

Duffy, Daniel

FOI # 13919

From:
Sent: Saturday, April 13, 2013 6:44 PM
To: Duffy, Daniel
Cc: Torres Rojas, Genara; Van Duyne, Sheree
Subject: Freedom of Information Online Request Form

Information:

First Name: John
Last Name: Paff
Company: na
Mailing Address 1:
Mailing Address 2:
City:
State:
Zip Code:
Email Address:
Phone:
Required copies of the records: Yes

List of specific record(s):

I request the following two records relating to each of the six cases shown below: a most recent amendment to the civil complaint or the original complaint if there is no amendment and b the settlement agreement or release that shows the terms including the amount of money, if any, accepted by the plaintiff. Each case name is followed by a New Jersey District Court civil case number Rogers v. PANYNJ, 02cv4961 Privitera v. PANYNJ, 06cv5360 Griswold v. PANYNJ, 08cv1839 Shostack v. PANYNJ, 11cv00177 Wesolowski v. PANYNJ, 11cv1379 Chisholm v. PANYNJ, 11cv1564 Thank you

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

August 2, 2013

Mr. John Paff

Re: Freedom of Information Reference No. 13919

Dear Mr. Paff:

This is a response to your April 13, 2013 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code") for copies of records related to the most recent amendment to the civil complaint or the original complaint and the settlement agreement or release that shows the terms including the amount of money, if any, accepted by the plaintiff for the following New Jersey District Court Civil Case Numbers: Rogers v. PANYNJ, 02cv4961, Privitera v. PANYNJ, -6cv5360, Griswold v. PANYNJ, 08cv1839, Shostack v. PANYNJ, 11cv00177, Wesolowski v. PANYNJ, 11cv1379 and Chisholm v. PANYNJ, 11cv1564.

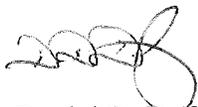
Material responsive to your request and available under the Code can be found on the Port Authority's website at <http://www.panynj.gov/corporate-information/foi/13919-O.pdf>. Paper copies of the available records are available upon request.

Material responsive to your request for the most recent complaint in the matter of Shostack v. PANYNJ was previously provided to you under FOI Reference No. 13369.

Certain material responsive to your request is exempt from disclosure pursuant to exemptions (1) and (3) of the Code.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,



Daniel D. Duffy
FOI Administrator

*225 Park Avenue South, 17th Floor
New York, NY 10003
T: 212 435 3642
F: 212 435 7555*

RELEASE

I, Alphonso Rogers, being more than twenty-one years of age and residing at
(Ex. 1) Social Security No. (Ex. 1) , for and in
consideration of the payment of Five Thousand Dollars and no cents (\$5,000.00), lawful money of
the United States of America paid to me and my attorney, Louis A. Zayas, Esq., by the Port
Authority of New York and New Jersey, the receipt whereof is hereby acknowledged, and without
any other representation, promise or agreement, written or oral, express or implied, having been
made to me, my heirs, executors and administrators, remise, release, and forever discharge the said
Port Authority of New York and New Jersey, its commissioners, officers, agents, servants and
employees, including Police Officers Richard Beatty, Thomas Baldassari and Michael Simons and
their supervisors as named or referred to in the Complaint (in their individual and official
capacities), their successors and assigns, of and from any and all manner of action and actions,
suits, debts, contracts, agreements, promises, damages, judgments, executions, claims and
demands whatsoever in law or in equity, which against said Port Authority of New York and New
Jersey, its commissioners, officers, agents and employees, including Police Officers Richard
Beatty, Thomas Baldassari and Michael Simons and their supervisors as named or referred to in
the Complaint (in their individual and official capacities), their successors and assigns, I ever had,
now have, or which I or my heirs, executors or administrators hereafter can, shall or may have for,
upon, or by reason of any matter, cause or thing whatsoever, occurring up to the date of this
Agreement; and, without limiting the generality of the foregoing, of and from any and all claims
for personal injury and/or property damage and for any compensatory, punitive and/or nominal
damages resulting from occurrences that were or might have been asserted in the lawsuit filed in
the United States District Court, District of New Jersey under Civil Action No.02-CV-4961, to

include all damages for any alleged violations arising under the Fourteenth Amendment to the United States Constitution and under 42 U.S.C. § 1983, including any claim for attorney fees arising out of or in any way related to this action.

As a further consideration for the payment of the sum of the aforesaid, I agree with, represent and declare as follows:

1. The settlement represents a final resolution of any injuries and/or damages sustained by me, whether wholly or partially unknown, permanent and progressive in nature, and where recovery there from may be uncertain and indefinite; nonetheless I intend to release and discharge all claims for all injuries known or unknown of any nature whatsoever.

2. This settlement underlying this Release is a compromise of a disputed claim and payment of the sum aforesaid shall not be construed as an admission of liability by the Port Authority of New York and New Jersey or any of its commissioners, officers, agents and employees, including Police Officers Richard Beatty, Thomas Baldassari and Michael Simons and their supervisors, as named or referred to in the Complaint (in their individual and official capacities), their successors and assigns all of whom expressly deny any liability or wrongdoing whatsoever.

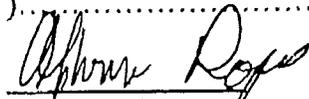
3. No representation has been made to me by the Port Authority of New York and New Jersey or by any attorney, commissioner, officer, claim agent or other person representing the agency, regarding the nature, extent or permanency of any injury. If any such representation has been made I place no reliance on it whatsoever and hereby release any claim arising out of any representation. Further, I have relied upon my own judgment, belief and knowledge in relation to all such matters.

4. I hereby certify and represent to the Releasee(s) that there are no liens that may attach to this settlement and, if there are any of which I am unaware, I will satisfy them and indemnify and hold harmless the Releasee(s) with regard thereto.

This Release constitutes an agreement between the signer hereof and the Port Authority of New York and New Jersey, its commissioners, officers, agents, servants and employees, including Police Officers Richard Beatty, Thomas Baldassari and Michael Simons and their supervisors as named or referred to in the Complaint (in their individual and official capacities), their successors and assigns, the terms of which agreement are contractual and not merely recitals.

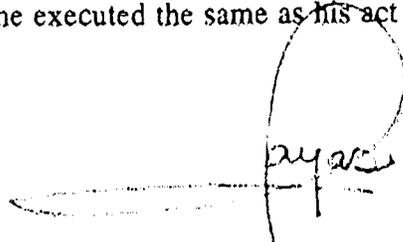
IN WITNESS WHEREOF each signer hereof has hereunto set the hand and seal of such signer the ___ day of October, in the year of our Lord, two thousand and six.

Each signer hereof Read, Signed and Delivered this release in my presence on the aforementioned date.).....(L.S.)
)
).....(L.S.)


Alphonso Rogers

STATE OF NEW JERSEY)
) ss.
COUNTY OF BERGEN)

On this 17 day of October, 2006 before me personally appeared Alphonso Rogers to me known and known to me to be the person described in, and who executed the above release, and duly acknowledged to me that he executed the same as his act and deed from the uses and purposes therein expressed.



Notary Public

CONOVER & ZAYAS LLP
LOUIS A. ZAYAS, ESQ. (LZ-1881)
11 State Street
Hackensack, N.J. 07601
(201) 489-3900
Attorney for the Plaintiff

FILED

RECEIVED-CLERK
U.S. DISTRICT COURT

2002 OCT 15 P 2:18

OCT 15 2002

AT 8:30
WILLIAM T. WALSH
CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

-----X
ALPHONSO ROGERS,

Plaintiff,

-against-

PORT AUTHORITY NY & NJ
RICHARD BEATTY,
THOMAS BALDASSARI,
MICHAEL SIMONS,

Defendants.
-----X

02cv4961
Civil No.
COMPLAINT
JURY TRIAL DEMANDED

The Plaintiff, ALFONSO ROGERS, by and through his attorneys, CONOVER &

ZAYAS LLP, alleges the following upon information and belief:

INTRODUCTION

1. This action is an action to redress the deprivation of Plaintiff's civil liberties under the Constitution of the United States secured under 42 U.S.C. §1983 and the Constitution of New Jersey, and common law claims.

PARTIES

2. Plaintiff ALFONSO ROGERS was, and still is, a resident of the State of New York residing in the Borough of the Bronx. Rogers is African American.

3. Defendant PORT AUTHORITY OF NY & NJ is a body politic and corporate by virtue of New Jersey law and pursuant to that law, is to be known and distinguished by the name "PORT AUTHORITY."

