




**Appendix XII-B1**

	<h2 style="margin:0;">CIVIL CASE INFORMATION STATEMENT (CIS)</h2> <p style="margin:0;">Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> <b>Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed</b></p>		<b>FOR USE BY CLERK'S OFFICE ONLY</b>
			PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA
			CHG/CK NO.
			AMOUNT:
		OVERPAYMENT:	BATCH NUMBER:
1. ATTORNEY / PRO SE NAME Alexander Shalom		2. TELEPHONE NUMBER (973) 854-1714	3. COUNTY OF VENUE Hudson
4. FIRM NAME (if applicable) ACLU-NJ		5. DOCKET NUMBER (when available)	
6. OFFICE ADDRESS 89 Market Street, Suite 7 Newark, New Jersey 07102		7. DOCUMENT TYPE Complaint	
		8. JURY DEMAND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
9. NAME OF PARTY (e.g., John Doe, Plaintiff) Cesar Sanchez, Plaintiff		10. CAPTION Cesar Sanchez v. Town of West New York, Police Director Robert Antolos (sued in his official capacity), and Sgt. Juan C. Nunez (sued in his official capacity)	
11. CASE TYPE NUMBER (See reverse side for listing) 005	12. HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	13. IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
14. RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		15. IF YES, LIST DOCKET NUMBERS	
16. DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		17. NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN	
<b>THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.</b>			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
18. DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS	
19. DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
20. USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION			
	21. DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION
	22. WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, FOR WHAT LANGUAGE?
23. I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .			
24. ATTORNEY SIGNATURE: 			

Edward Barocas, Esq.  
Jeanne LoCicero, Esq.  
Alexander Shalom, Esq. (021162004)  
Rebecca Livengood, Esq.  
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*Counsel for Plaintiff*

CESAR SANCHEZ	)	
	)	SUPERIOR COURT OF NEW JERSEY
Plaintiff,	)	HUDSON COUNTY
	)	LAW DIVISION
v.	)	
	)	Docket No.
TOWN OF WEST NEW YORK, POLICE	)	
DIRECTOR ROBERT ANTOLOS (sued in his	)	CIVIL ACTION
official capacity), and SGT. JUAN C. NUNEZ	)	
(sued in his official capacity)	)	
	)	<b>VERIFIED COMPLAINT, JURY</b>
Defendants.	)	<b>DEMAND AND DESIGNATION OF</b>
	)	<b>TRIAL COUNSEL</b>

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Plaintiff, Cesar Sanchez, through his undersigned attorneys, states his Complaint as follows:

#### **PRELIMINARY STATEMENT**

1. Plaintiff Cesar Sanchez brings this civil rights action under the New Jersey Constitution and through the New Jersey Civil Rights Act. He also brings claims for violations of New Jersey common laws.

2. These claims arise out of an interaction concerning the video recording of an arrest of teenagers taking place on a public street by officers of the West New York Police Department. Mr. Sanchez, like many New Jerseyans, carries a mobile phone with him that has video recording capabilities. On his way home from work on July 9, 2015, Mr. Sanchez saw police

officers arresting two teenagers in what appeared to be a forceful manner. Standing more than 200 feet from the arrest, Mr. Sanchez pulled out his phone to start recording. But, before he was even able to engage in this constitutionally-protected act, West New York Police Department Sergeant Juan Nunez unlawfully ordered him to put his phone away. Mr. Sanchez initially declined, but after Sergeant Nunez began approaching him and repeated the unlawful order, he complied. Then, Sergeant Nunez violated Mr. Sanchez's rights again by arresting him after he refused to provide identifying information. He was held at the police station and consented to a search of his phone.

3. This civil action seeks declaratory relief, injunctive relief, and damages.

#### **VENUE**

4. Venue is proper in Hudson County pursuant to R. 4:3-2(a) because the West New York Police Department is a public agency located in Hudson County and the events giving rise to the claims in this Complaint occurred in Hudson County.

