

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

BNY MELLON, NATIONAL ASSOCIATION
and THE BANK OF NEW YORK MELLON,

Plaintiffs,

v.

OCCUPY PITTSBURGH, an unincorporated
association, JANE DOES (1-50), and JOHN
DOES (1-50),

Defendants.

CIVIL DIVISION

No.: GD 11-025549

**PLAINTIFFS' SUPPLEMENTAL
EMERGENCY MOTION TO
SUPPLEMENT THE JANUARY 10-11,
2012 HEARING RECORD**

Code: 003-Trespass Against Property Owner

Filed on behalf of Plaintiffs BNY Mellon,
National Association and The Bank of New
York Mellon

Counsel of Record for These Parties:

Daniel I. Booker, Esquire
PA I.D. No. 10319
Joel P. Aaronson, Esquire
PA I.D. No. 28067
Michael E. Lowenstein, Esquire
PA I.D. No. 34880
Jeffrey G. Wilhelm, Esquire
PA I.D. No. 201935

Reed Smith LLP
Firm I.D. 234
Reed Smith Centre
225 Fifth Avenue
Pittsburgh, PA 15222
Telephone: 412.288.3131
Facsimile: 412.288.3063

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

BNY MELLON, NATIONAL ASSOCIATION and THE BANK OF NEW YORK MELLON,)	Civil Division
)	No.: GD 11-025549
Plaintiffs,)	
v.)	
OCCUPY PITTSBURGH, an unincorporated association, JANE DOES (1-50), and JOHN DOES (1-50),)	
Defendants.)	

**PLAINTIFFS' SUPPLEMENTAL EMERGENCY MOTION TO SUPPLEMENT THE
JANUARY 10-11, 2012 HEARING RECORD WITH POST-HEARING ADMISSIONS OF
DEFENDANTS**

Plaintiffs, BNY Mellon, National Association, and The Bank of New York Mellon, (collectively, "BNY Mellon"), by their undersigned counsel, respectfully submit the following Supplemental Emergency Motion to Supplement the January 11-12, 2012 Hearing Record with Post-Hearing Admissions of Defendants. In support, BNY Mellon states:

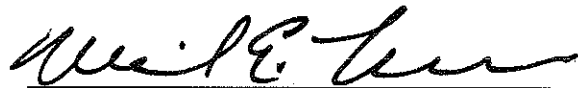
1. On January 10 and 11, 2012, the Court conducted a hearing on Plaintiffs' Motion for Preliminary Injunction in the above-captioned matter (the "Hearing").
2. On Monday, January 30, 2012, BNY Mellon obtained a certified copy of a Police Criminal Complaint against Robert Foltz, Jr, ("Foltz") filed January 27, 2012, which is attached hereto as Exhibit A and incorporated by reference herein ("the Criminal Complaint").
3. In the Criminal Complaint, the Affidavit of Probable Cause states that Foltz stated "that he was staying at the encampment at Mellon Park" and "made several references to being part of the 99% movement to Occupy Pittsburgh."

4. In the Criminal Complaint, Foltz is charged with: (i) Theft from a Motor Vehicle; (ii) Criminal Attempt; (iii) Aggravated Assault; (iv) Aggravated Harassment by Prisoner (v) Resisting Arrest; (vi) Public Drunkenness; (vii) [another] Criminal Attempt; and (viii) Harassment.
5. The Affidavit of Probable Cause states that Foltz, in addition to several violent acts in the course of being arrested, spat at a Sheriff's Deputy, made racial epithets directed at Sheriff's Deputies and stated that the "Third Reich is going to rise again and take care of your [Deputy] (Shatkoff's) family."
6. The Certified Record is admissible as an exception to hearsay and is offered to show as additional post-hearing evidence showing the immediate and irreparable harm and danger presented by the Defendants' Occupation of BNY Mellon Green and the public interest in granting injunctive relief at the earliest possible time.
7. The within Motion is brought as an emergency motion to enable the Court to have before it these relevant post-hearing facts in ruling on Plaintiffs' Motion for Preliminary Injunction. Counsel for BNY Mellon e-mailed the Criminal Complaint to counsel for Defendants in advance of the within Motion.

WHEREFORE, BNY Mellon respectfully moves the Court for an Order permitting BNY Mellon to supplement the record with the Certified Copy of the Criminal Complaint.

