

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**STEVEN CABELUS**  
352 Barnes Street, #1  
Fall River, MA 02723,  
*Plaintiffs*

v.

**NEW HOPE BOROUGH**  
123 New Street  
New Hope, PA 18938,

**MICHAEL CUMMINGS**  
125 New Street  
New Hope, PA 18938

**JOHN GOSS**  
125 New Street  
New Hope, PA 18938

**KENNETH KOZUHOWSKI**  
125 New Street  
New Hope, PA 18938

**MATT ZIMMERMAN**  
125 New Street  
New Hope, PA 18938

and

**CANDICE TREMBLAY**  
125 New Street  
New Hope, PA 18938  
*Defendants*

**JURY TRIAL DEMANDED**

**CIVIL ACTION NO. 14-\_\_\_\_\_**

**COMPLAINT**

## **JURISDICTION**

1. This action is brought pursuant to the United States Constitution, 42 U.S.C. §§1983, 1988, 12132 and 29 U.S.C. §794. Jurisdiction is founded upon 28 U.S.C. §§1331 and 1343 and the aforementioned provisions. Plaintiff further invokes the supplemental jurisdiction of this Court under 28 U.S.C. §1367(a) to hear and adjudicate state law claims.

## **PARTIES**

2. Plaintiff Steven Cabelus is a resident of the Commonwealth of Massachusetts, at the address set forth in the caption.

3. At the time of the events which form the basis of this action, Plaintiff was a resident of the Commonwealth of Pennsylvania, residing at 131 North Main Street, Apartment 8, New Hope, Pennsylvania.

4. Plaintiff Steven Cabelus was at all times relevant hereto a qualified individual with a disability as defined in the Americans with Disabilities Act, 42 U.S.C. §12131(2) (“ADA”).

5. Defendant New Hope Borough is a municipality of the Commonwealth of Pennsylvania that owns, operates, manages, directs and controls the New Hope Borough Police Department and is the public employer of the individual Defendants named in the caption, and set forth below.

6. Defendant New Hope Borough is a public entity as defined in the

ADA, 42 U.S.C. §12131(1), and receives federal financial assistance under § 504 of the Rehabilitation Act, 29 U.S. §794 ("§ 504").

7. Defendant Michael Cummings was at all relevant times New Hope Borough Police Chief. He is being sued in his individual capacity.

8. Defendant John Goss was at all relevant times a New Hope Borough Police Sergeant. He is being sued in his individual capacity.

9. Defendant Matt Zimmerman was at all relevant times a New Hope Borough Police Corporal. He is being sued in his individual capacity.

10. Defendant Kenneth Kozuhowski was at all relevant times a New Hope Borough Police Officer. He is being sued in his individual capacity.

11. Defendant Candice Tremblay was at all relevant times a New Hope Borough Police Officer. She is being sued in her individual capacity.

12. At all relevant times, Defendants were acting under color of state law.

13. At all relevant times, the actions taken by all Defendants deprived Plaintiff Steven Cabelus of his constitutional and statutory rights.

14. At all relevant times, the individual Defendants were acting in concert and conspiracy and their actions deprived Plaintiff of his constitutional and statutory rights.

## **FACTUAL ALLEGATIONS**

15. On September 27, 2012, at about 12 Noon, Beth Cabelus, who was then the estranged wife of Plaintiff Steven Cabelus, contacted Defendant New Hope Borough Police Chief Michael Cummings.

16. According to Defendant Cummings, Mrs. Cabelus was calling to complain that her estranged husband, Plaintiff Steven Cabelus continued to enter the marital home, even though he had moved out.

17. According to Defendant Cummings, Mrs. Cabelus stated that Plaintiff Steven Cabelus suffers from bi-polar disorder and had not been taking his medication.

18. According to Defendant Cummings, Mrs. Cabelus stated, in response to questioning by Cummings, that Plaintiff Steven Cabelus had not threatened her or her son.

19. According to Defendant Cummings, Mrs. Cabelus stated, in response to questioning by Cummings, that Plaintiff Steven Cabelus has never abused her in any way.

20. On September 27, 2012, Defendant Cummings prepared a report memorializing his conversation with Mrs. Cabelus.

21. On September 29, 2012, at about 2:20PM, Plaintiff Steven

Cabelus approached New Hope Borough Police Officer Robert Leh, in the vicinity of South Main and Mechanic Street in New Hope.

