor Plaintiff Thomas Edward McLoughlin suffered serious, life-threatening, painful and permanent traumatic physical, dental, emotional, psychological injuries and damages and did require and will in the future require hospital, medical and dental care and treatment. Furthermore, minor Plaintiff Thomas Edward McLoughlin was caused to undergo and endure the anxiety and travail of a false and malicious restraint, criminal charge, prosecution and trial. The Plaintiff Robert McLoughlin was caused to incur the cost of the defense for the minor

Plaintiff Thomas Edward McLoughlin, as well as suffered the stress, anxiety and duress of the aforesaid.

COUNT ONE

VIOLATION OF CIVIL RIGHTS GENERALLY AND FOR
USE OF EXCESSIVE FORCE AND ASSAULT AND BATTERY

46. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 45 as if the same were set forth at length herein.

47. The Defendants, Nicholas William Falcicchio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffo, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (fictitious names), in their individual capacity and/or in their official capacities deprived the minor Plaintiff Thomas Edward McLoughlin of the following rights under the United States Constitution, and/or the New Jersey Constitution, and/or the common law. The violation of ~~the minor Plaintiff Thomas Edward McLoughlin's civil rights and~~ the violation of his rights under the Constitution and of laws as aforesaid include, but are not limited to:

- a. Freedom from the use of excessive and unreasonable force;
- b. Freedom from the deprivation of liberty and false and baseless arrest and detainment without due process of

- law and/or adequate and/or probable cause;
- g. Freedom from invasion of bodily security and privacy;
 - d. Freedom from an unreasonable physical seizure;
 - e. Freedom from summary punishment;
 - f. Freedom from his rights to have equal protection of the laws;
 - g. Freedom from unjustified prosecution and improper use of the courts; and
 - h. Freedom from representatives of a body politic from rendering false reports and offering and/or being complicit with false testimony in court and from the wrongfully concealing facts and/or exculpatory information in violation of the protections of the due process of law.

48. On or about July 22, 2006 the Defendants, Nicholas William Falocchio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffi, Frank Taylor, and John Does (1-10) (fictitious names), individually and/or jointly did utilize excessive force upon the minor Plaintiff Thomas Edward McLoughlin and did otherwise trespass upon his person, assault, batter, kick, strike the minor Plaintiff Thomas Edward McLoughlin inappropriate, and without legal or factual basis or justification.

49. The acts, conduct and behavior of the Defendants, as

aforesaid, were done and performed knowingly, intentionally and maliciously and further deprived the minor Plaintiff Thomas Edward McLoughlin of his rights, as aforesaid guaranteed to him under the laws of the State of New Jersey and the United States, and/or under the United States Constitution, including, but not limited to, the First, Fourth, Fifth, Eighth and Fourteenth Amendment to the United States Constitution and the provisions of 42 U.S.C. §§ 1983 and 1988.

50. The acts, conduct and behavior of the Defendants, as aforesaid, were done and performed under color of state law.

51. As a direct and proximate result of the aforesaid, the minor Plaintiff Thomas Edward McLoughlin suffered serious, life-threatening, painful and permanent injuries, which required hospital, medical and dental care and treatment, and will in the future require further hospital, medical and dental care and treatment, and was forced to endure great pain and suffering, and was caused to suffer great emotional and psychological distress and damages and will in the future suffer from emotional and psychological stress and damages and was deprived of his

constitutional and statutory rights, as aforesaid guaranteed by the Constitution of the United States and 42 U.S.C. §§ 1983 and 1988. Furthermore, minor Plaintiff Thomas Edward McLoughlin suffered the anxiety and stress and distress of the charges and proceedings.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin demands judgment individually and/or through his Guardian Ad Litem Robert McLoughlin, against Defendants, Nicholas William Falcicchio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffii, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (fictitious names), for:

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- d. attorney's fees;
- e. interest and costs of suit; and
- f. other such relief as the court deems just and necessary.

COUNT TWO

~~VIOLATION OF CIVIL RIGHTS GENERALLY
AND FOR PAIN AND SUFFERING~~

52. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 51 as if the same were set forth at length herein.

53. At all times relevant herein, the Defendant City of Sea Isle, through its agents, servants and/or employees, and the Defendants, Nicholas William Falcicchio, Joshua Steven Giercyk,

Dennis Falsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffi, Frank Taylor and John Does (1-10) (fictitious names), in their official capacities and in their individual capacities wrongfully and falsely did detain, restrain and arrest the minor Plaintiff Thomas Edward McLoughlin, depriving him of his rights under the United States Constitution, as aforesaid, as well as the Constitution of the State of New Jersey, and under the common law.