Respectfully submitted,

Dated: January 30, 2012



Daniel I. Booker, Esquire
PA. I.D. 10319
Joel P. Aaronson, Esquire
PA I.D. No. 28067
Michael E. Lowenstein, Esquire
PA I.D. No. 34880
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Counsel for Plaintiffs BNY Mellon,
National Association and The Bank of New
York Mellon

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

BNY MELLON, NATIONAL ASSOCIATION and THE BANK OF NEW YORK MELLON,)	Civil Division
)	No.: GD 11-025549
Plaintiffs,)	
v.)	
OCCUPY PITTSBURGH, an unincorporated association, JANE DOES (1-50), and JOHN DOES (1-50),)	
Defendants.)	

ORDER

AND NOW, this _____ day of _____, 2011, it is HEREBY ORDERED that Plaintiff's Supplemental Emergency Motion to Supplement the January 10-11, 2012 Hearing Record with Post-Hearing Admissions of Defendants is GRANTED. The Police Criminal Complaint attached to the Motion shall be identified as Plaintiffs' Exhibit 37 to the record on Plaintiff's Motion for Preliminary Injunction.

BY THE COURT:

EXHIBIT A

COMMONWEALTH OF PENNSYLVANIA
 COUNTY OF ALLEGHENY
 MDJ: PITTSBURGH MUNICIPAL COURT
 Magisterial District Number: 05-0-03
 Address: 660 FIRST AVENUE
 PITTSBURGH, PA 15219
 Phone: 412.350.6715



POLICE CRIMINAL COMPLAINT
 COMMONWEALTH OF PENNSYLVANIA
 VS.

DEFENDANT: ROBERT FOLTZ (NAME and ADDRESS):
 L Middle Name FOLTZ Last Name JR Gen

ORIGINAL COPY

NGIC Extradition Code Type: _____
 Distance: _____

DEFENDANT IDENTIFICATION INFORMATION

Docket Number <u>CR-935-12</u>	Date Filed <u>1-27-12</u>	OTM LiveScan Number G 551796-0	Complaint/Incident Number SRN-608-2012	SID:	Request Lab Services? <input type="checkbox"/> Yes
GENDER MALE	DOB 08/15/1977	POB	Add'l DOB	Co-Defendant(s) <input type="checkbox"/>	
RACE WHITE	First Name		Middle Name	Last Name	Gen
ETHNICITY	AKA				
HAIR COLOR BRO (BROWN)	EYE COLOR GRN (GREEN)				
Driver License	State PA	License Number 25527088	Expires:		WEIGHT (lbs) 140
DNA	DNA Location				FE HEIGHT In: 5 06
FBI Number	MNI Number				
Defendant Fingerprinted:					
Fingerprint Classification:					

DEFENDANT VEHICLE INFORMATION

Plate #	State	Hazmat	Registration Sticker (MMYY)	Commil Veh Incl	School Veh.	Oth. NGIC Veh. Code	Reg. Same as Def. <input type="checkbox"/>
VIN	Year	Make	Model	Style	Color		

Office of the attorney for the Commonwealth Approved Disapproved because: _____

(The attorney for the Commonwealth may require that the complaint, arrest warrant affidavit, or both be approved by the attorney for the Commonwealth prior to filing. See Pa.R.Crim.P. 507).

name of the attorney for the Commonwealth _____ (Signature of the attorney for the Commonwealth) _____ (Date)

I, DONALD MACEJKA 27956
 (Name of the Affiant) (PSP/MP/CE/C - Assigned Affiant ID Number & Badge #)
 of ALLEGHENY COUNTY SHERIFFS PA0020000
 (Identify Department or Agency Represented and Political Subdivision) (Police Agency ORI Number)
 do hereby state: (check appropriate box)
 1. X I accuse the above named defendant who lives at the address set forth above
 I accuse the defendant whose name is unknown to me but who is described as _____

 I accuse the defendant whose name and popular designation or nickname are unknown to me and whom I have, therefore, designated as John Doe or Jane Doe
 with violating the penal laws of the Commonwealth of Pennsylvania at _____ CTY _____ ALLEGHENY COUNTY
 (Subdivision Code) (Place/Political Subdivision)
 In Allegheny County 02 on or about 01/27/2012 16:50
 (County Code)

Handwritten signature/initials



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed:	OTN/LiveScan Number G 551796-0	Complaint/Incident Number SRN-608-2012
Defendant Name:	First ROBERT	Middle L	Last FOLTZ

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically. (Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. A citation to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PINS) should not be listed. If the identity of an account must be established, list only the last four digits. 204 PA Code §§213.1 – 213.7.)

