

BY: Brian M. Puricelli, Esquire
KRAVITZ AND PURICELLI
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ATTORNEY ID # 5146

ANDREW COPELAND, AND
LORRAINE COPELAND
Plaintiffs

-VS-

TOWNSHIP OF MOUNT HOLLY;
JULES K. THIESSEN (MAYOR);
BROOKE TIDSWELL, III (DEPUTY MAYOR)
JOAN BOAS (COUNCILWOMAN);
GLADYS DANSE (COUNCILWOMAN);
THOMAS GIBSON (COUNCILMAN);
ARTHUR M LISTON (TOWNSHIP MANAGER)
KATHLEEN HOFFMAN (MUNICIPAL CLERK
And TOWNSHIP MANAGER) AND
PETER CUSICK
Defendants

: UNITED STATES DISTRICT COURT
: DISTRICT OF NEW JERSEY

:
: NO.

:
: CIVIL ACTION

:
: JURY TRIAL DEMAND

:
: **COMPLAINT**

I. INTRODUCTION

1. This is a civil action brought under 42 U.S.C. §1981, 42 USC §1983, and 42 USC §1985; the Laws and Constitutions of the United States and State of New Jersey. The Action seeks compensatory, consequential and punitive damages, and other related relief including equitable relief that the Court deems proper and just to make Plaintiff whole, with reasonable attorney fees awarded as allowed by 42 U.S.C. 1988 and litigation costs, for the deprivation of the Plaintiffs' constitutional, federal statutory, and civil rights, privileges and immunities; and failing to stop or prevent a deprivation of constitutional rights, and/or to properly supervise or train, which deprivation was under color of state law, and resulted in injury and damages, including but not limited to the humiliation, embarrassment and

distress, to the Plaintiffs; the injuries being proximately caused by the Defendants' act, actions, conduct or omissions as are more fully described below, but were the result of intentional, malicious, deliberate indifference and/or reckless disregard for the Plaintiffs' rights and a custom practice or policy of the Township of Mount Holly.

II. JURISDICTION AND VENUE

2. Jurisdiction is founded on 28 U.S.C. §1343 (3) and (4), 28 U.S.C. §1331 (Federal Question) and 42 U.S.C. §1981 and §1983, et seq., because this action is to redress a deprivation of federal rights, privileges and immunities that are secured by the Constitution and Laws of the United States of America, which provide for the protection of civil and equal rights of all persons within the United States. This action seeks to recover damages under any Act of Congress providing for the protection of civil rights. Supplemental jurisdiction is invoked to resolve the state constitutional and statutory claims by the Defendants who were acting under color of State law, statute, ordinance, regulation, or immunity and deprived the Plaintiffs of their civil and equal rights, as are secured under the First and Fourteenth Amendments of the United States Constitution.

3. The acts, actions and conduct giving rise to the causes of action as are herein pleaded occurred in Mount Holly, New Jersey, which location is within the venue for the United States District Court of New Jersey.

III. PARTIES

4. Andrew Copeland and Lorraine Copeland are the Plaintiffs, who reside in Mt Holly, New Jersey, and each is a natural person and a "person" as intended by and for time the purpose of the claims set forth under Section 1981 and 1983 and 1985 of Title 42 of the United States Code; each also is a person in a protected class recognized as Afro-American, or blacks, and American Indian; each also is a persons who engaged in First Amendment free speech and petition clause activity under the United States Constitution.

5. The Township of Mount Holly (hereafter referred to as Defendant Township) is a municipal governmental entity in the State of New Jersey, and it operated only from and by the power conferred to it by state law. The Township is located in Burlington County, New Jersey, and uses 23 Washington Street, Mt. Holly, as its principle address

6. Jules K. Thiessen (Mayor) Brooke Tidswell, III (Deputy Mayor), Joan Boas (Councilwoman), Gladys Danser (Councilwoman), Thomas Gibson (Councilman), Arthur M. Liston (Township Manager), Kathleen Hoffman (Municipal Clerk) and Peter Cusick are natural persons, who for the time of the causes of action as set forth below resided in New Jersey and were then employees and/or officials of the Defendant Township of Mount Holly. Each Defendant acts, action and conduct was done by virtue of their employment or office with Defendant Township, and each Defendant acted under color of state law thus for the purpose of the 42 U.S.C. §1983 et seq., causes of action each is a "state actor"; each is sued in their individually and official capacities.