22. Officer Leh was on-duty, in uniform, in his stopped patrol car.

23. Plaintiff Steven Cabelus informed Officer Leh that he had been in a verbal altercation with his neighbor, Rob Jernigan, which altercation was continued from an earlier event involving a physical assault on Cabelus by Jernigan.

24. Officer Leh reports that Cabelus was shaking and seemed very nervous, upset and anxious.

25. Plaintiff Steven Cabelus further informed Officer Leh that he was worried about going home, that he (Cabelus) had guns in his apartment, and was worried about Jernigan stealing them and using them against him (Cabelus).

26. Plaintiff Steven Cabelus told Officer Leh that he was very worried about making things worse or escalating the situation with Jernigan, however he (Cabelus) did want Leh to prepare a report in case something else happened, so there was a record of the ongoing problem.

27. Officer Leh contacted Defendant Corporal Zimmerman, and advised him (Zimmerman) of the situation.

28. Defendant Zimmerman told Officer Leh to prepare a report.

29. At about 2:37PM, Officer Leh received a phone call request from Bucks County Radio to return a phone call to Robert Jernigan, in regard to Plaintiff Steven Cabelus.

30. At about 2:40PM, Officer Leh phoned Jernigan.

31. Officer Leh reports that Jernigan said he had been in an argument with Plaintiff Steven Cabelus about 25 minutes earlier, during which, Jernigan claimed, Cabelus threatened to shoot Jernigan and his family.

32. Officer Leh further reports that Jernigan stated that he knows Cabelus to be suffering from bi-polar disorder, is going through a bad divorce, has stopped taking his medication, and is “going off the deep end”.

33. Officer Leh further reports that Jernigan stated that Cabelus has guns, “specifically a .357.”

34. Officer Leh reports that Jernigan stated that he believed that Cabelus was drinking at a nearby bar.

35. Officer Leh contacted Defendant Corporal Zimmerman and advised him of the additional information received from Jernigan.

36. Defendant Zimmerman directed Officer Leh to obtain the criminal histories of both Plaintiff Steven Cabelus and Jernigan.

37. Jernigan has an extensive criminal record.

38. Plaintiff Steven Cabelus has no criminal record.

39. At approximately 3:30 pm on September 29, 2012, Officer Leh prepared a report setting forth his interactions with Plaintiff Steven Cabelus and Jernigan earlier that afternoon, as described in ¶¶ 21-34, above.

40. Defendant Zimmerman then directed Officer Leh to provide all of the information to Defendant Kozuhowski, who was taking over due to shift change, which he (Leh) did.

41. Thereafter, Defendant Kenneth Kozuhowski, contacted Jernigan.

42. Defendant Kozuhowski reports that Jernigan told him (Kozuhowski) that Plaintiff Steven Cabelus:

- a. Had threatened to shoot him earlier that day (September 29, 2012);
- b. That Cabelus possessed a handgun and a rifle;
- c. That Cabelus had been “acting weird and crazy”;
- d. That Cabelus was bi-polar and had stopped taking his medication;
- e. That Cabelus was getting worse; and
- f. That Cabelus had earlier attacked him with cutlery;

43. Defendant Kozuhowski reported this information to both Defendant Cummings and Defendant Zimmerman.

44. After several calls between Defendants Kozuhowski, Cummings and Zimmerman, it was determined that a mental health commitment would be sought under § 302 of the Pennsylvania Mental Health and Procedures Act.

45. Defendant Kozuhowski transported Jernigan to the Doylestown Hospital, where Jernigan provided information in support of a warrant to take Plaintiff Steven Cabelus into custody for transportation to a mental health facility for a mental health examination.

46. The information in the warrant document states that Jernigan provided the following information:

- a. A week earlier Plaintiff Steven Cabelus had stabbed Jernigan with a fork;
- b. On September 27, 2012, Cabelus slashed at Jernigan with a knife and cut his finger;
- c. Cabelus threatened to shoot a friend of Jernigan's, who was visiting Jernigan's apartment (next door to Cabelus);
- d. Cabelus possesses two guns, a pistol and a rifle, both



recently purchased;

- e. Cabelus had been unloading and loading the guns nightly and making comments about wanting to shoot family members; and
- f. Cabelus had stopped taking his medication.