Indicate Offense:	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
X	1	2703.1		of the	18	1	F3		
Lead?	Offense#	Section	Subsection		PA Statute (Title)	Courts	Grade	NCIC Offense Code	UCR/NEBS Code
PennDOT Data (if applicable)		Accident Number		<input type="checkbox"/> Safety Zone		<input type="checkbox"/> Work Zone			
Statute Description/Acts of the accused associated with this Offense:									
18 2703.1 AGGRAVATED HARASSMENT BY PRISONER F3 1 COUNT									
The actor while confined, committed to or being transported to or from ALLEGHENY COUNTY SHERIFF'S OFFICE intentionally or knowingly caused or attempted to cause, DEPUTY TOM SHATKOFF to come in contact with blood, seminal fluid, saliva, urine or feces by throwing, tossing, spitting or expelling such fluid or material, in violation of 18 Pa.C.S. §2703.1.									

Indicate Offense:	<input checked="" type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
	2	3921	A	of the	18	1	F3		
Lead?	Offense#	Section	Subsection		PA Statute (Title)	Courts	Grade	NCIC Offense Code	UCR/NEBS Code
PennDOT Data (if applicable)		Accident Number		<input type="checkbox"/> Safety Zone		<input type="checkbox"/> Work Zone			
Statute Description/Acts of the accused associated with this Offense:									
18 901A CRIMINAL ATTEMPT F3 1 COUNT									
The actor committed an attempt when, with intent to commit the crime of 18: 3921: A, the said actor did the act or acts of CRIMINAL ATTEMPT THEFT BY UNLAWFUL TAKING, NAMELY, 2009 FORD ESCAPE PA REGISTRATION HGA 8492., which constituted a substantial step toward the commission of the aforesaid crime, in violation of 18 Pa. C.S. §901(a).									



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed:	OTN/LiveScan Number G 551796-0	Complaint/Incident Number SRN-608-2012
Defendant Name:	First ROBERT	Middle L	Last FOLTZ

Indicate Offense:	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
Lead?	3	2702	A3	of the	18	1	F2	NCIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)	Accident Number		<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone					
Statute Description/Acts of the accused associated with this Offense:									
18 2702A3 AGGRAVATED ASSAULT F2 1 COUNT The actor attempted to cause or intentionally or knowingly caused bodily injury to DEPUTY TOM SHATKOFF while in the performance of duty, as defined in section 2702(c), in violation of 18 Pa. C.S. §2702 (a)(3).									

Indicate Offense:	<input checked="" type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
Lead?	4	2702	A3	of the	18	1	F2	NCIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)	Accident Number		<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone					
Statute Description/Acts of the accused associated with this Offense:									
18 901A CRIMINAL ATTEMPT F2 1 COUNT The actor committed an attempt when, with intent to commit the crime of 18: 2702: A3, the said actor did the act or acts of ACTOR ATTEMPTED TO STRIKE YOUR AFFIANT WITH CLOSED FISTS, ONCE WITH HIS LEFT AND ONCE WITH HIS RIGHT., which constituted a substantial step toward the commission of the aforesaid crime, in violation of 18 Pa. C.S. §901(a).									

Indicate Offense:	<input type="checkbox"/> Attempt 18 901 A	<input type="checkbox"/> Solicitation 18 902 A	<input type="checkbox"/> Conspiracy 18 903						
Lead?	5	2709	A4	of the	18	1	M3	NCIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)	Accident Number		<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone					
Statute Description/Acts of the accused associated with this Offense:									
18 2709A4 HARASSMENT M3 1 COUNT The actor, with the intent to harass, annoy or alarm DEPUTY TOM SHATKOFF, communicated to or about that person lewd, lascivious, threatening or obscene words, language, drawings or caricatures, and/or communicated repeatedly in an anonymous manner and/or communicated repeatedly at extremely inconvenient hours and/or communicated repeatedly in another manner in violation of 18 Pa. C.S. §2709(a) (4),(5),(6) or (7).									