54. The acts, conduct and behavior of the Defendants, as aforesaid, were done and performed knowingly, intentionally and maliciously and further deprived the minor Plaintiff Thomas Edward McLoughlin of his rights, as aforesaid guaranteed to him under the laws of the State of New Jersey and the United States, and/or under the United States Constitution, including, but not limited to, the First, Fourth, Fifth, Eighth and Fourteenth Amendment to the United States Constitution and the provisions of 42 U.S.C. §§ 1983 and 1988.

55. The acts, conduct and behavior of the Defendants, as aforesaid, were done and performed under color of state law.

56. As a direct and proximate result of the aforesaid, the minor Plaintiff Thomas Edward McLoughlin suffered serious, life-threatening, painful and permanent injuries, which required hospital, medical and dental care and treatment, and will in the future require further hospital, medical and dental care and

treatment, and was forced to endure great pain and suffering, and was caused to suffer great emotional and psychological distress and damages and will in the future suffer from emotional and psychological stress and damages and was deprived of his constitutional and statutory rights, as aforesaid guaranteed by the Constitution of the United States and 41 U.S.C. §§ 1983 and 1988. Furthermore, minor Plaintiff Thomas Edward McLoughlin suffered the anxiety and stress and distress of the charges and proceedings.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin, demands judgment individually and through his Guardian Ad Litem Robert McLoughlin, against Defendants, Nicholas William Falcicchio, Joshua Steven Gieroyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffl, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (fictitious names), for:

- a. compensatory damages;
- ~~b. exemplary and punitive damages;~~
- c. treble damages;
- d. attorney's fees;
- e. interest and costs of suit; and
- f. other such relief as the court deems just and necessary.

COUNT THREE

VIOLATION OF CIVIL RIGHTS GENERALLY
AND FOR WRONGFUL PROSECUTION

57. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 56 as if the same were set forth at length herein.

58. At all times relevant to this Complaint, the Defendant City of Sea Isle, through its agents, servants and/or employees, and the Defendants, Nicholas William Falcicchio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffo, Frank Taylor, William J. Kennedy, Chief of Police and John Does (1-10) (fictitious names), did wrongfully, intentionally, maliciously and without basis in fact or law and without cause and without probable cause, and without due process of law, did file, and cause to file, criminal charges against the minor Plaintiff Thomas Edward McLoughlin as set forth herein. Said charges does and did constitute a malicious prosecution, a malicious abuse of process, and a ~~malicious use of process, which deprived the minor Plaintiff~~

Thomas Edward McLoughlin of his rights guaranteed to him under the Constitution of the United States, the Constitution and laws of the State of New Jersey, and common law.

59. The acts, conduct and behavior of the Defendants, as aforesaid, were done and performed knowingly, intentionally and maliciously and further deprived the minor Plaintiff Thomas

Edward McLoughlin of his rights, as aforesaid guaranteed to him under the laws of the State of New Jersey and the United States, and/or under the United States Constitution, including, but not limited to, the First, Fourth, Fifth, Eighth and Fourteenth Amendment to the United States Constitution and the provisions of 42 U.S.C. §§ 1983 and 1988.

60. The acts, conduct and behavior of the Defendants, as aforesaid, were done and performed under color of state law.

61. As a direct and proximate result of the aforesaid, the minor Plaintiff Thomas Edward McLoughlin suffered serious, life-threatening, painful and permanent injuries, which required hospital, medical and dental care and treatment, and will in the future require further hospital, medical and dental care and treatment, and was forced to endure great pain and suffering, and was caused to suffer great emotional and psychological distress and damages and will in the future suffer from emotional and psychological stress and damages and was deprived of his constitutional and statutory rights, as aforesaid guaranteed by the Constitution of the United States and 42 U.S.C. §§ 1983 and 1988. Furthermore, minor Plaintiff Thomas Edward McLoughlin suffered the anxiety and stress and distress of the charges and proceedings.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin, demands judgment individually and through his Guardian Ad Litem

Robert McLoughlin, against Defendants, Nicholas William Falciocchio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffo, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (fictitious names), for:

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- d. attorney's fees;
- e. interest and costs of suit; and
- f. other such relief as the court deems just and necessary.

COUNT FOUR

VIOLATION OF CIVIL RIGHTS GENERALLY AND VIOLATIONS FOR FILING OF FALSE REPORTS

62. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 61 as if the same were set forth at length herein.

63. At all times herein mentioned, the Defendant, City of Sea Isle, through its agents, servants and/or employees, and the Defendants, Nicholas William Falciocchio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffo, Frank Taylor, William J. Kennedy,

Chief of Police and John Does (1-10) (fictitious names), did wrongfully, intentionally, maliciously and pretextually filed, created, ratified and otherwise failed to correct false and inaccurate police reports regarding the aforesaid subject matter of this Complaint which was a component part, and was in furtherance of the Defendants' wrongful conduct as aforesaid, and further deprived the minor Plaintiff Thomas Edward McLoughlin of his rights guaranteed to him under the Constitution of the United States as aforesaid and under the Constitution and laws of the State of New Jersey, and under the common law.