47. The face sheet of the warrant document indicated that Plaintiff Steven Cabelus had been receiving psychiatric services from a “private psychiatrist for years[,] diagnosed with bipolar [disorder].”

48. The warrant was signed on September 29, 2012, at 6:52 PM.

49. Defendant Kozuhowski advised Jernigan that he (Jernigan) should not return to his apartment, and instead Kozuhowski transported Jernigan to a friend’s house.

50. During the ride from the hospital to Jernigan’s friend’s house, Jernigan twice stated to Defendant Kozuhowski that “Cabelus will not go easy.”

51. Defendant Kozuhowski then returned to New Hope Borough Police Headquarters, where he briefed Defendant Sergeant Goss.

52. Defendants developed an action plan of how the warrant would be served, which consisted of nothing more than how Defendants Kozuhowski,

Goss and Tremblay, along with New Hope Borough Police Officer Richard Joyner, would be distributed around the apartment building

53. Plaintiff Steven Cabelus was inside his residence at 131 North Main Street, Apartment 8, New Hope, Pennsylvania.

54. Defendant Kozuhowski stood to the side of the front door of Cabelus' apartment and knocked three times loudly, calling out "Steve".

55. Neither Defendant Kozuhowski, nor any other officer announced that he/she/they were the police.

56. Plaintiff, fearing that it was Jernigan come to do him harm, answered the door with a gun in his hand.

57. When Plaintiff Steven Cabelus answered the door, he did not see anyone there, so he peered around the doorway, where he first saw Defendants Kozuhowski and Goss.

58. Defendant Tremblay was on the ground level in front of the building.

59. As soon as Plaintiff Steven Cabelus saw police officers, he proceeded to drop his gun.

60. Without warning, Defendant Kozuhowski began firing his weapon at Plaintiff Steven Cabelus.

61. Defendant Goss who was behind Defendant Kozuhowski also proceeded to fire his gun at Plaintiff Steven Cabelus.

62. Plaintiff Steven Cabelus fell back into his apartment, with his lower body paralyzed from a gunshot wound to his spinal cord.

63. At no time prior to discharging their weapons did Defendants Kozuhowski or Goss, or any other officer, tell Plaintiff Steven Cabelus to drop his gun.

64. At the point where Defendants Kozuhowski and Goss fired on Plaintiff Steven Cabelus, he was not threatening the officers and the situation was de-escalating safely.

65. Subsequent to the shooting of Plaintiff Steven Cabelus, the individual Defendants prepared reports and gave statements containing false, misleading or incomplete information as part of a plan and conspiracy to cover-up their unreasonable, illegal and unconstitutional conduct.

66. At all times relevant hereto, Plaintiff Steven Cabelus suffered from mental illness, including bi-polar disorder.

67. The individual Defendants were aware that Plaintiff Steven Cabelus suffered from mental illness, was in fear of his neighbor Jernigan, and had weapons in his apartment.

68. The individual Defendants' "plan" to take Plaintiff Steven Cabelus into custody did not account for the information they had regarding his mental illness, his fearful emotional state, his anxiety, and his possession of weapons in his home.

69. The individual Defendants exacerbated and escalated the situation.

70. The individual Defendants use of deadly force against Plaintiff Steven Cabelus was unreasonable.

71. The failure of Defendants Zimmerman and Cummings to communicate the information from Officer Leh's earlier interaction with Plaintiff Steven Cabelus to the officers going to execute the commitment warrant, created or increased the danger that Plaintiff would be injured in the subsequent encounter with police.

72. The failure of Defendant Cummings to communicate the information from Mrs. Cabelus to the officers going to execute the commitment warrant, created or increased the danger that Plaintiff Steven Cabelus would be injured in the subsequent encounter with police.

73. The failure of Defendants Cummings, Zimmerman, and Goss to make plans for execution of the commitment warrant which took into account

the information they had regarding Plaintiff's mental illness, his fearful emotional state, his anxiety, and his possession of weapons in his home, created or increased the danger of injury to Plaintiff Steven Cabelus.