4. Defendant RICHARD BEATTY, THOMAS BALDASSARI, AND MICHAEL SIMONS ("defendant police officers") were and still are white police officers for the Port Authority at all relevant times as alleged in the complaint herein. Defendant police officers are sued in their official and individual capacity for purposes of effecting full the declaratory, injunctive, compensatory and punitive damages demanded by the Plaintiff.

JURISDICTION

7. The jurisdiction of this Court is invoked by Plaintiff pursuant to 28 U.S.C. §§ 1331 and 1343, which confer original jurisdiction upon this Court on the ground that this action arises under the Fourteenth Amendment to the United States Constitution and under 42 U.S.C. § 1983.

FACTS

8. On or about October 15, 2000 defendant police officer Beatty stopped Plaintiff's vehicle for an alleged traffic infraction. Upon information and belief, Beatty issued Plaintiff a number of motor vehicle tickets which Plaintiff voiced his objection. Beatty and Plaintiff argued over the merits of the above traffic tickets. Without provocation or any reasonable threat to his safety or the safety of others, Beatty violently assaulted Plaintiff by punching him repeatedly to the head. Beatty's physical assault caused Plaintiff to fall to the ground in a fetal position.

9. While plaintiff was on the ground, defendant police officers Simon and Baldassari

aided Beatty in subduing the plaintiff who was not offering any physical resistance.

10. Defendant police officers conspired to file false charges against the plaintiff to coverup their wrongdoing.

11. Pursuant to the Port Authority's custom of protecting each other from public scrutiny and shielding themselves from civil and criminal liability, commonly referred as the "code of silence," defendant police officers and others conspired to deliberately file false and misleading police reports, destroy and suppress favorable evidence, and obstruct justice.

12. In accordance to the police department's code of silence, police officer are free to engage in unconstitutional practices with the understanding that they will not be punished or disciplined. The code of silence enables police officers to file false and baseless criminal prosecutions against innocent civilians without risk that other police officer will object and report them to their supervisors or other law enforcement agencies. This unconstitutional environment encourages widespread illegal activities by members of the police department.

I.
FIRST CLAIM FOR RELIEF
42 U.S.C. § 1983
HELLER

14. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.

15. Defendant police officers and other unknown officers acting under the color of law subjected Plaintiff to the deprivation of the following rights, privileges and immunities secured by the Constitution and the laws of the United States:

(a) Plaintiff was deprived of his rights against unreasonable search and seizure ; abuse of process, First Amendment, equal protection, in violation of the Fourth and Fourteenth Amendments to the Constitution of the United States as alleged herein.

(b) Plaintiff was deprived of his rights against the use of unnecessary or excessive force under the Fourth and Fourteenth Amendment to the Constitution of the United States as alleged herein.

16. As a direct and proximate cause of the aforementioned, Plaintiff was deprived of his civil liberties, including: freedom from unreasonable search and seizure, freedom from malicious prosecution. All of these rights are secured by the Fourth and Fourteenth Amendments to the United States Constitution. As a result of the foregoing, Plaintiff has suffered and continue to suffer damages in an amount to be determined by a jury. Because of defendant police officers wilful and malicious conduct, Plaintiff seeks punitive damages in their individual capacity in an amount to be determined by a jury.

II.
SECOND CLAIM FOR RELIEF
MUNICIPAL LIABILITY PURSUANT TO 42 U.S.C. §1983

17. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.

18. At all times relevant to this complaint, defendant police officers and other unknown individuals were acting under the direction and control of the Port Authority and its police department, which acted through its agents and employees who were responsible for

making policy of the police department.

19. The Port Authority and its police department had a policy, custom, or practice of tolerating a "code of silence" which permitted police officers to engage in unconstitutional or extralegal activities with immunity.

20. The Port Authority and its police department had a policy, custom, or practice of tolerating widespread criminal activity by its police officers, including but not limited to, filing false and misleading criminal charges and police reports to coverup their wrongdoing and shield themselves from civil and criminal liability.

21. Defendant police officers were acting pursuant to that official policy, practice and/or custom of the Port Authority.

22. Acting under the color of law, by and through the policy-makers of the Port Authority and pursuant to official policy, custom and practice, Port Authority and its police department intentionally, knowingly, or with deliberate indifference to the rights of Plaintiff failed to train, instruct, supervise, control and/or discipline, on a continuing basis defendant police officers in the performance of his duties.

23. Defendant Port Authority and its police department knew or, had they diligently exercised their duties to instruct, supervise, control, and discipline on a continuing basis, should have known that there was a history of misconduct of police abuse and/or the particular misconduct was the result of a difficult choice which training or supervision would have prevented and which would frequently result in a constitutional violation in the absence of such training and supervision.

24. As a direct and proximate cause of the aforementioned, Plaintiff s were deprived of

their constitutional rights secured under Fourth and Fourteenth Amendments to the United States Constitution.

25. As a direct and proximate cause of the aforementioned, Plaintiffs were deprived of their civil liberties, including freedom from unreasonable search and seizure and malicious prosecution. All of these rights are secured under the Fourth and Fourteenth Amendments to the United States Constitution. As a result of the foregoing, Plaintiffs have suffered and continue to suffer damages in an amount to be determined by a jury.

III. THIRD CLAIM FOR RELIEF

26. All of the allegations in each of the foregoing paragraphs are incorporated by reference as if fully set forth herein.

27. At all times relevant to this complaint, defendants were negligent in the performance of their duties in that they used excessive and/or unnecessary force.

28. The defendant police officers acting in concert assaulted the plaintiff causing physical injury.

29. As a direct and proximate cause of the aforementioned, as a result of the foregoing, Plaintiffs have suffered and continue to suffer damages in an amount to be determined by a jury.

WHEREFORE, Plaintiff prays that this Court enter an order finding as follows:

(a) That Plaintiff recover from the Defendants, jointly and severally, compensatory damages, exemplary and punitive damages, attorney's fees, and such other monetary relief as requested herein or may be deemed appropriate in an amount to be determined at trial;

(b) And that the Court grant such other and further relief as it deems just and proper.

JURY TRIAL DEMANDED

Plaintiff request a trial by jury on all issues so triable.

DATED: October August 15, 2002

CONOVER & ZAYAS LLP
ATTORNEYS FOR PLAINTIFFS

By: _____

LOUIS A. ZAYAS, Esq. (LZ-1881)
11 State Street
Hackensack, N.J. 07601
(201) 489-3900

SUPERIOR COURT BERGEN COUNTY
FILED

09/28/2006 11:28AM 0000043199 0012
*NETTOTAL \$200.00

SEP 28 2006


DEPUTY CLERK

BENDIT WEINSTOCK

A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW
80 MAIN STREET
WEST ORANGE, N.J. 07052
(973) 736-9800

Attorneys for Plaintiff
Our File #39973-R

SEBASTIAN PRIVITERA

Plaintiff,

-vs-

PORT AUTHORITY OF NEW YORK
& NEW JERSEY; POLICE
OFFICER B. ST. CLAIR;
POLICE OFFICER P. LUCAS and
JOHN DOES (fictitious
persons whose true
identities are presently
unknown)

Defendants.

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION; BERGEN COUNTY
: DOCKET NO.: BERL-7229-06

: Civil Action

: COMPLAINT & JURY DEMAND

Plaintiff, Sebastian Privitera, residing at 8731 20th Avenue,
Brooklyn, New York 11214, by way of complaint against the
defendants says:

FIRST COUNT

1. On or about October 3, 2005, the plaintiff, Sebastian Privitera, was operating his motor vehicle at or near the George Washington Bridge in Fort Lee, New Jersey.

2. At all times relevant herein, the defendant, Port Authority of New York & New Jersey was an existing and duly incorporated and organized entity under the laws of the State of New Jersey and the State of New York.

3. At all times relevant herein, the defendants, Police Officer B. St. Clair, Police Officer P. Lucas and John Does, were police officers employed by the defendant, Port Authority of New York & New Jersey.

4. At all times relevant herein, the defendants, Police Officer B. St. Clair, Police Officer P. Lucas and John Does, were acting in their capacity as law enforcement officers for their respective employers, the defendants, Port Authority of New York & New Jersey.

5. At the time and place set forth above, the plaintiff, Sebastian Privitera, sustained serious and permanent injuries as a result of the negligence and carelessness of the defendants named herein as defined and delineated by the applicable New Jersey Statutes.