IV. CAUSES OF ACTION

COUNT I 42 USC 1983 First Amendment Free Speech Clause Retaliation

7. Plaintiffs incorporate the preceding paragraphs hereto and as if each were repeated verbatim.

8. Plaintiffs are a member of a protected class of persons, which protected class membership the Defendants at all times were aware and on notice thereof. In that, the Plaintiffs on or about August 30, 2005 and to date engaged in free speech activity; to wit, they spoke publicly in the press and at public governmental meetings on matters of public interest, e.g. perceived misuse of governmental authority by one or all of the Defendants, and they grieved their complaints with the defendant and government through legal process in court.

9. The Defendants knew of and were always aware of the Plaintiff's first amendment free speech activities and petition clause activity; thus the Defendants were on notice of the Plaintiffs' protected class membership; in that, when and while the Plaintiffs engaged in said protected conduct the Defendants were present to see and hear the Plaintiffs while engaged in the free speech activity, and/or the Defendants responded to and/or reacted to the Plaintiffs speech activities.

10. Plaintiffs as a result of their exercise of free speech and petition clause activities were subjected to retaliation or adverse action by the Defendants, which retaliation included but is not limited to:

(a) the initiation of criminal process, which occurred on or about September 25, 2005 and which process the Defendants lacked legal authority or basis at law to initiate; which process was initiated without probable cause and/or proper purpose intended by the process; instead, the Defendants' purpose was to extort money from the Plaintiffs, for Defendants own wrongs, and/or to annoy and/or harass the Plaintiffs. The process ended favorably for the Plaintiffs on October 13, 2007, by decision of the Superior Court, which ruled that Defendants lacked a legal ability to initiate the criminal process against the Plaintiffs;

(b) the creation of a governmental Resolution (No 2007-6) which was enacted to extort money from the Plaintiffs, impose a lien on Plaintiff's property, and/or to annoy, harass, and deprive the Plaintiffs of their property, and/or to punish the Plaintiffs for their free speech activities.

(c) Being billed and required to pay the costs of repair for damages to Township property, which damage was the result of Township persons or municipal authority persons and conduct and/or in addition to Township owners and controlled property.

11. The Defendants' at all times acted under color of state law, for themselves and one another; they acted in concert, and in furtherance of the agreement and/or to facilitate such agreement, which was to deprive plaintiffs of their federal rights and retaliate against them for said protected conduct. In that the defendant did initiate criminal process and enact a governmental Referendum, which process and/or referendum were to achieve the illegal purpose using a legal method, e.g. retaliate for protected free speech and petition clause activity, or legal purpose but in an illegal manner, e.g. use criminal process to extort money from the Plaintiffs.

12. The Defendants acted intentionally, maliciously, with gross negligence, and with deliberate indifference to and/or reckless disregard for the Plaintiffs' rights that were clearly established at such time.

13. The Defendants for all times relevant to the Plaintiff's actions, act, or conduct were acting under a policy, practice and custom of Mount Holly, and the Defendants knew or should have known when they acted that the actions and conduct violated clearly established law and would or was likely to deprive the Plaintiffs of their civil rights, privileges or immunities as secured under federal law, rule, regulation or constitution.

14. The substantial or motivating reason for the Defendants' act, actions or conduct was the Plaintiffs' protected free speech and petition clause activity and/or protected class membership.

15. As a direct result of the Defendants' act, action or conduct the Plaintiffs were deprived of their federally secured rights, privileges or immunities; they suffered personal injury and sustained economic damages, which the legal and/or proximate cause for such is the Defendants' act, actions, agreement, conduct, and policy, for which relief is permitted under 42 U.S.C. 1983 et seq., and the Plaintiffs are entitled to

COUNT II
42 USC 1983
First Amendment Petition Clause Retaliation

16. Plaintiffs incorporate the preceding paragraphs hereto and as if each were repeated verbatim.

17. Plaintiffs are a member of a protected class of persons; in that, the Plaintiffs commencing on or about November 17, 2005 in Municipal Court and thereafter in Superior Court engaged in petition clause activity; to wit, they appealed to and appeared in court to address a grievance with government, which grievance involved, *inter alia*, the Defendants' illegal use of criminal process against the Plaintiff, which process was to extort money from the Plaintiff and deny the Plaintiff of the use and enjoyment of their property, or punish them for exercising free speech.