#### **PARTIES**

5. Plaintiff CESAR SANCHEZ is a resident of West New York, New Jersey.

6. Defendant TOWN OF WEST NEW YORK is the municipal entity which exercises control over the West New York Police Department ("WNYPD"). It is responsible for establishing policy, procedures, and training methods for police officers, and exercises a supervisory role over the entire WNYPD. With proper policies and supervision, Sergeant Nunez would not have violated Plaintiff's constitutional and common law rights.

7. Defendant ROBERT ANTOLOS is Director of the WNYPD. He is the relevant policy maker for the WNYPD and exercises supervisory authority over WNYPD officers. He is sued in

his official capacity only. With proper policies and supervision, Defendant Nunez would not have violated Plaintiff's constitutional and common law rights.

8. Defendant JUAN C. NUNEZ is a Sergeant of the WNYPD. He is sued in his official capacity only.

9. Defendants at all relevant times and as to all relevant actions described herein, were acting under the color of state law.

### **FACTUAL ALLEGATIONS**

10. Mr. Sanchez is a web developer who lives in West New York.

11. In the afternoon of July 9, 2015, Mr. Sanchez was driving home from work when he saw several WNYPD officers arresting two juveniles in what appeared to be a forceful manner on Hudson Avenue in West New York.

12. Mr. Sanchez parked his car and returned to Hudson Avenue, where he saw that the arrest was still in progress.

13. The arrest took place in front of 6013 Hudson Avenue.

14. Mr. Sanchez observed the arrest while standing in front of 6029 Hudson Avenue, more than 200 feet away.

15. Mr. Sanchez took out his telephone in order to record the arrest.

16. Sergeant Nunez, who was participating in the arrest, saw Mr. Sanchez holding up his cell phone and ordered him to put the phone away. Mr. Sanchez initially declined to do so. Sergeant Nunez began approaching Mr. Sanchez, again telling him to put the phone away. Mr. Sanchez then complied.

17. Sergeant Nunez asked Mr. Sanchez for identification, and he refused to provide it. Sergeant Nunez asked again and again Mr. Sanchez refused.

18. At approximately 4:58 p.m., Sergeant Nunez placed Mr. Sanchez under arrest. According to the investigation report and summons, Mr. Sanchez was arrested for obstructing the administration of law or other governmental function in violation of N.J. Stat. § 2C:29-1.

19. Sergeant Nunez handcuffed Mr. Sanchez and took him to the police station. At the police station, Sergeant Nunez asked Mr. Sanchez to see his phone, and Mr. Sanchez consented. Sergeant Nunez told Mr. Sanchez that he had a right to refuse the cell phone search, and Mr. Sanchez nevertheless agreed and signed a consent form.

20. Sergeant Nunez searched the phone and found no videos or photographs of the arrest.

21. Mr. Sanchez received a summons to appear in the West New York Municipal Court. Mr. Sanchez appeared in Municipal Court at least three times. Finally, on October 22, 2015, the municipal prosecutor in West New York dropped the charges against Mr. Sanchez after determining that no probable cause existed for the arrest.

22. West New York Police Department has no policies regarding the right of civilians to record police interactions in public.

## **CAUSES OF ACTION**

### **COUNT I**

#### **ARTICLE I, PARAGRAPH 6 OF THE NEW JERSEY CONSTITUTION**

(Unlawful Interference With, Restraint of, and Retaliation Against  
Free Speech and Freedom of Expression)

23. Plaintiff repeats and realleges the preceding paragraphs as if fully set forth herein.

24. Mr. Sanchez has a constitutionally protected right under Article I, Paragraph 6 of the New Jersey Constitution to receive, gather, and record information in a peaceful manner.

25. By ordering Mr. Sanchez to stop video recording the public events, Sergeant Nunez violated Mr. Sanchez's rights of freedom of speech and expression under Article I, Paragraph 6 of the New Jersey Constitution.

26. Mr. Sanchez's right to record was clearly established at the time of the incident.

27. By arresting Mr. Sanchez for refusing to give Sergeant Nunez identification, Sergeant Nunez retaliated against Mr. Sanchez for exercising his freedom of speech and expression, also in violation of the Article I, Paragraph 6 of the New Jersey Constitution.

28. Upon information and belief, Defendants Town of West New York and Director Robert Antolos (in his capacity as West New York Police Director) have failed to put in place policies and to train officers about citizens' right to record.