6. The defendants, Police Officer B. St. Clair, Police Officer P. Lucas and John Does, and vicariously, their employer,

the Port Authority of New York & New Jersey, were negligent and careless in their actions and inactions as police officers for the Port Authority of New York & New Jersey as defined and delineated by the applicable New Jersey Statutes.

7. The defendant, Port Authority of New York & New Jersey, was negligent and careless, as defined and delineated by applicable New Jersey Statutes, in failing to provide adequate training to its police officers, including the individual defendants named herein, regarding the standards and methods of appropriate police procedures.

8. The plaintiff provided the defendant, Port Authority of New York & New Jersey, with proper notice in accordance with applicable New Jersey Statutes.

9. As a result of the aforesaid negligence and carelessness of the defendants, the plaintiff was severely injured and suffered permanent disability.

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

SECOND COUNT

1. Plaintiff repeats and realleges all of the allegations of the First Count as though set forth herein verbatim.

2. The defendants, Police Officer B. St. Clair, Police Officer P. Lucas and John Does, committed an assault and battery

upon the plaintiff, thereby causing serious and permanent injuries to the plaintiff.

3. The defendants, Police Officer B. St. Clair, Police Officer P. Lucas and John Does, committed intentional acts which constituted false imprisonment upon the plaintiff, thereby causing serious and permanent injuries to the plaintiff.

4. As a result of the aforesaid intentional acts of the defendants, the plaintiff was severely injured and suffered permanent disability.

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

THIRD COUNT

1. Plaintiff repeats and realleges all of the allegations of the First Count and Second Count as though set forth herein verbatim.

2. The defendants named herein violated the civil rights of the plaintiff resulting in the deprivation of his 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.

3. Plaintiff alleges that the defendants are liable to the plaintiff for the aforesaid violations of his 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 against the defendants as a result of the violations of plaintiff's civil rights, together with attorney's fees, interest and costs of suit.

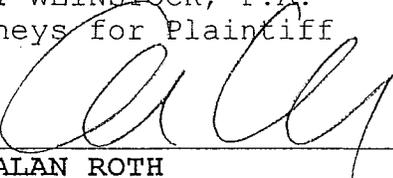
BENDIT WEINSTOCK, P.A.
Attorneys for Plaintiff

BY: 

ALAN ROTH

WHEREFORE, plaintiffs demands Trial by Jury on all issues.

BENDIT WEINSTOCK, P.A.
Attorneys for Plaintiff

BY: 

ALAN ROTH

Dated:



CERTIFICATION IN ACCORDANCE WITH R.4:5-1

1. The matter in controversy is not the subject of any other action pending in any Court or a pending arbitration proceeding.

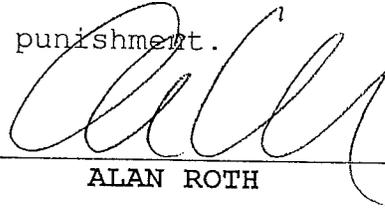
2. No other action or arbitration proceeding is contemplated.

3. There are no known parties who may be liable to any party on the basis of the transaction or events which form the subject matter of this action who should be joined pursuant to R. 4:28.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I may be subject to punishment.

Dated:

September 28, 2006



ALAN ROTH

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

LAW DEPARTMENT
PORT AUTHORITY CLAIMS

RECEIVED-CLERK
U.S. DISTRICT COURT

2008 MAY -6 P 5:14 2008 APR 14 A 9:00

**JAMES BRANDON GRISWOLD, DENNIS HULSE,
and JAMIE M. OLIVA, on behalf of themselves and all
other persons denied admission to the Police Academy for the
Port Authority of New York and New Jersey, and specifically
including those in the 107th, 108th, 109th and 110th classes of
applicants, so similarly situated,**

Plaintiffs,

COMPLAINT

Index No.: 08-CV-01839

JURY TRIAL DEMANDED

-against-

PORT AUTHORITY OF NEW YORK & NEW JERSEY,

**DORIS FRANCIS, Ph.D., individually and in her
official capacity as an employee and/or agent of/for
The Port Authority of New York and New Jersey,**

**ROBIN MARTIN, individually and in her
official capacity as Medical Operations Manager for
The Port Authority of New York and New Jersey,**

**LILLIAN VALENTI, individually and in her
official capacity as Director of Medical Services,**

and

**MARTIN DUKE, MD, individually and in his
official capacity as Chief Medical Officer for
The Port Authority of New York and New Jersey.**

Defendants.

2008 MAY -6 A 9:13
PORT AUTHORITY OF NY & NJ
OFFICE OF THE SECRETARY

The Plaintiffs, by their attorneys, **ROBERT M. SIMELS, P.C., Robert M. Simels, Esq., of
counsel,** complaining of the Defendants on behalf of themselves and all other persons so similarly
denied admission to the Police Academy for the Port Authority of New York and New Jersey, and
specifically including those in the 107th, 108th, 109th and 110th classes of applicants, on the basis of

their psychological evaluation(s), allege upon direct knowledge and/or information and belief:

NATURE OF ACTION

1. This is a class action, brought under 42 U.S.C. § 1983, *et seq.*, the United States Constitution and New Jersey State Constitution and common law, seeking redress and damages, including compensatory and punitive damages, injunctive relief and other relief as may be just and proper, as a result of the Defendants' practices and procedures in improperly administering and erroneously evaluating a battery of otherwise onerous, unreliable, invalid and archaic psychological testing and other non-job related evaluations all of which require applicants to answer and respond to highly invasive, personal and offensive questioning as a condition of employment, all of which probe into the private thoughts, beliefs and innermost feeling of the applicants, and require them to disclose their sexual practices, religious beliefs, medical conditions and sexual orientation, all of which violate the Plaintiffs' Constitutional rights under the First, Fifth and Fourteenth Amendments to freedom of speech, privacy, liberty and substantive due process, among other things.

2. Plaintiffs bring this action on behalf of themselves, and a class of all similarly situated persons, and the general public, seeking damages and injunctive relief.

3. This Court has subject matter jurisdiction pursuant to 28 U.S.C §§ 1331 and 1343 as the matters arise under the Civil Rights Act of 1871, 42 U.S.C. §§ 1983, and the United States Constitution.

4. Venue is proper pursuant to 28 U.S.C. § 1391.

5. Pursuant to 28 U.S.C. § 1332, Plaintiffs demand a jury trial on all causes of action set forth herein.

PARTIES

6. Plaintiff JAMES BRANDON GRISWOLD ("GRISWOLD") is an individual male applicant in the 109th class for admission to the Port Authority of New York and New Jersey Police Academy and who was administered and alleged to have "failed" the psychological portion of the PAPD application process and was denied admission to the Academy, purportedly on that basis.

7. Plaintiff DENNIS HULSE ("HULSE") is an individual male applicant in the 107th class for admission to the Port Authority of New York and New Jersey Police Academy and who was administered and alleged to have "failed" the psychological portion of the PAPD application process and was denied admission to the Academy, purportedly on that basis.

8. Plaintiff JAMIE M. OLIVA ("OLIVA") is an individual male applicant in the 109th class for admission to the Port Authority of New York and New Jersey Police Academy and who was administered and alleged to have "failed" the psychological portion of the PAPD application process and was denied admission to the Academy, purportedly on that basis.

9. Defendant PORT AUTHORITY OF NEW YORK AND NEW JERSEY (hereinafter "PAPD") is a public agency established by and pursuant to the laws and regulations of the States of New York and New Jersey for the purpose of managing and maintaining the bi-state region's trade and transportation capabilities, including bridges, tunnels, bus terminals, airports and seaports.

10. Defendant DORIS FRANCIS, Ph.D., (hereinafter "FRANCIS") is sued both individually and in her official capacity as an employee and/or agent of/for the PAPD. Upon information and belief, FRANCIS has been and remains employed by the PAPD as a psychologist and, as such, is generally responsible for subjectively evaluating and providing a determination as to the eligibility of applicants for the PAPD Police Academy (hereinafter "applicants").

11. LILLIAN VALENTI (hereinafter "VALENTI") is sued both individually and in her

official capacity as Director of Medical Services for the PAPD. Upon information and belief, VALENTI, as Director of Medical Services, was responsible for managing, overseeing and otherwise implementing policies, procedures, practices regarding the overall processing and determination of the eligibility of applicants based on their purported psychological and/or medical conditions.

12. ROBIN MARTIN (hereinafter "MARTIN"), is sued both individually and in her official capacity as Medical Operations Manager for the PAPD. Upon information and belief, MARTIN is generally responsible for managing, overseeing and otherwise implementing policies, procedures, practices regarding the processing and determination of the eligibility of applicants based on their purported psychological and/or medical conditions.