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed:	OTN/LiveScan Number G 551796-0	Complaint/Incident Number SRN-608-2012
Defendant Name:	First ROBERT	Middle: L	Last FOLTZ

Indicate Offense:	<input type="checkbox"/> Attempt 18901 A	<input type="checkbox"/> Solicitation 18902 A	<input type="checkbox"/> Conspiracy 18903						
Lead?	6	3934	A	of the	18	1	M2	NCIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)	Accident Number		<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone	Statute Description/Acts of the accused associated with this Offense:				
<p>18 3934A THEFT FROM A MOTOR VEHICLE M2 1 COUNT</p> <p>The actor unlawfully took or attempted to take possession of, carried away or exercised unlawful control over movable property, namely KEY RING CONTAINING VEHICLE AND HOUSE KEYS, APPROXIMATE VALUE \$120.00 AND ONE BOTTLE OF LISTERINE MOUTHWASH, APPROXIMATE VALUE \$8.00. APPROXIMATE TOTAL \$128.00 belonging to HONORABLE JUDGE JACK MCVAY from a motor vehicle with the intent to deprive the victim thereof, in violation of 18 Pa.C.S. §3934(a).</p>									

Indicate Offense:	<input type="checkbox"/> Attempt 18901 A	<input type="checkbox"/> Solicitation 18902 A	<input type="checkbox"/> Conspiracy 18903						
Lead?	7	5104		of the	18	1	M2	NCIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)	Accident Number		<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone	Statute Description/Acts of the accused associated with this Offense:				
<p>18 5104 RESISTING ARREST M2 1 COUNT</p> <p>The actor with the intent of preventing one or more public servants, namely, LT. JACK KEARNEY, DETECTIVE TED HUGHES, DEPUTY TOM SHATKOFF, DEPUTY TOM NINEHOUSER & DETECTIVE DON MACEJKA. from effecting a lawful arrest or discharging a duty, creates a substantial risk of bodily injury to the public servant or another person or persons or employed means justifying or requiring substantial force to overcome the resistance in violation of 18 Pa. C.S. §5104.</p>									



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed:	OTNLiveScan Number G 551796-0	Complaint/Incident Number SRN-608-2012
Defendant Name	First ROBERT	Middle: L	Last FOLTZ

Inchoate Offense	<input type="checkbox"/> Attempt 18901A	<input type="checkbox"/> Solicitation 18902A	<input type="checkbox"/> Conspiracy 18903						
Lead?	Offense# 8	Section 5505	Subsection	of the 18	PA Statute (Title)	Courts 1	Grade S	NGIC Offense Code	UCR/NIBRS Code
PennDOT Data (if applicable)	Accident Number			<input type="checkbox"/> Safety Zone	<input type="checkbox"/> Work Zone				
Statute Description/Acts of the accused associated with this Offense:									
<p>18 5505 PUBLIC DRUNKENESS S 1 COUNT</p> <p>The actor appeared in a public place manifestly under the influence of alcohol or a controlled substance as defined in the Controlled Substance Drug Device and Cosmetic Act, to the degree that he or she may have endangered himself or other persons or property, or annoyed persons in his vicinity, in violation of 18 Pa. C.S. §5505.</p>									



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed:	OTNLiveScan Number G 551796-0	Complaint/Incident Number SRN-608-2012
Defendant Name:	First ROBERT	Middle L	Last FOLTZ

AFFIDAVIT of PROBABLE CAUSE

1. WHEN:

- a) Date when Affiant received information:
01/27/2012
- b) Date when the source of information (Police Officers, Informant, Victim, Co-Defendant, Defendant, etc.) received information:
01/27/2012

2. HOW:

- a) How Affiant knows this particular person committed crime: (personal observation, defendant's admissions, etc.):
Personal Observations and Information received from other officers.
- b) How the source of information knows this particular person committed the crime:
Personal Observations and Information received from other officers.
- c) How both Affiant and/or source of information knows that a particular crime has been committed:
Personal Observations and Information received from other officers.

3. WHAT CRIMES:

- 18 3934 A THEFT FROM A MOTOR VEHICLE
- 18 901 A CRIMINAL ATTEMPT
- 18 2702 A3 AGGRAVATED ASSAULT
- 18 2703.1 AGGRAVATED HARASSMENT BY PRISONER
- 18 5104 RESISTING ARREST
- 18 5505 PUBLIC DRUNKENESS
- 18 901 A CRIMINAL ATTEMPT
- 18 2709 A4 HARASSMENT

4. WHERE CRIME(S) COMMITTED:

ALLEGHENY COUNTY COMMON PLEAS

5. WHY AFFIANT BELIEVES THE SOURCE OF INFORMATION:

- Source is presumed reliable, i.e. other Police Officer, Eyewitness, Victim of Crime, etc.
Source has given information in the past which has led to arrest and/or conviction
Defendant's reputation for criminal activity
This source made declaration against his/her penal interest to the above offense
- Affiant and/or other Police Officers corroborated details of the information