64. The acts, conduct and behavior of the Defendants, as aforesaid, were done and performed knowingly, intentionally and maliciously and further deprived the minor Plaintiff Thomas Edward McLoughlin of his rights, as aforesaid guaranteed to him under the laws of the State of New Jersey and the United States, and/or under the United States Constitution, including, but not limited to, the First, Fourth, Fifth, Eighth and Fourteenth Amendment to the United States Constitution and the provisions of 42 U.S.C. §§ 1983 and 1988.

65. The acts, conduct and behavior of the Defendants, as aforesaid, were done and performed under color of state law.

66. As a direct and proximate result of the aforesaid, the minor Plaintiff Thomas Edward McLoughlin suffered serious, life-threatening, painful and permanent injuries, which required

hospital, medical and dental care and treatment, and will in the future require further hospital, medical and dental care and treatment, and was forced to endure great pain and suffering, and was caused to suffer great emotional and psychological distress and damages and will in the future suffer from emotional and psychological stress and damages and was deprived of his constitutional and statutory rights, as aforesaid guaranteed by the Constitution of the United States and 41 U.S.C. § 1983 and 1988. Furthermore, minor Plaintiff Thomas Edward McLoughlin suffered the anxiety and stress and distress of the charges and proceedings.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin, demands judgment individually and through his Guardian Ad Litem Robert McLoughlin, against Defendants, Nicholas William Falcicchio, Joshua Steven Giarcyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffi, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (Fictitious Names), for:

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- d. attorney's fees;
- e. interest and costs of suit; and

- f. other such relief as the court deems just and necessary.

COUNT FIVE

VIOLATION OF CIVIL RIGHTS GENERALLY
AND A VIOLATION FOR FALSE TESTIMONY

67. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 66 as if the same were set forth at length herein.

68. At all times relevant to this Complaint, the Defendants, Nicholas William Falcicchio, Joshua Steven Giercyk and Dennis Felsing, Sr., did, at the trial of the case, intentionally, willfully, wrongfully, maliciously and protecturally offer inaccurate and false testimony at the trial, as aforesaid, in furtherance of their wrongful conduct as set forth herein, which deprived the minor Plaintiff, Thomas Edward McLoughlin, of his rights guaranteed to him under the Constitution of the United States, the Constitution and the laws of the State of New Jersey, and common law.

69. The acts, conduct and behavior of the Defendants, as aforesaid, were done and performed knowingly, intentionally and maliciously and further deprived the minor Plaintiff Thomas Edward McLoughlin of his rights, as aforesaid guaranteed to him under the laws of the State of New Jersey and the United States, and/or under the United States Constitution, including, but not

limited to, the First, Fourth, Fifth, Eighth and Fourteenth Amendment to the United States Constitution and the provisions of 42 U.S.C. §§ 1983 and 1988.

70. The acts, conduct and behavior of the Defendants, as aforesaid, were done and performed under color of state law.

71. As a direct and proximate result of the aforesaid, the minor Plaintiff Thomas Edward McLoughlin suffered serious, life-threatening, painful and permanent injuries, which required hospital, medical and dental care and treatment, and will in the future require further hospital, medical and dental care and treatment, and was forced to endure great pain and suffering, and was caused to suffer great emotional and psychological distress and damages and will in the future suffer from emotional and psychological stress and damages and was deprived of his constitutional and statutory rights, as aforesaid guaranteed by the Constitution of the United States and 41 U.S.C. §§ 1983 and 1988. Furthermore, minor Plaintiff Thomas Edward McLoughlin suffered the anxiety and stress and distress of the charges and proceedings.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin, demands judgment individually and through his Guardian Ad Litem Robert McLoughlin, against Defendants, Nicholas William Falciochio, Joshua Steven Giercyk and Dennis Felsing, Sr., for:

a. compensatory damages;

- b. exemplary and punitive damages;
- c. treble damages;
- d. attorney's fees;
- e. interest and costs of suit; and
- f. other such relief as the court deems just and necessary.

COUNT SIX

VIOLATION OF CIVIL RIGHTS GENERALLY
AND A VIOLATION FOR CONCEALMENT

72. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 71 as if the same were set forth at length herein.

73. At all times relevant to this Complaint, the Defendant, City of Sea Isle, a body politic and municipal corporation, through its agents, servants and/or employees, and the Defendants, Nicholas William Falicchio, Joshua Steven Giacryk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffa, Frank Taylor, William J. Kennedy, Chief of Police and John Does (1-10) (fictitious names), did knowingly, intentionally, willfully, maliciously, and pretextually conceal and secrete the truth and fail to correct, and otherwise did ratify, the wrong, false and inaccurate reports, information and charges and prosecution as set forth herein, which did cause and/or result in the minor Plaintiff,

Thomas Edward McLoughlin, being deprived of his rights guaranteed to him under the Constitution of the United States, the Constitution and the laws of the State of New Jersey, and common law.