18. The Defendants knew of and were always aware of and on notice the Plaintiff's first amendment petition clause activities and protected class membership; in that, the Defendants were a party of the Plaintiffs petition clause activity, the Defendants were informed of the Plaintiffs' activity, and/or the Defendants responded and/or reacted to the Plaintiffs activities and class membership through others controlled or supervised by the Defendants.

19. Plaintiffs as a result of their exercise of petition clause activities were subjected to retaliation or adverse action by the Defendants, which adverse action included but is not limited to:

(a) the initiation of criminal process, which process the Defendants lacked legal authority or basis at law to initiate; which was initiated without probable cause; which was initiated for a purpose not intended by the process, but to extort money from the Plaintiffs and/or to annoy and/or harass the Plaintiffs; and, which process ended favorably for the Plaintiffs;

(b) the creation of a governmental Resolution (No 2007-6) that was enacted to, *inter alia*, extort money from the Plaintiffs, deprive them of the enjoyment of their property, and/or to annoy, harass, deprive Plaintiffs of their property, and punish the Plaintiffs for their petition clause activities.

20. The Defendants at all times acted under color of state law, for themselves and one another; in concert and in furtherance of an agreement, or to facilitate such and from a custom policy or practice of Mount Holly. In that, the Defendants did initiate criminal process and enact a Referendum; whereas, the purpose of such was to achieve an illegal purpose or legal purpose but in an illegal manner as was previously identified.

21. The Defendants acted intentionally, maliciously, with gross negligence, and with deliberate indifference to and/or reckless disregard for the Plaintiffs rights that were clearly established at such time.

22. The Defendants for all times relevant to the Plaintiff's actions, act, or conduct knew or should have known that the Defendants act, actions and conduct violated clearly established law, and that their Defendants' act, actions or conduct would or was likely to deprive the Plaintiffs of their civil rights, privileges or immunities as secured under federal law, rule, regulation or constitution.

23. The substantial or motivating reason for the Defendants' act, actions or conduct was the Plaintiffs' protected petition clause activity and/or class membership.

24. As a direct result of the Defendants' act, action or conduct the Plaintiffs were deprived of their federally secured rights, privileges or immunities; they sustained injury to their person and economic damages, which legal cause or proximate cause for such is the Defendants' act, actions, agreement, and conduct, for which relief is permitted and entitled under 42 USC 1983 et seq.

COUNT III
42 USC 1981 and 1983
Race Discrimination

25. Plaintiffs incorporate the preceding paragraphs hereto and as if each were repeated verbatim.

26. Plaintiff are a member of a protected class of persons; in that, the Plaintiff Andrew Copeland is an Afro-American or of the black race; Lorrain Copeland is perceived as such, and was by the defendants, but who is an American Indian.

27. Plaintiffs are property owners of personal and real property located at 507 Garden Street, Mt. Holly, New Jersey, said real property is known to the Defendants also as Block/Lot 122./10 and 11. Plaintiffs' property is adjacent to Township property.

28. Defendants all are of the White race and not a member of the Plaintiffs' class membership

29. On or about August 20, 2005 the Defendants took governmental action against the Plaintiffs, which included but was not limited to the initiation of criminal process against the Plaintiffs and the enactment of a "Resolution, which was done because of the Plaintiffs' race or membership in the black race or being Afro-Americans.

30. The Defendants motivating reason for their actions was the Plaintiffs' race, and the Defendants at all times related to this cause of action knew of and had knowledge of the Plaintiffs' class membership.

31. Plaintiffs are entitled to equal rights, full and equal benefit of all laws and proceedings for the security of persons and property, as enjoyed by other races, which includes the Defendants' race, and the Plaintiffs are entitled to be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other, as white citizens.

32. Plaintiffs' aforementioned equal protection rights as stated in the preceding

paragraph was impaired by the Defendants who were at such time acting under color of State law.

