



## **NATURE OF ACTION**

1. This action is brought by prominent Black Lives Matter activists who were arrested as they sought to protest police violence and call for increased police accountability. They seek to protect some of the most fundamental civil rights: the right to free expression and the right to be free from unlawful arrests.

2. The Paterson Police Department targeted activists for arrest because they were perceived as leaders of a movement that was critical of police. By unlawfully arresting the activists, the City (which operates the Department) and the named officers, known and unknown, chilled the activists' speech and expressive activities, making it harder for them to convey their message seeking change.

3. Plaintiffs bring this action to vindicate their rights that were violated by Defendants when they precluded Plaintiffs from, and then arrested them for, engaging in protected expressive activity on the streets of Paterson. Although Defendants can prevent protests from blocking traffic, here they went far beyond what the law allows in an attempt to chill Plaintiffs' free expression rights. Plaintiffs further bring this suit to ensure that they will not be denied their right to engage in protected speech activity in the future.

## **VENUE**

4. Venue is proper in Passaic County pursuant to *R. 4:3-2(a)(2)* because the City of Paterson is a public agency located in Passaic County and the events giving rise to the complaint occurred in Passaic County.

## PARTIES

5. ZELLIE THOMAS is a Paterson Public School teacher. He is affiliated with the Black Lives Matter movement in Paterson. He is also the co-founder of the Black Liberation Collective. He lives on Crooks Avenue in Paterson, New Jersey.

6. WALTER “HAWK” NEWSOME, JR. is an organizer with Black Lives Matter of Greater New York, an organization that he co-founded. He lives on Sheridan Avenue, in the Bronx, New York.

7. Defendant CITY OF PATERSON is a municipality organized under the laws of the State of New Jersey, with its Municipal Building located at 155 Market Street, Paterson, NJ 07505. The City of Paterson operates the Paterson Police Department (“PPD”), which serves as the law enforcement department in the City of Paterson.

8. HERIBERTO “EDDIE” RODRIGUEZ is a Deputy Chief in the PPD. He is sued in both his personal and official capacity.

9. SHARON EASTON and SHAWN MCIVOR are Lieutenants in the PPD. They are sued in both their personal and official capacities.

10. JOSE GALVIN, JOEL SANTIAGO, CARLOS CHARON, and ARCENIO SANCHEZ are officers in the PPD. They are sued in both their personal and official capacities.

11. OFFICER JOHN DOES 1-10 are duly sworn members of the PPD. They are sued in both their personal and official capacities.

12. At all times mentioned herein, Defendants Rodriguez, Easton, McIvor, Galvin, Santiago, Charon, Sanchez, and Does 1-10, were acting within the scope of their duties and employment, under color of state law, as law enforcement officers within the PPD.

## FACTUAL ALLEGATIONS

13. In the early morning hours of January 5, 2019, Jameek Lowery walked into a Paterson Police station seeking assistance. He filmed his pleas for help and broadcast the interaction via Facebook Live.

14. Mr. Lowery, clearly in distress, asked for water, but several police officers refused to help him. They sent him away in an ambulance. News reports indicated that when he arrived at the hospital he showed injuries consistent with a beating. Two days later he was dead.

15. Days of protests in Paterson followed.

16. On or about January 10, 2019, at the request of Defendant Rodriguez, Defendant Easton, contacted Plaintiff Thomas to discuss a rally scheduled for the next day. Lieutenant Easton told Mr. Thomas that barricades would be placed at the rally to keep people from going into the street. She also discussed the use of sound systems and the end time for the rally. Lt. Easton never told Mr. Thomas that if he walked in the street he would be arrested.

17. On January 11, 2019, in anticipation of that evening's protest, Defendant McIvor falsely informed Defendants Galvin, Santiago, Charon, Sanchez, and Does 1-10 that Mr. Thomas had been told that if he walked in the street he would be subject to arrest.

18. On January 11, 2019, approximately 50 protestors assembled outside City Hall seeking "Justice for Jameek." Among the speakers at the rally in front of City Hall were Mr. Thomas and Plaintiff Newsome. They and other speakers gave speeches critical of the Paterson Police Department.