74. The acts, conduct and behavior of the Defendants, as aforesaid, were done and performed knowingly, intentionally and maliciously and further deprived the minor Plaintiff Thomas McLoughlin of his rights, as aforesaid guaranteed to him under the laws of the State of New Jersey and the United States, and/or under the United States Constitution, including, but not limited to, the First, Fourth, Fifth, Eighth and Fourteenth Amendment to the United States Constitution and the provisions of 42 U.S.C. §§ 1983 and 1988.

75. The acts, conduct and behavior of the Defendants, as aforesaid, were done and performed under color of state law.

76. As a direct and proximate result of the aforesaid, the minor Plaintiff Thomas McLoughlin suffered serious, life-threatening, painful and permanent injuries, which required ~~hospital, medical and dental care and treatment, and will in the~~ future require further hospital, medical and dental care and treatment, and was forced to endure great pain and suffering, and was caused to suffer great emotional and psychological distress and damages and will in the future suffer from emotional and psychological stress and damages and was deprived of his

constitutional and statutory rights, as aforesaid guaranteed by the Constitution of the United States and 41 U.S.C. §§ 1983 and 1988. Furthermore, minor Plaintiff Thomas Edward McLoughlin suffered the anxiety and stress and distress of the charges and proceedings.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin, demands judgment individually and through his Guardian Ad Litem Robert McLoughlin, against Defendants, Nicholas William Falcicchio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffo, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Doss (1-10) (fictitious names), for:

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- d. attorney's fees;
- e. interest and costs of suit; and

~~f. other such relief as the court deems just and~~
necessary.

COUNT SEVEN

VIOLATION OF CIVIL RIGHTS GENERALLY
AND A VIOLATION FOR IMPROPER AND
INADEQUATE TRAINING AND SUPERVISION

77. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 76 as if the same were set forth at length herein.

78. At all times relevant to this Complaint, the Defendant, the City of Sea Isle, through its agents, servants and/or employees, and the Defendant, William J. Kennedy, Chief of Police, and John Does (1-10) (fictitious names), and/or the command and supervisory employees of the Defendant City of Sea Isle, and the officials within the Defendant, the City of Sea Isle, were responsible for public safety, and through its own policy, practice and procedures, did intentionally, wrongfully, willfully and maliciously chose not to adequately train and/or supervise police officers within the City of Sea Isle, including Class II officers, the Defendants Nicholas William Falocchio and Joshua Steven Giercyk, as well as others, with the knowledge and/or with deliberate indifference to the knowledge, that said police officers, agents and/or employees, because of the lack of training and/or supervision, did and would violate the rights ~~guaranteed to citizens under the Constitution of the United~~

States, the Constitution and laws of the State of New Jersey, and common law as aforesaid, thereby depriving the minor Plaintiff, Thomas Edward McLoughlin, of his rights guaranteed under the Constitution of the United States, the Constitution and laws of the State of New Jersey and the common law of the State of New

Jersey.

79. It was known, and/or should have been known to the Defendant, City of Sea Isle, and/or its agents, servants and/or employees that the deprivation and violation of the Plaintiffs' rights as set forth herein did and otherwise would occur and would otherwise be inevitable, as a direct result of Defendants' failure to adequately and appropriately train and supervise.

80. Said conduct, failures and inadequacies of training and supervision were knowingly and intentionally part of the City of Sea Isle's policies, practices, customs and procedures. The Defendants authorize, permit, ratify and encourage the wrongful conduct and activities as alleged herein.

81. Furthermore, Defendant City of Sea Isle, and/or its agents, servants and/or employees were deliberately indifferent to the high degree of probability that the Defendants' conduct, as set forth herein, would occur, and the deliberate conduct of Defendant City of Sea Isle, and/or its agents, servants and/or employees was the moving force behind the Plaintiffs' injuries.

~~82. The acts, conduct and behavior of the Defendants, as~~
aforesaid, were done and performed under color of state law.

83. The acts, conduct and behavior of the Defendants, as aforesaid, were done and performed knowingly, intentionally and maliciously and further deprived the minor Plaintiff Thomas McLoughlin of his rights, as aforesaid guaranteed to him under

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MOTION FOR SUMMARY
JUDGMENT

EXHIBIT 1

PART 2

the laws of the State of New Jersey and the United States, and/or under the United States Constitution, including, but not limited to, the First, Fourth, Fifth, Eighth and Fourteenth Amendment to the United States Constitution and the provisions of 42 U.S.C. §§ 1983 and 1988.