74. The failure of the individual Defendants to make plans for execution of the commitment warrant consistent with reasonable and generally accepted police procedures for dealing with armed, emotionally disturbed persons, created or increased the danger of injury to Plaintiff Steven Cabelus.

75. There were no exigencies interfering with the ability of the individual Defendants to make plans for execution of the commitment warrant consistent with reasonable and generally accepted police procedures for dealing with armed, emotionally disturbed persons

76. At no time did Plaintiff Steven Cabelus commit an offense against the laws of the Commonwealth of Pennsylvania, the United States or local ordinance, which justified the use of deadly force.

77. At no time did Plaintiff Steven Cabelus commit illegal acts or engage in conduct which justified the actions of Defendants.

78. It is the policy, practice and custom of New Hope Borough that its officers do not use widely recognized and well-established crisis intervention

procedures and techniques with regard to individuals exhibiting possible mental illness, and to resort to unreasonable and excessive force.

79. The actions and conduct of the individual Defendants were the direct result of the failure of Defendants New Hope Borough and Chief Cummings to:

a) properly train, supervise, monitor and discipline police officers in connection with well-established crisis intervention and commitment procedures related to individuals with mental disabilities;

b) provide programs and services to qualified persons with mental disabilities; and/or

c) ensure that police officers follow established crisis intervention and commitment procedures under such circumstances as presented by this case.

80. The actions and inactions of Defendants were the proximate cause of the shooting and injuries suffered by Steven Cabelus.

81. Defendants Cummings, Zimmerman and Goss bear supervisory liability for the shooting and injuries suffered by Steven Cabelus.

82. The shooting and injuries to Steven Cabelus were a foreseeable consequence of the actions and inactions of Defendants.

83. Defendants knew or should have known that their actions and inaction could result in injuries to innocent persons.

84. Defendants knew or should have known that their actions and inaction created a danger to Plaintiff Steven Cabelus.

85. Defendants failed to take reasonable care for the safety of innocent persons, including Plaintiff Steven Cabelus.

86. The acts of the individual Defendants constituted willful misconduct.

87. The actions and conduct of the individual Defendants were willful, wanton, malicious, intentional, outrageous, deliberate and/or so egregious as to shock the conscience.

88. As a direct and proximate result of the actions and inactions of Defendants, Plaintiff Steven Cabelus was caused serious injuries and thereby caused to also suffer complete loss of earnings and earnings capacity.

89. Plaintiff Steven Cabelus' has suffered pecuniary loss, to his great detriment, and has or will incur expenses for:

- a. Past and future medical bills;
- b. Past and future devices, accommodations and services necessitated by his injuries; and

- c. The costs of care to assist him in the life activities he is/will be unable to perform without assistance due to his injuries.

90. As a direct and proximate cause of Defendants' actions and inactions, Plaintiff Steven Cabelus suffered from gunshot wounds, by reason of which he was rendered paralyzed, sick, sore, lame, prostrate, and disordered and was made to undergo great physical pain and horrible mental anguish, as well as loss of earning power and earning potential, total deprivation of the normal activities, pursuits and pleasures of life, and reduced life expectancy, all of which he has suffered and will continue to suffer in the future.

91. As a direct result of the actions and conduct of all defendants, Plaintiff Steven Cabelus suffered and will in the future suffer physical injuries, pain, emotional distress, psychological harm, fear, horror and additional harms caused by the violation of his rights under the United States Constitution, 42 U.S.C. §§1983, 42 U.S.C. § 12132 and 29 U.S.C. §794.

**FIRST CAUSE OF ACTION  
FEDERAL CIVIL RIGHTS VIOLATIONS UNDER 42 U.S.C. §1983**

92. The allegations set forth in the preceding paragraphs, inclusive, are incorporated herein as though fully set forth.

93. As a direct and proximate result of Defendants' conduct,



committed under color of state law, Defendants deprived and conspired to deprive Plaintiff Steven Cabelus of his right to be free from the unreasonable use of force, to be secure in his person and property, to due process and equal protection of the law, and to his right of access to the courts. As a result, Plaintiff Steven Cabelus suffered harm, in violation of his rights under the laws and Constitution of the United States, in particular the First, Fourth and Fourteenth Amendments thereof, and 42 U.S.C. §1983.