19. After approximately one hour of rallying and listening to speeches, the protestors decided to march. They walked westbound on Market Street. Some protestors were on the sidewalk, others were on the street.

20. After the protestors walked approximately two blocks, Officers Galvin, Santiago, Charon, Sanchez, and Does 1-10 arrived on motorcycles and blocked the protestors' path.

21. The officers did not ask the protestors to walk on the sidewalk. The officers did not try to redirect the marchers to a different route. The officers provided no warning that arrests would follow.

22. Instead, Officers Galvin, Santiago, Charon, Sanchez, and Does 1-10 ushered Mr. Newsome onto the sidewalk, pressed him against the security grate of a closed business and placed him in handcuffs.

23. Immediately thereafter, Officers Galvin, Santiago, Charon, Sanchez, and Does 1-10 placed Mr. Thomas, who was standing nearby to Mr. Newsome on the sidewalk, in handcuffs.

24. Defendants only arrested Mr. Newsome and Mr. Thomas. None of the other protestors were placed under arrest. Mr. Newsome and Mr. Thomas acted no differently than most marchers. The only actions that set Mr. Newsome and Mr. Thomas apart from the protestors who were not arrested were the speeches that Mr. Newsome and Mr. Thomas gave earlier that evening and the perception that Mr. Newsome and Mr. Thomas were leaders of the Black Lives Matter movement.

25. Officers Galvin and Does 1-10 arrested Mr. Newsome and charged him with Obstructing Highways and Other Public Passages (N.J.S.A. 2C:33-7a) and Interference with Transportation (N.J.S.A. 2C:33-14(a)(5)).

26. Officers Santiago and Does 1-10 arrested Mr. Thomas and charged him with Obstructing Highways and Other Public Passages (N.J.S.A. 2C:33-7a) and Interference with Transportation (N.J.S.A. 2C:33-14(a)(5)).

27. Mr. Newsome and Mr. Thomas were charged despite the fact that the Obstructing Highways and Other Public Passages statute requires a finding that a person has rendered the passage impassable without unreasonable inconvenience or hazard. Even if Mr. Newsome or Mr. Thomas impeded a portion of Market Street, there was not probable cause to believe that they rendered it impassable.

28. Mr. Newsome and Mr. Thomas were charged despite the fact that the Interference with Transportation statute requires a person to act purposefully or knowingly in delaying a vehicle. There was not probable cause to believe that Mr. Newsome or Mr. Thomas either delayed a vehicle or did so with knowledge or purpose.

29. Mr. Thomas and Mr. Newsome were taken to the Paterson Police Headquarters where they were held for several hours in a holding cell. They were charged on Complaint-Summonses and released late in the evening of January 11, 2019 or early in the morning of January 12, 2019.

30. The criminal case against Mr. Newsome and Mr. Thomas was prosecuted in Paterson Municipal Court. After more than a year and many court appearances, Mr. Thomas and Mr. Newsome proceeded to trial.

31. Officers Galvin and Santiago testified against Mr. Newsome and Mr. Thomas. Before and during the trial they viewed a video of the arrest (available here: <https://www.facebook.com/33701623/videos/10101981014597998>) that demonstrated that no warnings were provided to the protestors prior to the arrests. Still, both officers insisted under oath that warnings had been provided.

32. On December 18, 2020, Hon. Xavier C. Rodriguez, J.M.C. found both Mr. Thomas and Mr. Newsome not guilty of each charge against them. He entered an order allowed for the expedited expungement of their arrests.

33. Although neither Plaintiff was required to pay out-of-pocket for attorneys' fees in the criminal matters, both Plaintiffs were required to miss several days of work to attend court appearances. Additionally, Mr. Newsome, who has a juris doctor degree, was studying for the New York Bar Examination at the time the court proceedings were on-going. The criminal charges were a significant distraction from his studying. Plaintiffs further suffered a great deal of mental anguish resulting from their arrests and from the pending charges at the time.