13. MARTIN DUKE, MD, (hereinafter "DUKE") is sued both individually and in his official capacity as Chief Medical Officer for the PAPD. Upon information and belief, DUKE is generally responsible for managing, overseeing and otherwise implementing policies, procedures, practices regarding the processing and determination of the eligibility of applicants based on their purported psychological and/or medical conditions.

14. Upon information and belief, Defendants FRANCIS, VALENTI, MARTIN and DUKE act, in their official capacities, as employees, agents, administrators and/or policymakers of the PAPD.

15. Upon further information and belief, Defendants FRANCIS, VALENTI, MARTIN and DUKE acted individually and in concert in carrying out the psychological processing and evaluation of Plaintiffs and other class members and/or failing to act in accordance with constitutional principles, statutes and other legal or administrative rules and regulations as hereinafter described and set forth and knew or should have known that their actions and/or failures to act were

unreasonable, unlawful and/or in violation of the rights of Plaintiffs and all other class members.

CLASS ACTION ALLEGATIONS

16. This action is brought on behalf of the Plaintiffs and on behalf of each and all other persons similarly situated, pursuant to Rule 23 of the Federal Rules of Civil Procedure. The class consists of all past, present and future applicants for employment with the PAPD who were required or in the future will be required to undergo purported psychological testing and questioning as set forth more fully in Paragraph "1" or who were, or in the future will be, otherwise adversely affected by Defendants' practices and procedures regarding such purported psychological testing and, specifically including, those persons who were denied admission to the PAPD Police Academy in the 107th, 108th, 109th and 110th classes of applicants on the basis of their psychological evaluation(s).

17. Plaintiffs are entitled to bring this suit as a class action for the following reasons:

a) Plaintiffs represent an ascertainable class of persons subjected to Defendants' practices and procedures regarding psychological testing. The above described class is so numerous that joinder of all members, whether otherwise required or permitted, is wholly impracticable.

b) There exist questions of law or fact common to the class which predominate over any questions affecting only individual members in that it is alleged that Defendants' mandated processes, procedures and criteria used to conduct alleged psychological evaluations of its applicants is violative of the First, Fifth and Fourteenth Amendments to the United States Constitution, Article I, Section I of the New Jersey State Constitution and New Jersey State common law in that:

- D) such processes, procedures and criteria are invalid, unreliable and undependable and are not business related in that they are not indicative of an applicant's competence to carry a weapon or otherwise perform the essential functions of the position as a Port Authority Police Officer, such responses are evaluated on an individual and instead of an aggregate basis and such psychological results are not validated by comparison to the statistical "norms" of those examinations administered on the national and local levels;
- ii) such processes, procedures and criteria inhibit free speech and compel answers to highly personal religious, political and medical questions that are wholly irrelevant to a candidate's competence to carry a weapon or otherwise perform the essential functions of the position as a Port Authority Police Officer;
- iii) such processes, procedures and criteria compel answers regarding personal and private issues, such as familial circumstances, sexual orientation and non-employment related medical conditions, such as bowel movement habits, etc., and other information that is wholly irrelevant to a candidate's competence to carry a weapon or otherwise perform the essential functions of the position as a Port Authority Police Officer; and,
- iv) in that such processes, procedures and criteria, and as applied by Defendants, are violative of the Plaintiff's right, and the rights of all others so similarly situated, to be free from arbitrary governmental action.
- c) The claims of the Plaintiffs are typical of the claims of the above described class.
- d) The Plaintiffs will fairly and adequately protect the interests of the class inasmuch as it is the Defendants' processes, procedures and criteria that are being challenged as invalid, arbitrary and unconstitutional and not the individual determinations regarding each applicant's alleged psychological fitness or ability; Plaintiffs seek, among other things, to compel

the Defendants to utilize only those psychological evaluation(s) processes, procedures and criteria that are valid, legitimate, relevant, rational and which do not violate the privacy, liberty and substantive due process rights of the applicants.

e) Defendants have acted on grounds generally applicable to the class, in that Defendants have improperly and/or inappropriately administered unreliable, invalid, and archaic purported psychological evaluations to each class member and, thus, the class as a whole is entitled to injunctive and declaratory relief.

f) The prosecution of separate actions by individual class members would necessarily create the risk of inconsistent or varying adjudications with respect to individual members of the class and would, in turn, establish incompatible standards of conduct for the Defendants.

g) The questions of law and fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

STATEMENT OF CLAIM

18. Plaintiffs repeat and reallege the allegations contained in Paragraphs "1" through "17" with the same force and affect as if set forth fully herein.

19. Defendants administer to a class of applicants, on an periodic basis, a competitive employment examination for the position of Port Authority Police Officer.

20. Those applicants who score high enough on the competitive examination are then deemed to be eligible for possible admission to the PAPD Police Academy in the specific

corresponding class of applicants and are subjected to examination of educational credentials and background checks.

21. The classes of applicants are successively numbered by PAPD. Upon information and belief, as of the date of this Complaint, the PAPD is considering applicants in the 111th class for admission to its Police Academy.

22. Upon satisfactory completion of the background check and examination of credentials, each applicant receives correspondence congratulating their selection to continue on with the next phase of the Port Authority's selection process, which involves medical evaluations and purported psychological assessments.

23. Plaintiffs GRISWOLD, HULSE and OLIVA together with numerous other similarly situated class members, all took and passed the applicable competitive examination and were provided with an offer of employment contingent upon their successful completion of the medical and psychological evaluation phase.

24. In or around August 2007, Plaintiffs GRISWOLD and OLIVA, together with numerous other similarly situated class members in the 109th class for admission to the PAPD Police Academy, were notified that the Port Authority Office of Medical Services was, without any specific reason or detail, "unable to certify" him/her for appointment to the position of police officer.

25. In or around May 2006, Plaintiff HULSE, together with numerous other similarly situated class members in the 107th class for admission to the PAPD Police Academy, was notified that the Port Authority Office of Medical Services was, without any specific reason or detail, "unable to certify" him/her for appointment to the position of police officer.

26. The PAPD's failure and/or refusal to speedily inform each Plaintiff, and other so

similarly situated class members, of the reasons for the refusal to certify him/her for appointment to the position of police officer unnecessarily caused emotional distress, anxiety, stress and other suffering to Plaintiffs, and, upon information and belief, numerous other so similarly situated class members, in that each believed that the medical evaluations must have revealed some defect, disease, illness or medical impairment of which they were not aware and/or informed of.

27. Plaintiffs GRISWOLD, HULSE and OLIVA, and, upon information and belief, together with numerous other similarly situated class members, were not informed that the reason s/he was not certified was allegedly based on failure to pass the psychological evaluation(s) until after each Plaintiff and other so similarly situated class member specifically requested the reasons, together with all documentation supporting, why s/he was not so certified for appointment.

28. Despite each named Plaintiff's and class member's request to be provided with all relevant documents and information as to the refusal to certify him/her for appointment to the position of police officer, PAPD has refused to provide same.

29. Plaintiffs GRISWOLD, HULSE and OLIVA, and, upon information and belief, numerous other similarly situated class members, specifically and formally requested to appeal the decision to not certify him/her for appointment to the position of police officer.

30. Plaintiffs GRISWOLD, HULSE and OLIVA, and, upon information and belief, numerous other similarly situated class members, were informed that no external or other appeal process exists by which a candidate can seek review of the refusal to certify him/her for appointment.

31. Upon information and belief, Plaintiffs GRISWOLD, HULSE and OLIVA, and numerous other similarly situated class members, were and remain psychologically fit for appointment to the position of police officer.

32. Upon information and belief, Plaintiffs GRISWOLD, HULSE and OLIVA, and numerous other similarly situated class members, have previously taken and successfully completed psychological evaluations and/or testing and have been found suitable to work in law enforcement.

33. Upon information and belief, and as a pre-condition in order to be considered for admission to the Police Academy and, in turn, employment with the PAPD, Plaintiffs and all other applicants similarly situated, including those of the 107th, 108th, 109th and 110th classes, specifically, have been subjected to and are required to "pass" a battery of purported psychological and personality evaluations, including the Minnesota Multiphasic Personality Inventory (hereinafter "MMPI"), the Law Enforcement Assessment and Development Report (hereinafter "LEADR Report"), the Cornell Index, and/or the Human Figure Drawing, among others.

34. The MMPI is a psychological test used by psychologists to diagnose and treat individuals with abnormal psychological symptoms and personality traits. Upon information and belief, the version of the MMPI administered by Defendants is outdated and is no longer generally used by psychologists.