33. As a direct result of the Defendants' under color of state law conduct, act and actions as described in the previous paragraphs above the Plaintiffs were denied, of their equal protection rights or said right was impaired; in that the Plaintiffs' right to equal treatment under law was denied when:

(a) only the Plaintiffs were subjected to criminal prosecution for having a Township owned sidewalk that was in what the Township called unsafe condition to the public, which condition was the result of the Township or municipal authority and/or Township owned property

(a) only the Plaintiffs were subjected to a Resolution, tax or punishment for a dangerous condition to a sidewalk created by the Defendant Township.

(c) only the Plaintiffs were criminally prosecuted because public speech activity relating to "trip hazard" condition existing on the Defendant Township's property, which condition was created by or the result of the Defendant Township's employees and/or property or a municipal authority, such as the sewer or water authority.

34. The Defendants acted intentionally, maliciously, with gross negligence, and with deliberate indifference to and/or reckless disregard for the Plaintiffs rights that were clearly established at such time.

35. The Defendants for all times relevant to the Plaintiff's actions, act, or conduct knew or should have known that the Defendants act, actions and conduct violated clearly established law, and that their Defendants' act, actions or conduct would or was likely to deprive the Plaintiffs of their civil rights, privileges or immunities as secured under federal law, rule, regulation or constitution.

36. The substantial or motivating reason for the Defendants' act, actions or conduct was the Plaintiffs' race or class membership.

37. As a direct result of the Defendants' act, action or conduct the Plaintiffs sustained personal injury, economic damages and were deprived of full and equal treatment of the law, taxes and punishment as enjoyed by white citizens, which unequal treatment is by the Defendants' act, actions and conduct, which conduct act and actions is the proximate and/or of the Plaintiffs' injuries, damages, and deprivation of rights under Section 1981 et seq.

COUNT IV
State Claims
Malicious use / Abuses of Process

38. Plaintiffs incorporate the preceding paragraphs hereto and as if each were repeated verbatim.

39. The Defendants on or about September 26, 2005 initiated, procured and continued criminal process against the Plaintiffs', which criminal charge was "Failure to Repair Sidewalk" and asserted as a criminal charge by the Defendant under PM-303.3 and in Municipal Court.

40. The Defendants lacked legal basis and/or probable cause to initiate the criminal process.

41. The Defendant initiated procured and/or continued the process for a purpose the process was not intended; to wit, to extort money from the Plaintiffs, and/or to annoy, harass, deprive Plaintiffs of their property, and punish the Plaintiffs for their petition clause activities.

42. The Process ended favorably for the Plaintiff, as on or about October 13, 2006 the Superior Court dismissed the charge because the Defendants lacked legal authority to bring the criminal charge.

43. The Defendants acted intentionally and maliciously when they initiated, procured and/or continued the process against the Plaintiffs.

44. The Defendants on or about March 26, 2007 procured, initiated and continued civil process in the form of a Resolution against the Plaintiff and did so for an improper purpose; to wit, to punish and/or to extort money from the Plaintiffs.

45. As a direct result of the Defendants' act, action or conduct the Plaintiffs sustained injury to their person and economic damages, which the legal cause or proximate cause for such is the Defendants' act, actions, agreement, and conduct, for which relief is permitted under law.

COUNT IV
State Claims
Infliction of Emotional Distress

46. Plaintiffs incorporate the preceding paragraphs hereto and as if each were repeated verbatim.

47. The Defendants on or about September 26, 2005 and continuing to date, June 22, 2007, the Defendants intentionally and maliciously engaged in conduct that was within or outside the scope and course of their employment or position as officials with Mt Holly Township, which conduct was illegal and inflicted intentional, negligent or innocent extreme emotional distress upon the Plaintiffs.

48. The Plaintiff as a result of the extreme emotional distress sustained injury, which injury manifested into physical form, such as but not limited to:

- (a) headaches
- (b) stomachaches;
- (c) loss of hair;
- (d) weight loss and gain;
- (e) eye muscle twitches;

(f) loss of sleep or restlessness and/or insomnia.