84. As a direct and proximate result of the aforesaid, the minor Plaintiff Thomas McLoughlin suffered serious, life-threatening, painful and permanent injuries, which required hospital, medical and dental care and treatment, and will in the future require further hospital, medical and dental care and treatment, and was forced to endure great pain and suffering, and was caused to suffer great emotional and psychological distress and damages and will in the future suffer from emotional and psychological stress and damages and was deprived of his constitutional and statutory rights, as aforesaid guaranteed by the Constitution of the United States and 41 U.S.C. §§ 1983 and 1988. Furthermore, minor Plaintiff Thomas Edward McLoughlin suffered the anxiety and stress and distress of the charges and proceedings.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin, demands judgment individually and through his Guardian Ad Litem Robert McLoughlin, against Defendants, Nicholas William Falcicchio, Joshua Steven Giarczyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffl,

Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (fictitious names), for:

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- d. attorney's fees;
- e. interest and costs of suit; and
- f. other such relief as the court deems just and necessary.

COUNT EIGHT

COMMON LAW CAUSE OF ACTION FOR USE OF
EXCESSIVE FORCE AND ASSAULT AND BATTERY

85. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 84 as if the same were set forth at length herein.

86. At all times relevant to this Complaint, the Defendant City of Sea Isle, through its agents, servants and/or employees, and the Defendants, Nicholas William Falocchio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffo, Frank Taylor and John Does (1-10) (fictitious names), did carelessly, negligently, recklessly, intentionally, willfully and/or maliciously used and employed excessive force, and/or otherwise assault and batter,

strike and trespass upon the minor Plaintiff Thomas Edward McLoughlin.

87. As a direct and proximate result of the aforesaid, the minor Plaintiff Thomas McLoughlin suffered serious, life-threatening, painful and permanent injuries, which required hospital, medical and dental care and treatment, and will in the future require further hospital, medical and dental care and treatment, and was forced to endure great pain and suffering, and was caused to suffer great emotional and psychological distress and damages and will in the future suffer from emotional and psychological stress and damages. Furthermore, minor Plaintiff Thomas Edward McLoughlin suffered the anxiety and stress and distress of the charges and proceedings.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin, demands judgment individually and through his Guardian Ad Litem Robert McLoughlin, against Defendants, Nicholas William Falcicchio, Joshua Steven Gieroyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conto, Anthony Garreffa, ~~Frank Taylor, City of Sea Isle, a body politic and municipal corporation,~~ and John Does (1-10) (fictitious names), for:

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- d. attorney's fees;

- e. interest and costs of suit; and
- f. other such relief as the court deems just and necessary.

COUNT NINE

COMMON LAW CAUSE OF ACTION FOR FALSE ARREST

88. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 87 as if the same were set forth at length herein.

89. At all times relevant to this Complaint, the Defendant City of Sea Isle, through its agents, servants and/or employees, and the Defendants Nicholas William Falcicchio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffa, Frank Taylor, William J. Kennedy, Chief of Police and John Does (1-10) (fictitious names), did, without basis in fact or law, without cause, and/or without probable cause or reasonable suspicion, did wrongfully, intentionally and/or falsely detain and arrest and otherwise ~~deprived the minor Plaintiff Thomas Edward McLoughlin, of his~~ freedom and/or liberties.

90. As a direct and proximate result of the aforesaid, the minor Plaintiff Thomas McLoughlin suffered serious, life-threatening, painful and permanent injuries, which required hospital, medical and dental care and treatment, and will in the

future require further hospital, medical and dental care and treatment, and was forced to endure great pain and suffering, and was caused to suffer great emotional and psychological distress and damages and will in the future suffer from emotional and psychological stress and damages. Furthermore, minor Plaintiff Thomas Edward McLoughlin suffered the anxiety and stress and distress of the charges and proceedings.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin, demands judgment individually and through his Guardian Ad Litem Robert McLoughlin, against Defendants, Nicholas William Falcicchio, Joshua Steven Gieroyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffl, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (fictitious names), for:

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- ~~d. attorney's fees;~~
- e. interest and costs of suit; and
- f. other such relief as the court deems just and necessary.

COUNT TEN .

COMMON LAW CAUSE OF ACTION FOR MALICIOUS PROSECUTION

91. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 90 as if the same were set forth at length herein.

92. At all times relevant to this Complaint, Defendant the City of Sea Isle, through its agents, servants and/or employees, and the Defendants, Nicholas William Falcicchio, Joshua Steven Gieroyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffo, Frank Taylor, William J. Kennedy, Chief of Police and John Does (1-10) (fictitious names), did wrongfully, maliciously, negligently, grossly negligently, did charge and/or institute criminal charges against the minor Plaintiff, Thomas Edward McLoughlin, without basis in fact or in law, without cause and/or without probable cause, which constitutes a malicious prosecution, a malicious abuse of process, and/or a malicious use of process.