94. Defendant New Hope Borough has encouraged, tolerated, ratified and has been deliberately indifferent to a pattern, practice and custom of and to the need for more or different training, supervision, investigation or discipline in the areas of:

- a. The proper exercise of police powers, including the unreasonable use of force and deadly force;
- b. Crisis intervention techniques for individuals who exhibit the signs and symptoms of mental disabilities;
- c. The procedures for the commitment and transportation of persons with mental disabilities for treatment under the Pennsylvania Mental Health and Procedures Act;
- d. Training and resources for crisis intervention teams of

police officers and others to respond to emergencies involving persons with mental disabilities including, but not limited to their commitment for treatment under the Pennsylvania Mental Health and Procedures Act;

- e. The failure of police officers to follow established policies, procedures, directives and instructions regarding crisis intervention techniques for individuals who exhibit the signs and symptoms of mental disabilities; and
- f. By these actions, Defendant New Hope Borough deprived Plaintiff Steven Cabelus of rights secured by the Fourth and Fourteenth Amendments to the United States Constitution in violation of 42 U.S.C. §1983.

95. As a direct and proximate result of the actions and conduct of Defendants, Plaintiff Steven Cabelus sustained damages as set forth above.

96. The actions of the individual Defendants were wanton, wilful, reckless, malicious, oppressive, outrageous and unjustifiable and, therefore, exemplary damages are necessary and appropriate.

97. Plaintiff is entitled to attorney's fees and costs of prosecution of this suit from Defendants, pursuant to 42 U.S.C. §1988.

**SECOND CAUSE OF ACTION  
FEDERAL CIVIL RIGHTS VIOLATIONS UNDER  
THE AMERICANS WITH DISABILITIES ACT, 42 U.S.C. §12132, AND  
§ 504 OF THE REHABILITATION ACT, 29 U.S.C. §794**

98. The allegations set forth in the preceding paragraphs, inclusive, are incorporated herein as though fully set forth.

99. As a direct and proximate result of all Defendants' conduct, committed under color of state law, Defendants discriminated against Plaintiff Steven Cabelus by reason of his mental health disability, denying him the benefits of the services, programs and activities to which he was entitled as a person with a disability including but not limited to the right to be free of discriminatory or disparate treatment by virtue of his mental disability, and to due process and equal protection of the law. As a result, Plaintiff Steven Cabelus suffered harm in violation of his rights under the laws and Constitution of the United States, the ADA and § 504.

100. Defendant New Hope Borough has failed to comply with the mandates of the ADA and § 504 in the following areas:

- a. The failure to properly train, supervise and discipline police officers regarding crisis intervention technique for individuals who exhibit the signs and symptoms of mental disabilities;

- b. The failure to provide adequate training and resources for crisis intervention teams of police officers and others to respond to emergencies involving persons with mental health disabilities including, but not limited to the commitment and transportation of persons with mental health disabilities for treatment under the Pennsylvania Mental Health and Procedures Act;
- c. The failure of police officers to follow established policies, procedures, directives and instructions regarding crisis intervention techniques for individuals who exhibit the signs and symptoms of mental health disabilities; and
- d. The failure of police officers to follow established policies, procedures, directives and instructions regarding the procedures for the commitment and transportation of persons with mental health disabilities for treatment under the Pennsylvania Mental Health and Procedures Act.

101. By their actions, Defendants have deprived Plaintiff Steven Cabelus of rights secured by the United States Constitution, the ADA and § 504.

102. Plaintiff is entitled to attorney's fees and costs of prosecution of this suit from Defendants.

**THIRD CAUSE OF ACTION  
ASSAULT & BATTERY**

103. The allegations set forth in the preceding paragraphs, inclusive, are incorporated herein as though fully set forth.

104. Defendants Kozuhowski and Goss did place Plaintiff Steven Cabelus in fear of imminent, unpermitted, unprivileged, offensive bodily contact and did, in fact, subject him to such bodily contact.

105. The acts of Defendants Kozuhowski and Goss as set forth above, constituted the torts of assault and battery, all to Plaintiff Steven Cabelus' great detriment and loss.