35. The version of the MMPI administered by the PAPD consists of over 500 true or false questions. A large number of these questions require the applicant to answer "true" or "false" to numerous questions asking about the applicant's sexual practices or beliefs, religious convictions and practices, medical conditions, and sexual orientation, including but not limited to, the following:

- a) People should try and understand their dreams and be guided by or take warning from them;
- b) Evil spirits possess me at times;
- c) My soul sometimes leaves my body;
- d) Much of the time I feel as if I have done something wrong or evil;

- e) I believe in a life hereafter;
- f) I believe my sins are unpardonable;
- g) I deserve severe punishment for my sins;
- h) I have never seen a vision;
- I) Ghosts or spirits can influence people for good or bad;
- j) I believe I am a condemned person;
- k) I have been inspired to a program of life based on duty which I have since carefully followed;
- l) The man should be the head of the family;
- m) Sometimes in elections, I vote for people about whom I know very little;
- n) I have strong political opinions;
- o) My sex life is satisfactory;
- p) I am troubled by attacks of nausea and vomiting;
- q) I am very seldom troubled by constipation;
- r) I am bothered by an upset stomach several times a week;
- s) I seldom worry about my health;
- t) I have a cough most of the time;
- u) Much of the time my head seems to hurt all over;
- v) Once a week or oftener I suddenly feel hot all over, for no reason;
- w) I am in just as good physical health as most of my friends;
- x) I am almost never bothered by pains over my heart or in my chest;
- y) Parts of my body often have feelings like burning, tingling, crawling, or like "going to sleep";

- z) I hardly ever feel pain in the back of my neck;
- aa) I am troubled by discomfort in the pit of my stomach every few days or oftener;
- bb) I have often wished I were a girl. (Or if you are a girl) I have never been sorry that I am a girl;
- cc) I believe women ought to have as much sexual freedom as men;
- dd) I have a great deal of stomach trouble;
- ee) I have never indulged in any unusual sex practices;
- ff) I have never had a fit or convulsion;
- gg) I have never had a fainting spell;
- hh) I seldom or never have dizzy spells;
- ii) I am worried about sex;
- jj) I have very few headaches;
- kk) I do not have spells of hay fever or asthma;
- ll) I have few or no pains;
- mm) I have numbness in one or more places on my skin;
- nn) My eyesight is as good as it has been for years;
- oo) I wish I were not bothered by thoughts about sex;
- pp) Many of my dreams are about sex;
- qq) I have never been paralyzed or has any unusual weakness of any of my muscles; and
- rr) I have often wished I were a member of the opposite sex.

36. The MMPI is a psychological test designed to be administered individually by a trained psychologist in a controlled and private setting. Upon information and belief, however, PAPD

has its own, untrained and unlicensed employees administer the test to applicants, often in large group settings.

37. An applicant's responses to the MMPI, and other psychological evaluation, questions are meant to be interpreted in the aggregate and, further, compared in the aggregate, for reliability and validity purposes, to the statistical "norms" of those exams administered on national and local levels.

38. However, upon information and belief, PAPD was and is evaluating applicant responses to the MMPI, and other psychological examinations, on an individual, rather than an aggregate basis, so that an applicant's response to one particular question could, in fact, preclude him/her from being considered by the PAPD for employment, despite his/her aggregate responses otherwise falling in the local and/or national statistical "norms."

39. The Cornell Index is a psychological test designed to identify persons with serious personality disturbances and, like the MMPI requires responses of "Yes" or "No" to highly personal and intrusive questions.

40. Upon information and belief, the Cornell Index is not accepted as a reliable indicator of future job performance of police applicants.

41. The Human Figure Drawing is a psychological examination used to purportedly measure personality functions, sexual abuse and emotional disturbances in children based upon an analysis and evaluation of the child test-taker's drawing of a human figure.

42. Upon information and belief, the Human Figure Drawing is an outdated, unreliable and invalid tool for purposes of psychological evaluation.

43. The LEADR Report is a psychological test which purports to evaluate personality

characteristics to allegedly identify individuals who can become successful law enforcement officers.

44. However, upon information and belief, LEADR Report is not accepted as a reliable indicator of future job performance of police applicants.

45. Upon information and belief, the LEADR Report requires applicants to answer over 300 personal and intrusive questions that are then supposed to be scored by the Institute for Personality and Ability Testing, Inc. (hereinafter "IPAT"). An applicant's individual responses are not supposed to be shared with the exam administrators.

46. Further, each applicant's LEADR results are supposed to be validated by comparing same with the national and local statistical "norms."

47. Upon information and belief, PAPD agents, officials, employees and administrators have access to, review and improperly make adverse employment decisions based upon an applicant's individual LEADR responses; fail to compare and validate the reliability and/or validity of each applicant's aggregate results to local test score range "norms"; and, fail to administer the evaluation by a licensed and trained psychologist.

48. Upon information and belief, PAPD also administers other various personality inventories which are outdated and which also ask personal and intrusive questions about personal and private matters that are wholly unrelated to an applicant's ability to perform the essential functions of the position of Port Authority Police Officer and/or are an unreliable and invalid indicator of future job performance.

49. PAPD's use of the MMPI, Cornell Index, LEADR Report, Human Figure Drawing and/or any other psychological evaluations are not narrowly tailored to and/or in furtherance of any legitimate governmental or state interest inasmuch as the evaluations are not administered properly,

consistently and/or in a way that demonstrates any valid or reliable correlation between applicant selection and his/her ability to successfully perform the duties of the job.

50. Upon information and belief, each of the aforementioned evaluations bear no rational or relevant relationship to an applicant's ability to competently carry and discharge a firearm and/or perform the essential functions of the position of a Port Authority Police Officer and, further, are evaluations that have either been proven to be invalid; to not lead to credible or reliable psychological assessment results; and/or which are being improperly administered or interpreted by the Port Authority and, thus, are yielding invalid results and/or are being used to reject applicants on arbitrary and non-job related bases.

51. Upon information and belief, Defendants are administering the aforementioned evaluations incorrectly, inappropriately and improperly, including, but not limited to:

- a) failing to compare each applicant's test results to those of the national law enforcement norms, in addition to the Port Authority's own statistical norms as required in all psychological evaluations to establish the reliability and validity of same;
- b) allowing individuals other than those trained at the doctoral level to administer, evaluate and issue a determination on the evaluation results and to do so on a subjective basis and with no set or consistent criteria to be evaluated;
- c) administering personal interviews of applicants that are not structured in nature and which vary widely from applicant to applicant and which are conducted by individuals other than those persons qualified and/or trained to perform police evaluations;
- d) allowing individuals other than those trained to evaluate the Human Figure Drawing to administer, evaluate and issue a determination on the purported evaluation results without any assessment as to the suitability of the administrator's ability to evaluate same; and
- e) administering each of the aforementioned evaluations in conjunction with one another despite a complete lack of research that the evaluation results can be

validly interpreted and construed together.

52. Each applicant, including Plaintiffs, was required to take and respond to each written purported psychological evaluation.

53. Thereafter, each applicant, including Plaintiffs, was personally interviewed by an employee and/or agent of the Port Authority for alleged purposes of psychological assessment and evaluation.

54. Upon information and belief, each applicant who received a negative determination following the initial psychological interview, was referred to one or more subsequent employees and/or agents of the Port Authority for additional psychological interview(s), but without each applicant's knowledge that s/he had "failed" the first evaluation.

55. None of the candidates were informed that they had received a negative determination until such time that his/her psychological assessment had been completed.

56. Instead, upon the unilateral determination of the Port Authority and its employees and/or agents, each applicant was summarily informed that he/she was no longer eligible for selection to continue to the Port Authority Police Academy.

57. None of the candidates were provided with a detailed basis supporting their purported psychological assessment; a meaningful or substantive ability to appeal the negative determination; or an opportunity to present evidence or argument in opposition to same.

**FIRST CAUSE OF ACTION AGAINST DEFENDANTS
(Violation of Privacy & Liberty Rights Under the 14th Amendment)**

58. Plaintiffs repeat and reallege the allegations contained in Paragraphs "1" through "55"

with the same force and affect as if set forth fully herein.

59. Upon information and belief, and as a precondition to employment with the Port Authority, Defendants subject all applicants, including those of the 107th, 108th, 109th and 110th applicant classes to various processes and procedures purporting to psychologically evaluate each candidate, including, among other things, the MMPI, and which required Plaintiffs, and all other applicants, to divulge information that is protected in the realm of both marital, familial and personal sanctity.