93. As a direct and proximate result of the aforesaid, the ~~minor Plaintiff Thomas McLoughlin was caused to suffer great~~ emotional and psychological distress and damages and will in the future suffer from emotional and psychological stress and damages. Furthermore, minor Plaintiff Thomas Edward McLoughlin suffered the anxiety and stress and distress of the charges and proceedings.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin, demands judgment individually and through his Guardian Ad Litem Robert McLoughlin, against Defendants, Nicholas William Falcicchio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffi, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (Fictitious names), for:

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- d. attorney's fees;
- e. interest and costs of suit; and
- f. other such relief as the court deems just and necessary.

COUNT ELEVEN

COMMON LAW CAUSE OF ACTION FOR FALSE POLICE REPORTS

94. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 93 as if the same were set forth at length herein.

95. At all times relevant to this Complaint, Defendant City of Sea Isle, through its agents, servants and/or employees, and the Defendants, Nicholas William Falcicchio, Joshua Steven

Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffo, Frank Taylor, William J. Kennedy, Chief of Police and John Does (1-10) (fictitious names), did author, contribute to, ratify or failed to correct reports and/or police reports that contained inaccurate information, misinformation and false information as a component of and in furtherance of the wrongdoings of the Defendants as set forth herein. The Defendants were complicit by actions and inactions of causing the aforesaid.

96. As a direct and proximate result of the aforesaid, the minor Plaintiff Thomas McLoughlin was caused to suffer great emotional and psychological distress and damages and will in the future suffer from emotional and psychological stress and damages. Furthermore, minor Plaintiff Thomas Edward McLoughlin suffered the anxiety and stress and distress of the charges and proceedings.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin, demands judgment individually and through his Guardian Ad Litem ~~Robert McLoughlin, against Defendants, Nicholas William Falgicchio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffo, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (fictitious names), for:~~

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- d. Attorney's fees;
- e. interest and costs of suit; and
- f. other such relief as the court deems just and necessary.

COUNT TWELVE

COMMON LAW CAUSE OF ACTION FOR FALSE TESTIMONY

97. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 96 as if the same were set forth at length herein.

98. At all times relevant to this Complaint, the Defendants, Nicholas William Falcicchio, Joshua Steven Gleroyk and Dennis Felsing, Sr., at the trial of this case as aforesaid, did render and/or offer, inaccurate and/or false testimony, which false testimony was initiated, approved, ratified and not

~~collected by the defendant, City of Sea Isle, through its agents,~~
servants and/or employees, and the command and supervisory police, including, but not limited to, the Defendants, Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffl, Frank Taylor, William J. Kennedy, Chief of Police and John Does (1-10) (fictitious names). The Defendants were complicit by

their action and inactions in the aforesaid.

99. As a direct and proximate result of the aforesaid, the minor Plaintiff Thomas McLoughlin was caused to suffer great emotional and psychological distress and damages and will in the future suffer from emotional and psychological stress and damages. Furthermore, minor Plaintiff Thomas Edward McLoughlin suffered the anxiety and stress and distress of the charges and proceedings.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin, demands judgment individually and through his Guardian Ad Litem Robert McLoughlin, against Defendants, Nicholas William Falciochio, Joshua Steven Gieroyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffa, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (fictitious names), for:

- a. compensatory damages;
- b. exemplary and punitive damages;
- ~~c. triple damages;~~
- d. attorney's fees;
- e. interest and costs of suit; and
- f. other such relief as the court deems just and necessary.

COUNT THIRTEEN

COMMON LAW CAUSE OF ACTION FOR CONCEALMENT

100. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 99 as if the same were set forth at length herein.

101. At all times relevant to this Complaint, Defendant City of Sea Isle, through its agents, servants and/or employees, and the Defendants, Nicholas William Falcichio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffl, Frank Taylor, William J. Kennedy, Chief of Police and John Does (1-10) (fictitious names), did secrete and/or conceal the identities of those individual agents and/or servants and/or employees of the Defendant, City of Sea Isle, who contributed and/or participated, and/or were complicit in the utilization of excessive force, the false arrest, the malicious prosecution, malicious abuse of process, malicious use of process, false writing and filing of police reports, and false testimony as set forth above. The aforesaid ~~Defendants further ratified the aforesaid wrongful conduct. The~~

Defendants were complicit by their action and inaction in the aforesaid.

102. As a direct and proximate result of the aforesaid, the minor Plaintiff Thomas McLoughlin was caused to suffer great emotional and psychological distress and damages and will in the

future suffer from emotional and psychological stress and damages. Furthermore, minor Plaintiff Thomas Edward McLoughlin suffered the anxiety and stress and distress of the charges and proceedings.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin, demands judgment individually and through his Guardian Ad Litem Robert McLoughlin, against Defendants, Nicholas William Falcicchio, Joshua Steven Giacyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffi, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (fictitious names), for:

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- d. attorney's fees;
- e. interest and costs of suit; and
- f. other such relief as the court deems just and

COUNT FOURTEEN

COMMON LAW CAUSE OF ACTION FOR
INADEQUATE TRAINING AND SUPERVISION

103. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through

102 as if the same were set forth at length herein.