29. This failure constitutes deliberate indifference to the risk that officers under their control and command would violate these rights of individuals within West New York.

30. By failing to properly train officers and by failing to adopt policies necessary to prevent the unlawful actions at issue here, Defendants Town of West New York and Antolos caused the violation of plaintiff's right to freedom of speech and expression under Article I, Paragraph 6 of the New Jersey Constitution.

31. As a result of the described actions by Defendants Town of West New York, Antolos, and Nunez, Mr. Sanchez has suffered damages, including emotional distress.

**COUNT II**  
**ARTICLE I, PARAGRAPH 7 OF**  
**THE NEW JERSEY CONSTITUTION**  
(Unlawful Seizure of the Person)

32. Plaintiff repeats and realleges the preceding paragraphs as if fully set forth herein.

33. Defendants misused the authority granted to them under color of state law and unjustifiably arrested and detained Mr. Sanchez.

34. Defendants had no warrant and no probable cause to arrest Mr. Sanchez, nor was Mr. Sanchez acting in a suspicious or potentially dangerous manner, nor did he have an obligation to provide identification to Defendants.

35. By arresting Mr. Sanchez without a warrant, probable cause, or any other lawful basis for arrest, Sergeant Nunez violated Mr. Sanchez's right to be free from unreasonable seizure of his person, as guaranteed by Article I, Paragraph 7 of the New Jersey Constitution.

36. This right was clearly established at the time of the seizure.

37. Upon information and belief, Defendants Town of West New York and Antolos (in his capacity as West New York Police Director) tolerated misbehavior surrounding the violation of Article I, Paragraph 7 of the New Jersey Constitution within their jurisdiction or were deliberately indifferent to the risk that officers under their control and command, lacking clear training and discipline, would violate the rights of individuals within West New York. By failing to properly train officers and by failing to adopt policies necessary to prevent the unlawful actions at issue here, Defendants West New York and Antolos caused the violation of plaintiff's right to be free from unlawful seizure of person under Article I, Paragraph 7 of the New Jersey Constitution.

38. As a result of the described actions by Defendants Town of West New York, Antolos, and Nunez, Mr. Sanchez has suffered damages, including emotional distress.

**COUNT III**  
**NEW JERSEY COMMON LAW RIGHT TO RECORD**

39. Plaintiff repeats and realleges the preceding paragraphs as if fully set forth herein.

40. By ordering Mr. Sanchez to stop video recording a police officer on a public street, Sergeant Nunez violated Plaintiff's New Jersey common law right to record public events.

41. As a result of the described actions by Sergeant Nunez, Mr. Sanchez has suffered damages.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiff requests judgment against the Defendants as follows:

- (a) Compensatory and consequential damages in an amount to be determined at trial;
- (b) Punitive damages on all claims allowed by law, in an amount to be determined at trial;
- (c) Injunctive relief;
- (d) Attorney's fees and costs associated with this action, pursuant to N.J.S.A. 10:6-1 et seq. and other relevant authority;
- (e) Any further relief as this Court deems just and proper and any other relief as allowed by law.

### **JURY DEMAND**

Plaintiff hereby demands trial by jury of all triable issues in this action.

### **DESIGNATION OF TRIAL COUNSEL**

Plaintiff designates Alexander Shalom as trial counsel.



**VERIFICATION**

I, Cesar Sanchez, hereby affirm under the penalty of perjury that the factual statements contained in the foregoing Verified Complaint are, to the best of recollection and belief, true and accurate.

  
Cesar Sanchez

Dated: 12/18/, 2015

**CERTIFICATION PURSUANT TO R. 4:5-1**

Plaintiff, via counsel, hereby certifies that to the best of my knowledge the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding. Also, to the best of my belief, no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action. Finally, I recognize the continuing obligation to file and serve all parties and the Court with an amended certification if there is a change in the facts stated here.

Dated:

By: 

Edward Barocas, Esq.  
Jeanne LoCicero, Esq.  
Alexander Shalom, Esq. (021162004)  
Rebecca Livengood, Esq.  
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