34. Plaintiffs seek to engage in free speech activities in Paterson. They seek to call for police accountability without being targeted for arrest. Because Defendants arrested them and continued to press for their conviction, even after reviewing video evidence of the arrests, Plaintiffs fear that any future expressive activity regarding police accountability in Paterson will result in their unlawful arrest.

**FIRST CAUSE OF ACTION**  
**VIOLATION OF ARTICLE I, PARAGRAPH 6 OF**  
**THE NEW JERSEY CONSTITUTION**  
(Freedom of Speech)  
(brought directly under the New Jersey Constitution  
and pursuant to N.J.S.A. 10:6-2(c))

35. The allegations of the preceding paragraphs are incorporated as if fully set forth herein.

36. The actions of Defendants described herein in prohibiting Plaintiffs from engaging in protected free speech activity, including marching in the street, when other people were not prevented from walking in the street, violated Article I, Paragraph 6 of the New Jersey Constitution.

37. By arresting or contributing to the arrest of Plaintiffs in retaliation for their constitutionally protected right to free expression, Defendants Rodriguez, Easton, McIvor, Galvin, Santiago, Charon, Sanchez, and Does 1-10 violated Article I, Paragraph 6 of the New Jersey Constitution.

38. By failing to properly train Paterson Police Officers, failing to supervise them, and failing to adopt policies necessary to prevent the unlawful actions at issue here, Defendant City of Paterson contributed to the violation of Plaintiffs' right to free speech under Article I, Paragraph 6 of the New Jersey Constitution.

39. Plaintiffs suffered damages due to the above actions and violations.

40. Without an injunction, Plaintiffs cannot protest without fear of retaliation for exercising their free speech rights under Article I, Paragraph 6.

**SECOND CAUSE OF ACTION  
VIOLATION OF ARTICLE I, PARAGRAPH 7 OF  
THE NEW JERSEY CONSTITUTION**

(unlawful arrest)

(brought directly under the New Jersey Constitution  
and pursuant to N.J.S.A. 10:6-2(c))

41. The allegations of the preceding paragraphs are incorporated as if fully set forth herein.

42. Defendant City of Paterson's police officers, Rodriguez, Easton, McIvor, Galvin, Santiago, Charon, Sanchez, and Does 1-10 falsely and illegally arrested or contributed to the false and illegal arrest of Plaintiffs on January 11, 2019, in violation of Plaintiffs' rights under the Article I, Paragraph 7 of the New Jersey Constitution.

43. By failing to properly train Paterson Police Officers, failing to supervise them, and failing to adopt policies necessary to prevent the unlawful actions at issue here, Defendant City of



Paterson contributed to the violation of Plaintiffs' right to be free from unlawful arrests under Article I, Paragraph 7 of the New Jersey Constitution.

44. Plaintiffs suffered damages due to the above actions and violations.

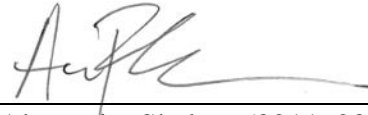
45. Without an injunction, Plaintiffs cannot protest without fear of unlawful arrests in violation of Article I, Paragraph 7 of the New Jersey Constitution.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs request judgment against Defendants as follows:

- a. Preliminary and permanent injunctions enjoining Defendant City of Paterson, and its employees, agents and assigns, from arresting Plaintiffs or other people for Obstructing Highways or other Public Passages, unless they have actually rendered the road "impassable without unreasonable inconvenience or hazard" and from arresting people in retaliation for free speech activities.
- b. Declare that the arrest of Plaintiffs was in retaliation for their constitutionally protected expression in violation of Article I, Paragraph 6 of the New Jersey Constitution;
- c. Declare that the citation and arrest of Plaintiffs violated the Article I, Paragraph 7 of the New Jersey Constitution;
- d. Award Plaintiffs nominal and compensatory damages against Defendants;
- e. Award punitive damages against individual Defendants;
- f. Award Plaintiffs their attorneys' fees and costs pursuant to the New Jersey Civil Rights Act, N.J.S.A. 10:6-1 et seq.; and
- g. Grant such other relief as this Court deems just and proper.