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed:	OTN/LiveScan Number: G 551796-0	Complaint/Incident Number: SRN-608-2012
Defendant Name:	First: ROBERT	Middle: L	Last: FOLTZ

On Friday, January 27th, 2012 at approximately 1650 hours, Lt. Kearney received a phone call from Sgt. Gramz who informed him that a white male was acting under the influence, wandering around the Judges Parking Lot, in an apparent attempt to gain access into vehicles. Lt. Kearney along with your affiant, Detective Don Macejka, Detective Hughes, Deputy Shatkoff and Deputy Ninehouser proceeded to the location. Once at the parking lot I observed the Actor, Robert Foltz Jr. drinking out of a Listerine bottle at the drivers' door of a 2009 Ford Escape, later identified as the Honorable Judge McVay's vehicle. Foltz made eye contact with me and ran behind the vehicles in an attempt to conceal himself from me. As I continued in his direction, Foltz started walking away from me towards Fourth Avenue when he noticed Deputies Shatkoff and Ninehouser entering the lot and turned back toward me. I approached Foltz within approximately six feet, identifying myself as a Sheriff Deputy and showed him my badge displayed around my neck. I asked Foltz who was highly intoxicated and / or under the influence of narcotics, what he was doing in the lot. Foltz immediately tried to run past me. I ordered Foltz "Stop, Police" as I stepped in front of him, Foltz took two swings at me with closed fists but did not strike me. I immediately took control of Foltz by pinning him against a vehicle front first. I informed Foltz he was under arrest and to place his hands behind his back. Foltz continued resisting and attempting to break free as Ninehouser was attempting to handcuff him. I continued telling Foltz to stop resisting as Ninehouser, Kearney, Shatkoff and Hughes finally got him handcuffed. I searched Foltz for weapons incident to arrest locating a key ring in his left front coat pocket that Judge McVay later identified as his property, phone charger in his right front coat pocket, a wallet in his left front pant pocket and bottle of Listerine mouthwash that he dropped on the ground upon my approach.

After Foltz was in custody, Lt. Kearney ordered Deputies to take him to the Allegheny County Sheriff's Investigation Office for processing. Kearney and I took him by each arm and began walking him towards Forbes Avenue up the parking lot stairs. Foltz continued yelling obscenities and threatening all officers involved. Near the top of the stairs, when Foltz could see the commuters walking during the evening rush hour attempted to throw himself toward the ground and act like he could not walk. Deputies prevented him from falling on his face and continued carrying Foltz as ordered to the sidewalk in front where they let him sit for a moment to rest. Foltz looked up at the public walking and continued yelling in an apparent attempt for public sympathy. Deputies continued carrying Foltz across Forbes Avenue and Ross Street where they rested again. Foltz was sitting on the ground when he attempted to throw himself face first into the ground. Shatkoff and I informed Foltz that his attempts to escape and get sympathy were not going to work. Foltz looked directly at Shatkoff in full uniform and spit saliva at him striking him in the left leg near his cargo pocket. Foltz was attempting to get up when Shatkoff pushed his foot into Foltz's midsection to keep him from injuring himself or pushing a pedestrian into oncoming rush hour traffic. Kearney and Shatkoff picked Foltz up and carried him down the sidewalk on Forbes Avenue. Foltz continued yelling as they passed First Assistant, Allegheny County District Attorney Chris Connors and Deputy District Attorney Becky Spangler. Deputies continued carrying Foltz through the courtyard of the Allegheny County Courthouse into the secure building entrance near the Allegheny County Sheriff's Office, Firearms Division.

Once inside the security doors by Gun Permits Foltz continued to spit at and kick Shatkoff numerous times striking him in the knees and shins. Foltz continued his rants calling all Deputies present "Niggers." Foltz went on to state that, "Third Reich is going to rise again and take care of your (Shatkoff's) family." As Shatkoff attempted to hold Foltz's legs down, he began to bang his head off the marble floor and metal piping along the wall. Foltz suffered a laceration to his head during this action. Foltz was held down to prevent further injury to himself while waiting for the City of Pittsburgh Medic Unit to arrive. Deputies were able to retrieve the keys and Foltz's identification when Sparrow ran him for warrants through the Allegheny County Warrant Office. Foltz came back wanted on a Mifflin County Bench Warrant for a Probation Violation on the charge of Aggravated Assault. During this time Foltz asked to be released so he could go back to his tent. Foltz went further to explain that he was staying at the encampment at Mellon Park. Foltz made several references as to being part of the 99% movement to Occupy Pittsburgh.