49. The Defendants' conduct was extreme and of the type society is unwilling to accept.

50. Plaintiffs on or about July 1, 2007 advised the Defendants in writing of their intent to seek tort relief for the Defendants' conduct

VI. TRIAL BY JURY DEMAND

51. Plaintiffs demand a trial by jury.

VII. TRIAL ATTORNEY DESIGNATION

52. Plaintiffs designate Attorney Brian M. Puricelli as lead trial counsel.

VIII. PRAY FOR RELIEF

53. Plaintiffs pray the Court enter judgment for them and against the defendants, to hold the defendants joint and several liable to the Plaintiffs, and to award Plaintiffs all relief permitted at law and equity, including such relief as but not limited to:

- a- nominal damages;
- b- compensatory damages;
- c- consequential damages;
- d- punitive damages
- e- reasonable attorney fees
- f- litigation costs.

Respectfully submitted,

KRAVITZ AND PURICELLI

ECF Signature: bPuricelli /s/

BY: *Brian M Puricelli*
Brian M. Puricelli, Esquire
Counsel for Plaintiff

BUDD LARNER
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ATTORNEYS FOR DEFENDANTS,
 TOWNSHIP OF MOUNT HOLLY, JULES K. THIESSEN,
 BROOKE TIDSWELL, III,, JOAN BOAS, GLADYS DANSE (improperly pled
 as "DANSE"), THOMAS GIBSON, ARTHUR M. LISTON,
 KATHLEEN HOFFMAN, and PETER CUSICK

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

ANDREW COPELAND and LORRAINE COPELAND,	:	UNITED STATES DISTRICT COURT
	:	DISTRICT OF NEW JERSEY
Plaintiffs,	:	
	:	NO. 07-CV-3792 (NLH)
vs.	:	
	:	CIVIL ACTION
TOWNSHIP OF MOUNT HOLLY;	:	
JULES K. THIESSEN (MAYOR);	:	
BROOKE TIDSWELL, III (DEPUTY MAYOR);	:	
JOAN BOAS (COUNCILWOMAN);	:	
GLADYS DANSE (COUNCILWOMAN);	:	
THOMAS GIBSON (COUNCILMAN);	:	
ARTHUR M. LISTON (TOWNSHIP MANAGER);	:	
KATHLEEN HOFFMAN (MUNICIPAL CLERK and	:	
TOWNSHIP MANAGER); and PETER CUSICK,	:	
Defendants.	:	

SETTLEMENT AGREEMENT and GENERAL RELEASE

This Settlement Agreement and General Release (the
 "Agreement") is made this _____ day of _____,

60840

2008, by and between Andrew Copeland and Lorraine Copeland ("plaintiff") and Township of Mount Holly, Jules K. Thiessen, Brooke Tidswell, III, Joan Boas, Gladys Danser, Thomas Gibson, Arthur M. Liston, Kathleen Hoffman, and Peter Cusick ("Township").

WHEREAS, plaintiff filed a civil action styled Andrew Copeland and Lorraine Copeland v. Township of Mount Holly, et al., bearing Civil Action Number 07-cv-3792(NLH) ("the Action"); and

WHEREAS, plaintiff asserted various claims against the Township including, but not limited to, claims for emotional pain and suffering; and

WHEREAS, Township denies each and every allegation made by plaintiffs in the Action; and

WHEREAS, plaintiff and Township have agreed to settle in full all claims plaintiffs had or may have had against the Township including, but not limited to, all claims that were or could have been raised in the Action; and

WHEREAS, plaintiff has agreed to release any and all claims against Township.

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which the parties hereby acknowledge, the parties agree as follows:

1. Payment

Township shall pay plaintiff the sum of SEVENTY FIVE THOUSAND DOLLARS (\$75,000) in full and complete settlement of the claims made in the Action, and in consideration for plaintiff waiving and releasing any and all claims as set forth in Paragraph 2 below. Plaintiff acknowledges that any attorney fee payable to their attorney must be paid out of this \$75,000 payment, and that plaintiff and their attorneys (both past and present) are waiving any right they may have to file a fee application.

In addition, Township agrees to repair the sidewalk pavement abutting plaintiff's premises located at 507 Garden Street, Township of Mount Holly, adjudged to be a tripping hazard.