60. Specifically, the MMPI called for true or false answers to numerous personal statements which sought highly sensitive and personal information regarding Plaintiffs, and each other class member, regarding sexual intercourse; gender-identity and stereotypes; physical and mental disabilities or limitations; medical conditions, including bladder and bowel habits and personal hygiene; religious and political beliefs; and familial relationships, among other things.

61. Defendants have violated Plaintiffs' constitutional rights by, among other things:
- a) requiring Plaintiffs and other class members to submit to intensive psychological and other non-job related examinations as a condition of employment;
 - b) asking intrusive and personal questions of Plaintiffs and other class members about private matters that have no relationship or relevance to job performance or qualifications;
 - c) forcing Plaintiffs and other class members to reveal deeply private facts about their personal lives and beliefs, thereby subjecting them to stigmatization, embarrassment, humiliation, emotional distress and adverse employment actions;
 - d) intruding into the off-duty private lives and conduct of Plaintiffs and other class members, without any compelling or reasonable need to do so, particularly since the psychological evaluations were not being administered in such a way that would yield valid and/or reliable results as to employment decisions and applicant selection;
 - e) engaging in the overly broad collection and retention of unnecessary personal information about Plaintiffs and other class members;

- f) disseminating the results of the psychological and medical examinations to others, including unlicensed, untrained employees, agents and/or administrators of the Defendants for no legitimate or proper purpose;
- g) failing to hire Plaintiffs and other class members based on PAPD's and others' subjective evaluations of Plaintiffs' and other class members' test results when such test results were never validated by comparing same to the "norms" of those examinations administered on national and local levels; and
- h) failing to hire Plaintiffs and other class members based on PAPD's and others' subjective evaluations of Plaintiffs' and other class members' individual responses to personal and intrusive questions on the psychological examinations that have no relationship to each applicant's actual psychological fitness and/or job performance or qualifications.

62. The aforementioned practices, processes, procedures and criteria mandated responses to statements which elicited information regarding Plaintiffs' and other class members' personal and sensitive beliefs and opinions, which are constitutionally protected, and which are wholly irrelevant to their ability and/or competence to perform the duties of a law enforcement position, such as a Port Authority Police Officer.

63. Plaintiffs, and all others similarly situated, have a constitutionally protected privacy interest in not disclosing personal information, in the character and amount of that disclosed herein, to government employees and/or agents.

64. The impact of the psychological evaluation processes, procedures and criteria, and as applied by the Defendants, on the privacy interests of the Plaintiffs and all others so similarly situated burdens a liberty interest under the Fourteenth Amendment to such a magnitude necessary to mandate judicial review.

65. The Defendants' interests at issue here are not so compelling to sustain their processes, procedures and criteria which burden the Plaintiffs' right of privacy.

66. The Defendants' processes, procedures and criteria used to make purported psychological evaluations and, in turn, employment decisions regarding Plaintiffs and all others so similarly situated are not narrowly tailored to further any compelling state interest inasmuch as said processes, procedures and criteria are unreliable, invalid and is not the least restrictive means to achieve the goal of employing those candidates competent to carry a firearm and to otherwise perform the essential functions of the position of a Port Authority Police Officer.

67. The Defendants' processes, procedures, criteria and application of same to Plaintiffs and other candidates so similarly situated are more burdensome than necessary to further or protect the government interests in security and order and, in any event, do not conform to the reasonable and standard accepted practices regarding psychological assessments and evaluations as set forth more fully above in ¶¶s 26-40.

68. Upon information and belief, Plaintiffs, and others similarly situated, were evaluated on the basis of their individual responses to said questions and, as a result, were improperly denied employment opportunities with the Port Authority based on their personal beliefs and opinions.

69. As a result of Defendants' actions, Plaintiffs, and all others so similarly situated, have been irreparably harmed and suffered financial loss, including lost wages, emotional distress, loss of reputation, and loss of enjoyment of life, among other things.

**SECOND CAUSE OF ACTION AGAINST DEFENDANTS
(Violation of Substantive Due Process Rights Under the 14th Amendment)**

70. Plaintiffs repeat and reallege the allegations contained in Paragraphs "1" through "67" with the same force and affect as if set forth fully herein.

71. Upon information and belief, Defendants subjected Plaintiffs and all other class

members, including applicants of the 107th, 108th, 109th and 110th classes, to various and purported psychological evaluations, including the MMPI.

72. Defendants have violated Plaintiffs' constitutional rights by, among other things:
- a) requiring Plaintiffs and other class members to submit to intensive psychological and other non-job related examinations as a condition of employment;
 - b) asking intrusive and personal questions of Plaintiffs and other class members about private matters that have no relationship or relevance to job performance or qualifications;
 - c) forcing Plaintiffs and other class members to reveal deeply private facts about their personal lives and beliefs, thereby subjecting them to stigmatization, embarrassment, humiliation, emotional distress and adverse employment actions;
 - d) intruding into the off-duty private lives and conduct of Plaintiffs and other class members, without any compelling or reasonable need to do so, particularly since the psychological evaluations were not being administered in such a way that would yield valid and/or reliable results as to employment decisions and applicant selection;
 - e) engaging in the overly broad collection and retention of unnecessary personal information about Plaintiffs and other class members;
 - f) disseminating the results of the psychological and medical examinations to others, including unlicensed, untrained employees, agents and/or administrators of the Defendants for no legitimate or proper purpose;
 - g) failing to hire Plaintiffs and other class members based on PAPD's and others' subjective evaluations of Plaintiffs' and other class members' test results when such test results were never validated by comparing same to the "norms" of those examinations administered on national and local levels; and
 - h) failing to hire Plaintiffs and other class members based on PAPD's and others' subjective evaluations of Plaintiffs' and other class members' individual responses to personal and intrusive questions on the psychological examinations that have no relationship to each applicant's actual psychological fitness and/or job performance or qualifications.

73. Upon information and belief, Defendants' processes, procedures, criteria and application of same as to the purported psychological fitness of Plaintiffs and all others so similarly

situated is irrational, arbitrary and capricious and offend judicial notions of fairness.

74. Upon information and belief, Defendants' processes, procedures and criteria, including the application of same to Plaintiffs', and all others so similarly situated, purported psychological evaluation(s) is unstandardized, subjective, unreliable and invalid and constitutes an arbitrary and oppressive exercise of governmental power.

75. The Defendants' processes, procedures and criteria used to make purported psychological evaluations and, in turn, employment decisions regarding Plaintiffs and all others so similarly situated are not narrowly tailored to further any compelling state interest inasmuch as said processes, procedures and criteria are unreliable, invalid and not rationally related to the goal of employing those candidates competent to carry a firearm and to otherwise perform the essential functions of the position of a Port Authority Police Officer.

76. Plaintiffs, and all others so similarly situated, were not afforded an appeal or hearing within which to knowingly and meaningfully present argument or evidence in support of their capacity and competence to perform the essential functions of the position of Port Authority Police Officer.

77. Defendants' alleged internal appeals process is biased and inadequate to protect the interest of the Plaintiffs and all other similarly situated applicants in avoiding arbitrary governmental action inasmuch as said process is tainted, subjective and based upon invalid and unreliable statistics and/or predictions.

78. As a result of Defendants' actions, Plaintiffs, and all others so similarly situated, have been irreparably harmed and suffered financial loss, including lost wages, emotional distress, loss of reputation, and loss of enjoyment of life, among other things.

**THIRD CAUSE OF ACTION AGAINST DEFENDANTS
(Violation of 1st Amendment Rights)**

79. Plaintiffs repeat and reallege the allegations contained in Paragraphs "1" through "76" with the same force and affect as if set forth fully herein.

80. Upon information and belief, Defendants subjected Plaintiffs and all other class member, including applicants of the 107th, 108th, 109th and 110th classes, to various and purported psychological evaluations, including the MMPI.

81. The MMPI called for true or false answers to religious and/or spiritual statements, including but not limited to the following:

- a) People should try and understand their dreams and be guided by or take warning from them;
- b) Evil spirits possess me at times;
- c) My soul sometimes leaves my body;
- d) Much of the time I feel as if I have done something wrong or evil;
- e) I believe in a life hereafter;
- f) I believe my sins are unpardonable;
- g) I deserve severe punishment for my sins;
- h) I have never seen a vision;
- I) Ghosts or spirits can influence people for good or bad;
- j) I believe I am a condemned person;
- k) I have been inspired to a program of life based on duty which I have since carefully followed; and

l) The man should be the head of the family.