104. At all times relevant to this Complaint, Defendant City of Sea Isle, through its agents, servants and/or employees, and the Defendants, William J. Kennedy, Chief of Police and other command and supervisory representatives of the City of Sea Isle, including, but not limited to, police officers, did carelessly, negligently and recklessly and did otherwise intentionally fail to provide and render adequate training and/or supervision for its police officers, including, but not limited to, Class II police officers. Nicholas William Falcicchio and Joshua Steven Giercyk, while knowing and otherwise under circumstances that Defendants should have known, that said agents, servants and/or employees would and did use excessive force, would and did file false and inaccurate police reports, and would and did institute false and inaccurate charges and prosecutions and otherwise would and did offer false testimony. Defendants' conduct was in the failure to train and render adequate supervision, was careless, negligent, reckless, grossly negligent, willful and/or malicious.

~~Furthermore, said conduct and failures were knowingly and~~
intentionally part of and constituted a moving force and causation of the Defendant City of Sea Isle's policies, practices, customs, habits and procedures. The Defendants authorized, permit, ratify and encourage the wrongful conduct and activities as Alleged herein.

105. As a direct and proximate result of the aforesaid, the minor Plaintiff Thomas McLoughlin suffered serious, life-threatening, painful and permanent injuries, which required hospital, medical and dental care and treatment, and will in the future require further hospital, medical and dental care and treatment, and was forced to endure great pain and suffering, and was caused to suffer great emotional and psychological distress and damages and will in the future suffer from emotional and psychological stress and damages. Furthermore, minor Plaintiff Thomas Edward McLoughlin suffered the anxiety and stress and distress of the charges and proceedings.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin, demands judgment individually and through his Guardian Ad Litem Robert McLoughlin, against Defendants, Nicholas William Falcicchio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garraffi, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-

~~10) (Exhibitions names), for:~~

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- d. attorney's fees;
- e. interest and costs of suit; and

f. other such relief as the court deems just and necessary.

COUNT FIFTEEN

CIVIL CONSPIRACY

106. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 105 as if the same were set forth at length herein.

107. At all times relevant to this Complaint, the Defendants, Nicholas William Falciochio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffl, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (fictitious names), did conspire with each other, aide and abet each other, were complicit with each other, to perform the acts and omissions regarding the wrongful conduct as set forth herein.

108. As a direct and proximate result of the aforesaid, the ~~minor plaintiff Thomas McLaughlin suffered serious, life~~ threatening, painful and permanent injuries, which required hospital, medical and dental care and treatment, and will in the future require further hospital, medical and dental care and treatment, and was forced to endure great pain and suffering, and was caused to suffer great emotional and psychological distress

and damages and will in the future suffer from emotional and psychological stress and damages. Furthermore, minor Plaintiff Thomas Edward McLoughlin suffered the anxiety and stress and distress of the charges and proceedings.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin, demands judgment individually and through his Guardian Ad Litem Robert McLoughlin, against Defendants, Nicholas William Falcicchio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffl, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (fictitious names), for:

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- d. attorney's fees;
- e. interest and costs of suit; and
- f. other such relief as the court deems just and

~~NECESSARY~~

COUNT SIXTEEN

EMOTIONAL STRESS AND DURESS OF ROBERT McLOUGHLIN

109. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through

108 as if the same were set forth at length herein.

110. On or about July 22, 2006, the Plaintiff Robert McLoughlin, was caused to be present at the time and place as aforesaid, known as the area of 123 42nd Street, Sea Isle City, New Jersey, and did personally view, and was otherwise present during a component of the wrongful conduct, as aforesaid, and did personally view and witness the injuries and damages to the minor Plaintiff Thomas Edward McLoughlin, his son.

111. At all times relevant herein, particularly on July 22, 2006, the Plaintiff Robert McLoughlin was caused to administer and obtain emergency care and treatment for the minor Plaintiff Thomas Edward McLoughlin, his son.

112. At all times herein mentioned, Robert McLoughlin did incur and suffer emotional and undue stress and distress as a result of the wrongful conduct of the Defendants as aforesaid.

113. The wrongful conduct of the Defendants did cause both intentional and negligent infliction of emotional distress as aforesaid.

~~114. As a direct and proximate result of the aforesaid, the Plaintiff Robert McLoughlin did suffer, and will in the future suffer, serious, permanent, painful and emotional damages and distress.~~

WHEREFORE, the Plaintiff Robert McLoughlin, demands judgment against Defendants, Nicholas William Falocchio, Joshua Steven

Gieroyk, Dennis Welsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffa, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (fictitious names),
for:

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- d. attorney's fees;
- e. interest and costs of suit; and
- f. other such relief as the court deems just and necessary.