2. General Release and Waiver of Right to Sue by Plaintiff.

In full consideration of the payment referred to in Paragraph 1 hereof, plaintiff, for themselves, their heirs, executors, administrators, attorneys and assigns, hereby release and forever discharge Township, its parent, subsidiaries, and their past, present, or future officers, directors, partners, principals, agents, servants, employees, attorneys, and successors and assigns of them and each of them, individually and in their official capacities, from any and all claims, debts, demands, causes of action, attorney's fees, etc., which plaintiff now has or ever had up to the date of this Agreement, including those of which they are not aware, and those not mentioned herein. Specifically, but not

by way of limitation, plaintiff releases any claim plaintiff may have under:

- Sections 1981 through 1988 of Title 42 of the United States Code;
- the New Jersey Law Against Discrimination;
- Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991;
- any other federal, state or local civil or human rights rule, regulation or ordinance; and
- any public policy, tort, emotional distress or common laws.

It being plaintiff's intention to waive and release any and all claims of every nature that they may have against the Township, including claims for attorney's fees and costs.

3. No Admission of Liability.

The making of this Agreement and the payment as set forth in Paragraph 1 is not intended, and shall not be construed, as an admission that Township violated any federal, state, or local law (statutory or decisional), ordinance or regulation, or committed any wrongdoing against plaintiff. In fact, Township expressly denies that it committed any wrongdoing.

4. Stipulation of Dismissal.

Except for this Action, plaintiff represents that they have not filed any charges, complaints or claims of any kind against the released parties in any other court or administrative agency. The parties agree that, upon consummation of this Agreement, they will

cause to be filed the appropriate Stipulation, dismissing the Action with prejudice.

5. Confidentiality.

- (a) The terms of this settlement, including, but not limited to, the amount thereof, are to be held in strict confidence, and not disclosed to any third party, except (1) attorneys in this Action; (2) plaintiff's tax advisor and/or accountant for purposes of financial planning; (3) as required by law and/or the legal process; and (4) as may otherwise be required of the Township pursuant to the New Jersey Open Public Records Act and/or Open Public Meetings Act, or other controlling statutory or decisional law.
- (b) Plaintiff and Township hereby agree that they will not take any action to affirmatively notify the news media of the resolution of this action. If asked about the suit and the settlement of these claims, plaintiff and Township will state only that the matter is settled, and that the settlement is satisfactory.
- (c) The non-disclosure agreement set forth in this paragraph is a material inducement to the parties to enter into this Agreement.

6. Advice of Attorney.

Plaintiff acknowledges that they have been represented by

independent legal counsel during the course of this Action; that they have read the within Agreement and understand its terms, or that their attorney has fully explained its terms; and that they are freely, knowingly, voluntarily, and without coercion, forever waiving their right to sue the Township as stated in Paragraphs 2 hereof.

7. Entire Agreement.

This Agreement constitutes the entire Agreement with respect to its subject matter, and supercedes all prior written or oral agreements, statements, offers or understandings. The parties acknowledge that they are not relying on any other representations, warranties, agreements, or undertakings other than those expressly contained herein.

8. Severability.

If any provision of this Agreement is declared invalid or unenforceable by any court of competent jurisdiction, and if such provision cannot be modified to be enforced to any extent or in any application, the remaining provisions shall nevertheless survive and continue in full force and effect.

9. Who is Bound.

Plaintiff is bound by this Agreement. This Agreement shall be binding upon plaintiff's heirs, successors and assigns. This Agreement is made for the benefit of the released parties and all

who succeed to their rights and responsibilities. Township, its heirs, successors and assigns are also bound by this Agreement.

10. Signature Pages.

This Agreement may be executed by the signatories on separate signature pages.

WHEREFORE, the parties hereto have signed this Agreement on the date(s) set forth below.


ANDREW COPELAND

Sworn to and subscribed before me this 3 day of September, 2008.


NOTARY PUBLIC
My Commission Expires April 23, 2009


LORRAINE COPELAND

Sworn to and subscribed before me this 3 day of September, 2008.


NOTARY PUBLIC
My Commission Expires April 23, 2009

TOWNSHIP OF MOUNT HOLLY

BY: [Signature]
(Signature)

Kathy Hoffman/Top Mgr.
(Print Name and Title)

Sworn to and subscribed before
me this 29th day of September, 2008.

Vicki M Conover

VICKI M. CONOVER
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES OCTOBER 25, 2012
I.D. NO. 2365938