82. The MMPI called for true or false answers to political statements, including but not limited to the following:

- a) Sometimes in elections, I vote for people about whom I know very little; and
- b) I have strong political opinions.

83. The foregoing statements elicited information regarding Plaintiffs' religious and political beliefs and opinions, which are constitutionally protected, and which are wholly irrelevant to his ability and/or competence to perform the duties of a law enforcement position, such as a Port Authority Police Officer.

84. Plaintiffs, and others similarly situated, were evaluated on the basis of their responses to said questions and, as a result, were improperly denied employment opportunities with the Port Authority based on their religious and/or political beliefs and opinions.

85. Said intrusive testing deprived Plaintiffs and all others so similarly situated of his fundamental rights of freedom of expression and association under the First Amendment to the United States Constitution by chilling Plaintiffs' desire to freely express himself during both the periods of testing and during his everyday affairs.

86. As a result of Defendants' actions, Plaintiffs, and all others so similarly situated, have been irreparably harmed and suffered financial loss, including lost wages, emotional distress, loss of reputation, and loss of enjoyment of life, among other things.

**FOURTH CAUSE OF ACTION AGAINST DEFENDANTS
(Invasion of Privacy)**

87. Plaintiffs repeat and reallege the allegations contained in Paragraphs "1" through "84" with the same force and affect as if set forth fully herein.

88. By engaging in the acts and conduct alleged above, and particularly by intruding into matters that Plaintiffs and other class members have a right and an interest in keeping private, by forcing them to divulge private and personal information, and by using this private and personal information as a basis for employment actions, Defendants wrongfully, intentionally and tortiously intruded upon the physical solitude and seclusion of Plaintiffs and the class they represent, and intruded into their private affairs in manner that any reasonable person would find to be unreasonable, objectionable and offensive.

89. Defendants engaged in the above-described conduct pursuant to a joint design, scheme, and conspiracy to invade Plaintiffs' privacy and the privacy of the class Plaintiffs represent.

90. As a proximate result of the above-described actions, Plaintiffs and the class they represent have suffered and continue to suffer substantial loss of earning and other employment benefits, and have suffered and continue to suffer embarrassment, humiliation and mental anguish, all to their damage in an amount to be determined by a trier-of-fact.

91. Defendants committed the acts alleged herein willfully, maliciously, improperly, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiffs and the class they represent, and in conscious disregard of Plaintiffs' and other class members' rights.

**FIFTH CAUSE OF ACTION AGAINST DEFENDANTS
(New Jersey Constitution, Article I, Section I)**

92. Plaintiffs repeat and reallege the allegations contained in Paragraphs "1" through "89" with the same force and affect as if set forth fully herein.

93. The conduct, policies and practices alleged herein violate the right of the Plaintiffs and the class they represent to be free from unreasonable intrusions into their privacy, a right guaranteed by Article I, Section I of the New Jersey Constitution.

94. Defendants have violated Plaintiffs' constitutional rights by, among other things:

- a) requiring Plaintiffs and other class members to submit to intensive psychological and other non-job related examinations as a condition of employment;
- b) asking intrusive and personal questions of Plaintiffs and other class members about private matters that have no relationship or relevance to job performance or qualifications;
- c) forcing Plaintiffs and other class members to reveal deeply private facts about their personal lives and beliefs, thereby subjecting them to stigmatization, embarrassment, humiliation, emotional distress and adverse employment actions;
- d) intruding into the off-duty private lives and conduct of Plaintiffs and other class members, without any compelling or reasonable need to do so, particularly since the psychological evaluations were not being administered in such a way that would yield valid and/or reliable results as to employment decisions and applicant selection;
- e) engaging in the overly broad collection and retention of unnecessary personal information about Plaintiffs and other class members;
- f) disseminating the results of the psychological and medical examinations to others, including unlicensed, untrained employees, agents and/or administrators of the Defendants for no legitimate or proper purpose;
- g) failing to hire Plaintiffs and other class members based on PAPD's and others' subjective evaluations of Plaintiffs' and other class members' test results when such test results were never validated by comparing same to the "norms" of those examinations administered on national and local levels; and
- h) failing to hire Plaintiffs and other class members based on PAPD's and others' subjective evaluations of Plaintiffs' and other class members' individual responses to personal and intrusive questions on the psychological examinations that have no relationship to each applicant's actual psychological fitness and/or job performance or qualifications.

95. Defendants' conduct, policies and practices alleged above were and are undertaken

without any reasonable or compelling business justification.

96. Defendants engaged in the above-described conduct pursuant to a joint design, scheme and conspiracy to violate the provisions of Article I, Section I of the New Jersey Constitution.

97. As a proximate result of the above-described actions, Plaintiffs and the class they represent have suffered and continue to suffer substantial loss of earning and other employment benefits, and have suffered and continue to suffer embarrassment, humiliation and mental anguish, all to their damage in an amount to be determined by a trier-of-fact.

98. Defendants committed the acts alleged herein willfully, maliciously, improperly, fraudulently, and oppressively, with the wrongful intention of injuring Plaintiffs and the class they represent, and in conscious disregard of Plaintiffs' and other class members' rights.

WHEREFORE, based on the foregoing, it is respectfully urged that the Court render judgment in favor of Plaintiffs, on behalf of themselves and all others as representative of the Class of persons so similarly situated as described herein, and, in turn, enter an Order as follows:

- a) Declaring that the processes, procedures and criteria used by Defendants in purporting to evaluate the psychological fitness of Plaintiffs and all other class members and applicants is unconstitutional in that it is overly burdensome to Plaintiffs' and all other class members' rights to privacy and liberty under the 14th Amendment to the United States Constitution; it chills free speech and is retaliatory and discriminatory on the basis of free speech, including religious and political beliefs and expressions as guaranteed under the 1st Amendment; and constitutes arbitrary and capricious governmental action in violation of Plaintiff's substantive due process rights under the 14th Amendment;
- b) Enjoining Defendants from continuing to carry out said processes and procedures and/or using said non-job-related criteria in evaluating any applicant's alleged

psychological fitness for duty, particularly where such criteria is evaluated on an individual and non-aggregate basis and, further, is not validated by comparison to the statistical "norms" on both national and local levels;

- c) **Compelling Defendants to immediately institute Court-approved valid and reliable processes and procedures which are relevant and bear a rational relationship to the performance of the essential duties of the position of Port Authority Police Officer in evaluating the psychological fitness of applicants;**
- d) **Compelling Defendants to immediately re-evaluate Plaintiffs and all others so similarly situated, who hereby demand same, under the Court-approved valid and reliable processes and procedures to determine eligibility to the Port Authority Police Academy and, enjoining Defendants from retaliating against Plaintiffs and/or any other class member on the basis of this lawsuit in so doing;**
- e) **Awarding damages to Plaintiffs and all others so similarly situated in an amount to be determined by a trier of fact and which contemplates lost wages and other economic opportunities, emotional distress, loss of reputation and loss of livelihood and enjoyment of life, together with punitive damages and an award of attorneys' fees; and**
- f) **For such other and additional relief as this Court may deem just and proper.**

Dated: April 14, 2008
New York, New York



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UNITED STATES DISTRICT COURT
 DISTRICT OF NEW JERSEY

LAW DEPARTMENT
 PORT AUTHORITY CLAIMS
 2011 JUL 12 P 1:58

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JOHN WESOLOWSKI,

Plaintiff,

v.

PORT AUTHORITY OF NEW YORK
 AND NEW JERSEY, PORT
 AUTHORITY TRANS-HUDSON CORP.
 and ABC CORP. 1-10
 (fictitious entities, real
 names unknown),

Defendants.

Civil Action

COMPLAINT AND JURY
 DEMAND

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Plaintiff, John Wesolowski, residing at 1210 Chadwick
 Court, Point Pleasant, in the County of Ocean, New Jersey, by
 his attorney, Giovanni Anzalone, Esq., of Wilentz, Goldman &
 Spitzer, 90 Woodbridge Center Drive, Suite 900, Box 10,
 Woodbridge, New Jersey 07095, by way of Complaint against
 defendant(s) says:

JURISDICTION AND VENUE

1. This Court has jurisdiction and venue of this action pursuant to the Federal Employers' Liability Act, 45 U.S.C.A. § 51 and 29 U.S.C. § 1357.

FIRST COUNT

1. That at all relevant times, the defendant, Port Authority of New York and New Jersey (hereinafter "Port Authority") was and has been a corporation organized under the provisions of N.J.S.A. 27:25-1 et. seq. and/or has conducted railroad operations in interstate commerce and within the State of New Jersey.