106. The actions of Defendants Kozuhowski and Goss were wanton, wilful, reckless, malicious, oppressive, outrageous and unjustifiable and, therefore, exemplary damages are necessary and appropriate.

**JURY DEMAND**

107. Plaintiff Steven Cabelus demands a trial by jury as to each defendant and as to each cause of action and claim.

**WHEREFORE**, Plaintiff Steven Cabelus demands judgment against each defendant, jointly and severally, as to each count, along with costs,

attorney's fees, interest, exemplary damages as to the individual defendants, and such other and further relief as the Court may deem just and proper.

By: **POPPER & YATVIN**

Handwritten signatures of Howard D. Popper and Alan L. Yatvin, with a horizontal line drawn underneath them.

Howard D. Popper,  
and with him

Alan L. Yatvin,  
230 South Broad Street, Suite 503  
Philadelphia, PA 19102  
(215)546-5700  
*Popper.yatvin@verizon.net*

September 17, 2014

Attorneys for Plaintiff

14-cv-5327

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Steven Cabelus

(b) County of Residence of First Listed Plaintiff Bristol County, MA (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Howard D. Popper, Popper & Yatvin, 230 S. Broad St, Ste 503 Phila., PA 19102 (215) 546 5700

DEFENDANTS

New Hope Borough, Michael Cummings, John Goss, Kenneth Kozuhowski, Matt Zimmerman, Candice Tremblay

County of Residence of First Listed Defendant Bucks (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
Federal Question (U.S. Government Not a Party)
Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship (Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country) and incorporated/principal place of business.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes checkboxes for various legal claims like 110 Insurance, 210 Land Condemnation, 310 Airplane, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 USC § 1983, 12132, 29 U.S.C. §794.

Brief description of cause: Unreasonable Force, etc.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMANDS CHECK YES only if demanded in complaint: JURY DEMAND: X Yes [ ] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE S.T. DOCKET NUMBER

DATE 9/17/14 SIGNATURE OF ATTORNEY OR RECORD

SEP 17 2014

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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Save As...

Reset

**EL**

**14 5327**

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 352 Barnes Street, Fall River, MA

Address of Defendant: 123 New Street, New Hope, PA  
 Hope, PA

Place of Accident, Incident or Transaction: New Hope, PA

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes  No

Does this case involve multidistrict litigation possibilities? Yes  No

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

- Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes  No
- Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes  No
- Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes  No
- Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes  No

CIVIL: (Place  in ONE CATEGORY ONLY)

A. Federal Question Cases:

- Indemnity Contract, Marine Contract, and All Other Contracts
- FELA
- Jones Act-Personal Injury
- Antitrust
- Patent
- Labor-Management Relations
- Civil Rights
- Habeas Corpus
- Securities Act(s) Cases
- Social Security Review Cases
- All other Federal Question Cases  
(Please specify) \_\_\_\_\_

B. Diversity Jurisdiction Cases:

- Insurance Contract and Other Contracts
- Airplane Personal Injury
- Assault, Defamation
- Marine Personal Injury
- Motor Vehicle Personal Injury
- Other Personal Injury (Please specify)
- Products Liability
- Products Liability — Asbestos
- All other Diversity Cases  
(Please specify) \_\_\_\_\_

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Alan L. Yatvin

counsel of record do hereby certify:

- Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- Relief other than monetary damages is sought.

**Not Subject to Arbitration, per E.D. Pa. Loc. R. Civ.P. 53.2.3.A.(3). Civ.P. 53.2.3.A.(3).**

DATE: 9/17/14 [Signature] 38716  
 Attorney-at-Law Alan L. Yatvin Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 9/17/14 [Signature] 38716  
 Attorney-at-Law Alan L. Yatvin Attorney I.D.#



EL


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA  
CASE MANAGEMENT TRACK DESIGNATION FORM

Steven Cabelus : CIVIL ACTION  
v. :  
New Hope Borough, et al. :  
14 5327  
NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>9/17/14</u>	<u>Alan L. Yatvin</u>	<u></u>
<b>Date</b>	<b>Attorney-at-law</b>	<b>Attorney for Plaintiff</b>
2155465700	2155465701	popper.yatvin@verizon.net
<b>Telephone</b>	<b>FAX Number</b>	<b>E-Mail Address</b>

(Civ. 660) 10/02

SEP 17 2014