Dated: January 7, 2021



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*Counsel for Plaintiffs*

**JURY DEMAND**

Plaintiffs demand trial by jury in this action.

**DESIGNATION OF TRIAL COUNSEL**


Plaintiffs designate Alexander Shalom as trial counsel.

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

Plaintiffs, via counsel, hereby certify that there are no other proceedings or pending related cases arising from the same factual dispute described herein and that the matter in controversy is not the subject of any other action pending in any other court or a pending arbitration proceeding, and no other action or arbitration proceeding is contemplated.

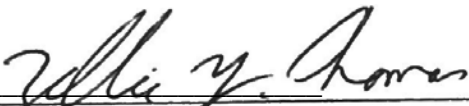
Other than the parties set forth in this complaint, the undersigned knows of no other parties that should be made a part of this lawsuit. In addition, the undersigned recognizes the continuing obligation to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification.

Dated: January 7, 2021

  
Alexander Shalom

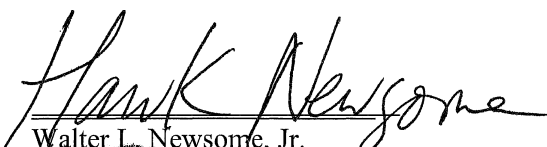
**VERIFICATION**

I, Zellie Thomas, hereby affirm under penalty of perjury that the factual statements contained in the foregoing Verified Complaint relating to the events in which I participated on January 11, 2019, and relating to the arrest and resulting proceedings and damages incurred, and relating to my interest in further free speech activities, are, to the best of recollection, true and accurate.

  
\_\_\_\_\_  
Zellie Thomas  
Paterson, New Jersey

Dated: January 7, 2021

I, Walter “Hawk” Newsome, Jr., hereby affirm under penalty of perjury that the factual statements contained in the foregoing Verified Complaint relating to the events in which I participated on January 11, 2019, and relating to the arrest and resulting proceedings and damages incurred, and relating to my interest in further free speech activities, are, to the best of recollection, true and accurate.

  
\_\_\_\_\_  
Walter L. Newsome, Jr.  
Bronx, New York

Dated: January 7, 2021

# Civil Case Information Statement

**Case Details: PASSAIC | Civil Part Docket# L-000072-21**

**Case Caption:** THOMAS ZELLIE VS CITY OF PATERSON

**Case Type:** CIVIL RIGHTS

**Case Initiation Date:** 01/07/2021

**Document Type:** Complaint with Jury Demand

**Attorney Name:** ALEXANDER R SHALOM

**Jury Demand:** YES - 12 JURORS

**Firm Name:** AMERICAN CIVIL LIBERTIES UNION OF NEW JERSEY FOUNDATION

**Is this a professional malpractice case?** NO

**Address:** PO BOX 32159 570 BROAD STREET, 11TH FLOOR

**Related cases pending:** NO

NEWARK NJ 07102

**If yes, list docket numbers:**

**Phone:** 9738541720

**Do you anticipate adding any parties (arising out of same transaction or occurrence)?** NO

**Name of Party:** PLAINTIFF : Thomas, Zellie

**Are sexual abuse claims alleged by: Zellie Thomas?** NO

**Name of Defendant's Primary Insurance Company**  
(if known): Unknown

**Are sexual abuse claims alleged by: Walter Newsome, Jr.?** NO

**THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE**

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

**Do parties have a current, past, or recurrent relationship?** NO

**If yes, is that relationship:**

**Does the statute governing this case provide for payment of fees by the losing party?** YES

**Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:**

**Do you or your client need any disability accommodations?** NO

**If yes, please identify the requested accommodation:**

**Will an interpreter be needed?** NO

**If yes, for what language:**

**Please check off each applicable category: Putative Class Action?** NO **Title 59?** NO **Consumer Fraud?** NO

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 *Rule* 1:38-7(b)

01/07/2021  
Dated

/s/ ALEXANDER R SHALOM  
Signed