2. That at all relevant times, the rights and obligations of the plaintiff and the defendants for work connected injury, illness, or disease have been governed by the provisions of the Federal Employers' Liability Act. 45 U.S.C.A. 51, et. seq.

3. That on March 11, 2009, plaintiff, John Wesolowski, was in the course of his employment with defendant, Port Authority of New York and New Jersey as a carpenter for defendant Port Authority Trans-Hudson Corp. in Jersey City, Hudson County, in the course of performing his duties at the defendants' work shop, under conditions known to defendants,

when he was caused to be severely and permanently injured while attempting to lift a heavy steel door without proper supervision, equipment and safety apparatus, thereby creating an unsafe work environment that resulted in the above-referenced incident and injury to plaintiff.

4. That at said time and place, the defendant, Port Authority and/or defendant Port Authority Trans-Hudson Corp., and/or defendants ABC Corp. 1-10, owned, operated, managed or controlled the premises and equipment in question and negligently failed to provide a reasonably safe place for the plaintiff to perform his work, and failed to provide safe and adequate equipment and safety precautions for plaintiff to perform his job.

5. Plaintiff alleges that said accident arose due to hazardous conditions negligently maintained, about which defendants, their agents, servants or employees had due and timely notice and knowledge, or which would have been revealed by reasonable maintenance and inspections of the said condition.

6. As a direct and proximate result of the aforesaid negligence of the defendants, Port Authority of New York and New Jersey, Port Authority Trans-Hudson Corp. and/or ABC Corp. 1-10, the plaintiff, John Wesolowski, was caused to sustain severe and painful personal injuries requiring surgery, pain and suffering,

loss of wages or income, was compelled to expend sums of money for medical care and attention and will in the future be so compelled and/or was rendered permanently disabled.

WHEREFORE, plaintiff, John Wesolowski, demands judgment for damages on this Count of the Complaint, against any or all of the said defendants, together with interest, attorney fees and cost of suit.

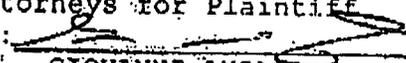
SECOND COUNT

1. Plaintiff repeats the allegations set forth in the First Count of this Complaint as if fully set forth herein.
2. At the above-referenced place, date and time, the defendants, ABC Corp. 1-10, or any of them, owned, operated and maintained the property and equipment in question.
3. Plaintiff alleges that said accident arose due to hazardous conditions negligently maintained, and/or an unsafe work environment about which defendants, their agents, servants or employees had due and timely notice and knowledge, or which would have been revealed by reasonable maintenance and inspections of the said condition(s).
4. As a direct and proximate cause of the aforesaid negligence of the defendants, ABC Corp. 1-10, or any of them, the plaintiff, John Wesolowski, was caused to sustain severe and

painful personal injuries requiring surgery, pain and suffering, loss of wages or income, was compelled to expend sums of money for medical care and attention and will in the future be so compelled and/or was rendered permanently disabled.

WHEREFORE, plaintiff, John Wesolowski, demands judgment for damages on this Count of the Complaint, against any or all of the said defendants, together with interest, attorney fees and cost of suit.

WILENTZ, GOLDMAN & SPITZER
A Professional Association
Attorneys for Plaintiff

By: 

GIOVANNI ANZALONE

Dated: March 1, 2011

JURY DEMAND

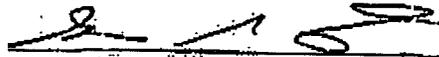
Plaintiff demands a trial by jury as to all issues so triable.

CERTIFICATION

This matter is not the subject of any other litigation or arbitration proceeding. Further, Plaintiff's counsel is not presently aware of the identity of any other individuals who should be joined as parties to this action.

DESIGNATION OF TRIAL COUNSEL

Please take notice that Plaintiff hereby designates Giovanni Anzalone, Esq. as trial counsel in the within matter.


GIOVANNI ANZALONE

Dated: March 1, 2011

LOMBARDI & LOMBARDI, P.A.
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SUPERIOR COURT
MIDDLESEX COUNTY
RECEIVED & FILED
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GREGORY EDWARDS
DEPUTY CLERK
OF SUPERIOR COURT

2011 FEB 15
LAW DEPARTMENT
PORT AUTHORITY CLAIMS

CYNTHIA CHISHOLM, an individual,

Plaintiff

vs.

PORT AUTHORITY OF NEW YORK
AND NEW JERSEY, a bistate agency;
JETBLUE AIRWAYS CORP., a business
Entity; ABC COMPANY (1-5) a fictitiously named
business entity;

Defendants.

: SUPERIOR COURT OF NEW JERSEY
: MIDDLESEX COUNTY
: LAW DIVISION

: DOCKET NO. **MD-L-00559-11**

: CIVIL ACTION

:
:
:
: **COMPLAINT; JURY DEMAND;**
: **DESIGNATION OF TRIAL COUNSEL;**
: **CERTIFICATION.**
:
:
:

Plaintiff, Cynthia Chisholm, residing at 202 Cavalier Street, County of Brevard, City of
Palm Bay, and State of Florida by way of Complaint against the defendants does say:

FIRST COUNT

1. On or about June 9, 2010, the defendant, Port Authority of New York and New Jersey, was or were the owner of the Newark Liberty International Airport located in the City of Newark, County of Essex and State of New Jersey, and in particular, Terminal A Departures Door number one (1), Jet Blue Ticket Counter Area.

- 1a. On or about June 9, 2010 Defendant, Jet Blue Airways Corporation was a tenant at and in occupancy of Terminal A at Newark Liberty International Airport.
2. On June 9, 2010, at approximately 11:30 a.m., the plaintiff, Cynthia Chisholm, was at the Newark Liberty International Airport, Terminal A, for the purpose of taking JetBlue flight 527 to Florida. Plaintiff's final destination was Palm Bay, Florida.
3. On June 9, 2010, at approximately 11:30 a.m., the plaintiff was proceeding through the JetBlue Ticket Counter area. While proceeding through the JetBlue Ticket Counter, plaintiff was caused to fall over a stanchion pole that was out of line with the other stanchion poles. As a result of the fall the Plaintiff, Cynthia Chisholm, did sustain injuries.
4. The defendants, Port Authority of New York and New Jersey and/or JetBlue Airways Corporation, were negligent in failing to adequately inspect, care for and maintain the JetBlue Ticket County, more specifically Terminal A Departures Door #1 JetBlue Ticket Counter Area. The said defendants did fail to properly set and maintain the stanchion pole.
5. As a result of the negligence of the defendants as aforesaid, the plaintiff did fall at the Newark Liberty International Airport on June 9, 2010. As a result of her fall, the plaintiff did sustain bodily injury causing her to suffer great pain of mind and body; she was required to seek out and obtain medical attention; she was prevented from attending to her normal activities and affairs; and she was caused to suffer permanent disability and impairment.

WHEREFORE, the plaintiff, Cynthia Chisholm, does hereby demand judgment against the defendants, jointly and severally, for compensatory damages, together with interest and costs of suit.

SECOND COUNT

1. The plaintiffs repeat the allegations of the First Count as if same were set forth herein at length.
2. ABC Companies (1-5) are fictitiously named as defendants respectively representing any persons and/or business entities who had ownership and/or control of any of the instrumentalities of the damages complained of herein or who are otherwise liable for the damages complained of herein.
3. This Count is also reserved by plaintiffs who have alleged negligence and breach of warranty against any other persons and/or business entities which participate in the design, construction, maintenance, inspection and supervision of the JetBlue Ticket Counter Area where the plaintiff, Cynthia Chisholm, was caused to fall and sustained injury. Said persons and business entities are respectively designated herein as ABC Companies (1-5), fictitiously named business entities.

WHEREFORE, the plaintiffs demand judgment against the defendants, jointly and severally, for compensatory damages together with interest and costs of suit.

JURY DEMAND

Plaintiff does hereby demand a trial by jury of six (6) persons on all issues so triable.

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Michael R. Lombardi, Esq. is hereby designated as trial counsel.

CERTIFICATION

The undersigned certifies that, to the best of her knowledge and belief, there is not pending any other action which arises from the incident alleged in the Complaint or which involves the parties to this action.

LOMBARDI & LOMBARDI, P.A.
Attorneys for Plaintiff

Dated: January 17, 2011

By: Michael R. Lombardi
Michael R. Lombardi

LAW DEPARTMENT
PORT AUTHORITY CLAIMS
2011 FEB 15 P 2:43