While deputies were awaiting the arrival of Medics, Kearney, Ninehouser and I went back to the Judges where we inspected the Ford Escape where Foltz was standing and all other vehicles on the lot for any signs of tampering. The Escape was open and appeared to be ransacked. Knowing who owned the vehicle, detectives contacted Judge McVay to check and see if anything was missing. Once on scene, Judge McVay indicated that his keys, which included home and vehicle keys were missing along with a



POLICE CRIMINAL COMPLAINT

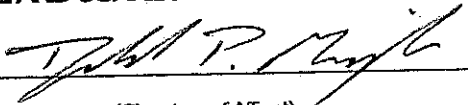
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Defendant Name:	First ROBERT	Middle L	Last FOLTZ

bottle of Listerine mouthwash. Because the vehicle was so disheveled, Judge McVay was not sure if anything else was missing. The only reason for Foltz to remove the keys was in an attempt to steal the vehicle when less pedestrian traffic was present at the lot. Judge McVay positively identified the Listerine bottle and keys. I returned the keys to Judge McVay who departed the area.

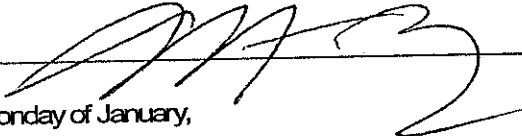
City Medic Unit #14 with Medic Yaras and Carter arrived, treated and transported Foltz to Mercy Hospital. Medics had to place a towel on Foltz's head to prevent him from spitting. Foltz continued to be uncooperative with all involved. Foltz spit at Medics, Emergency Room staff, and security personnel once at the hospital. At one point in the ER, there were eight hospital personnel holding Foltz down. Foltz had to have a spit shield administered because he was spitting on ER staff. Because Foltz was completely out of control, his limbs and torso needed to be strapped down and a spit shield was placed over his mouth just so he could be medically assessed and treated. Deputies will remain at the hospital with Foltz until he is medically cleared for incarceration on the charges listed in this complaint and the Mifflin County Criminal Bench Warrant for Aggravated Assault.

Foltz is a danger to himself or others and does not have a viable address. It is my opinion that he should have a behavior clinic evaluation.

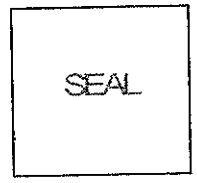
I, DONALD MACEJKA, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.


(Signature of Affiant)

Sworn to me and subscribed before me this _____ day of _____,

_____ Date , Magisterial District Judge

My commission expires first Monday of January,





POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed:	OIN/LiveScan Number G 551796-0	Complaint/Incident Number SRN-608-2012
Defendant Name:	First ROBERT	Middle L	Last FOLTZ

- I ask that a warrant of arrest or a summons be issued and that the defendant be required to answer the charges I have made.
- I verify that the facts set forth in this complaint are true and correct to the best of my knowledge or information and belief. This verification is made subject to the penalties of Section 4904 of the Crimes Code (18 P.A.C.S. §4904) relating to unsworn falsification to authorities.
- This complaint is comprised of the preceding page(s) numbered _____ through _____

The acts committed by the accused, as listed and hereafter, were against the peace and dignity of the Commonwealth of Pennsylvania and were contrary to the Act(s) of the Assembly, or in violation of the statutes cited.
 (Before a warrant of arrest can be issued, an affidavit of probable cause must be completed, sworn to before the issuing authority, and attached.)

01/27/2012

(Date)

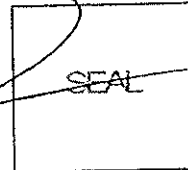
[Signature]
 (Signature of Affiant)

AND NOW, on this date _____ I certify that the complaint has been properly completed and verified.

An affidavit of probable cause must be completed before a warrant can be issued.

 (Magisterial District Court Number)

[Signature]
 (Issuing Authority)

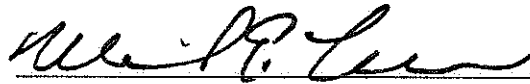


CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing Supplemental Plaintiff's Emergency Motion to Supplement the January 10-11, 2012 Hearing Record with Post-Hearing Admissions of Defendants to be served upon the following via email and hand delivery:

Michael J. Healey, Esquire
Healey & Hornack, P.C.
436 7th Avenue, Suite 2901
Kopper Building
Pittsburgh, PA 15219

Dated: January 30, 2012



Counsel for Plaintiffs
BNY Mellon, National Association and
The Bank of New York Mellon