COUNT SEVENTEEN

ROBERT McLOUGHLIN'S CLAIM FOR EXPENSES

115. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 114 as if the same were set forth at length herein.

~~116. At all times relevant to this Complaint, as a direct~~
and proximate result of the Defendants' wrongful conduct as described above, the Plaintiff Robert McLoughlin was caused to incur and expend large sums of money for the minor Plaintiff Thomas Edward McLoughlin, for his son's hospital, medical and dental care and treatment and will in the future be required to

expend and incur large sums for the minor Plaintiff Thomas Edward McLoughlin's medical and dental care and treatment, and was otherwise caused to expend large sums of money in order to obtain the means of defense for the wrongful and inappropriate criminal charges, proceedings and trial as aforesaid.

WHEREFORE, the Plaintiff Robert McLoughlin, demands judgment against Defendants, Nicholas William Falcichio, Joshua Steven Gieroyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffi, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (fictitious names), for:

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- d. attorney's fees;
- e. interest and costs of suit; and
- f. other such relief as the court deems just and

~~RECAPITULATE~~

COUNT EIGHTEEN

INDEPENDENT ACTIONS/INACTIONS
OF THE DEFENDANT, CITY OF SEA ISLE

117. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through

116 as if the same were set forth at length herein.

118. All actions and inactions as alleged against the Defendants, Nicholas William Falcicchio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garrefffi, Frank Taylor, William J. Kennedy, Chief of Police and John Does (1-10) (fictitious names), as agents, servants, representatives and/or employees of the Defendant the City of Sea Isle, were directly and indirectly part of the practice, policy, custom, habit and procedure of the Defendant the City of Sea Isle, and was the moving force and causation behind the Plaintiffs' injuries, as alleged herein, under federal, state and common law.

119. The Defendant City of Sea Isle had reason to know, knew and should have known of and/or were deliberately, indifferent to the wrongful the acts and omissions of the aforesaid Defendants as set forth in the preceding Counts of this Complaint. The conduct and omissions of the Defendant City of Sea Isle was negligent, reckless, intentional, willful, wanton and malicious.

~~120. As a direct and proximate result of the aforesaid, the~~
minor Plaintiff Thomas Edward McLoughlin suffered serious, painful and permanent traumatic physical, dental, emotional, psychological injuries and damages and did require and will in the future require hospital, medical and dental care and treatment. Furthermore, minor Plaintiff Thomas Edward McLoughlin

suffered the anxiety and stress and distress of the charges and proceedings. Furthermore, the Plaintiff Robert McLoughlin suffered and incurred damages and expenses as set forth in Counts 16 and 17 above.

WHEREFORE, the Plaintiffs, Robert McLoughlin, individually and as Guardian ad Litem for Thomas Edward McLoughlin, a minor and minor Plaintiff Thomas Edward McLoughlin, demands judgment individually and through his Guardian Ad Litem Robert McLoughlin and Plaintiff Robert McLoughlin, individually, against Defendant, City of Sea Isle, a body politic and municipal corporation, for:

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- d. attorney's fees;
- e. interest and costs of suit; and
- f. other such relief as the court deems just and necessary.

COUNT NINETEEN

JOINT & SEVERAL

121. The Plaintiffs repeat and re-allege each and every allegation contained in the Introduction and Paragraphs 1 through 120 as if the same were set forth at length herein.

WHEREFORE, the minor Plaintiff Thomas Edward McLoughlin,

demands judgment individually and through his Guardian Ad Litem Robert McLoughlin and Plaintiff Robert McLoughlin, individually, against Defendants, Nicholas William Falcichio, Joshua Steven Giercyk, Dennis Felsing, Sr., Rosemary Milano, Bud Boyer, Jon Gansert, Steve Conte, Anthony Garreffa, Frank Taylor, William J. Kennedy, Chief of Police, City of Sea Isle, a body politic and municipal corporation, and John Does (1-10) (fictitious names), jointly, severally and in the alternative, for:

- a. compensatory damages;
- b. exemplary and punitive damages;
- c. treble damages;
- d. attorney's fees;
- e. interest and costs of suit; and
- f. other such relief as the court deems just and necessary.

CARL D. POPLAR, P.A.
A PROFESSIONAL CORPORATION

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Attorneys for the Plaintiffs

DATED: November 26, 2007

DEMAND FOR TRIAL BY JURY

PLEASE TAKE NOTICE that Plaintiffs hereby demand trial by a jury of six persons as to all issues herein pursuant to Federal Rules of Civil Procedure 38(b).

CARL D. POPLAR, P.A.
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