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Borough of Upper Saddle River

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

BERGEN ROCKLAND ERUV ASSOCIATION,
YISROEL FRIEDMAN, S. MOSHE
PINKASOVITS, SARAH BERGER, MOSES
BERGER, CHAIM BREUER, YOSEF
ROSEN, AND TZVI SCHONFELD,

Plaintiffs,

v.

THE BOROUGH OF UPPER SADDLE
RIVER,

Defendant.

Civil No.: 2:17-CV-05512-JMV-
CLW

Civil Action

**DECLARATION
OF DAVID LALLY**

I, David Lally, declare under penalty of perjury:

1. I am a police officer with the Borough of Upper Saddle River (USR).
2. I have been a member of the Borough of Upper Saddle River's Police Department (USR PD) for 27 years.
3. I have served as the Lieutenant since 2007.
4. Further, during my tenure as a police officer I have served in various capacities, including 8 years as a patrolman.

5. Accordingly, I have both personal and institutional knowledge with respect to USR's enforcement of its policy and code provisions prohibiting the placement and/or installation of signs, devices, or other matter on utility poles within USR.

6. This prohibition has been enforced consistently and uniformly with respect to a wide variety of signs, devices, and other matter and without regard to content.

7. It has been the responsibility of the USR PD and the Department of Public Works (DPW) to enforce this prohibition by removing signs, devices, or other matter which have been placed on utility poles.

8. If a sign, device, or other matter that violated the law is within a USR PD officer's reach and can be safely removed by the officer, that unauthorized sign, device, or other matter would be removed by a USR PD officer without regard to the content of the object removed.

9. If a sign, device, or other matter that violates the law is out of reach or affixed in a manner that prevents an officer from safely removing the unauthorized sign, device, or other matter with his or her hands, then the officer would (1) notify the property owner and have the property owner remove the unauthorized sign, device, or other matter; (2) the DPW would be notified and a DPW staff member would be dispatched to remove the unauthorized sign, device or other matter using a truck or other device that

could safely reach the object. This is also done without regard to the content of the item removed.

10. If the owner of the removed unauthorized sign, device, or other matter is clear from the face of the item removed, then the owner is notified that the unauthorized sign, device or other matter is at the USR PD. However, if the owner fails to retrieve the item, it would be discarded.

11. This prohibition against objects being affixed to USR utility poles without USR's authorization has resulted in signs, devices, or other matter being removed from utility poles. Examples of unauthorized objects which have been removed from utility poles in and around the USR include, but are not limited to, for sale signs, garage sale signs, real estate signs, political signs, flags, mailboxes, business signs, and lost animal signs.

12. USR has consistently enforced and continues to consistently enforce this prohibition even against extensions of its own government.

13. For example, in or around 2013 or 2014, the USR PD even caused the USR Fire Department's signs, advertising its car show fundraiser, to be removed from utility poles.

14. Further, on or about February 16, 2014, Sergeant Joseph Farrow of the USR PD removed a sign from a utility pole owned by Tree Plus. After removing this sign its owner was notified that it was required to retrieve the sign, otherwise it would be discarded.

See attached as **Exhibit "A"** a true and correct copy of a police report setting forth the February 16, 2014 removal of a Tree Plus sign from a utility pole.

15. Officers of the USR PD are regularly reminded of the Town's policy with respect to the removal of signs, devices, and other matter from utility poles.

16. On October 5, 2015, the Chief of Police, Patrick Rotella, emailed the USR PD reminding officers to familiarize themselves with the ordinance which sets forth that there shall be "no posting of items on telephone poles." See attached as **Exhibit "B"** a true and correct copy of an email, dated October 5, 2015, to members of the USR PD reminding officers to familiarize themselves with the ordinance prohibiting the posting of items on utility poles.

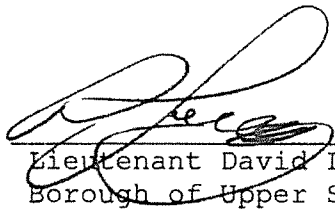
17. With respect to the Vaad haEruv's installation of lechis to utility poles, I was assigned to an off-duty job when one of the USR PD detectives contact me and advised a resident had observed contractors working within the USR right-way, potentially without a permit. As I was off duty at the time, I contacted an on-duty officer to investigate the matter. This was the extent of my direct involvement with the incidents related to the installation of lechis because I was not on duty on June 12, 2017.

18. On July 26, 2017, I emailed numerous members of the USR PD reminding them that, as in the past, the PD shall enforce the removal of unauthorized signs, devices, and other matter from

utility poles by removing all prohibited items in the manner it has previously done. However, moving forward it would be USR PD policy that a computer-aided dispatch (commonly referred to as "CAD") event would be created whenever an unauthorized sign, device, or other matter is removed by the USR PD. Further, I reminded officers that the USR Enforcement Officer with the DPW would be utilized during regular business hours. See attached as **Exhibit "C"** a true and correct copy of an email to members of the USR PD setting forth the USR PD's administrative policy with respect to recording the removal of unauthorized sign, device, or other matter from utility poles and reminding officers that USR's policy regarding the removal of unauthorized objects would continue.

I declare under penalty of perjury that the foregoing is true and correct.

By:


Lieutenant David Lally
Borough of Upper Saddle
River Police Department

Executed on: November 2, 2017

EXHIBIT A



**UPPER SADDLE RIVER POLICE
DEPARTMENT**

368 W SADDLE RIVER RD, SADDLE RIVER, NJ 07458

14-00878

Writer was on patrol and observed a sign on the utility pole at the intersection of West Saddle River Rd./Sparrowbush. I retrieved the sign from Trees Plus Tree Service (845)-357-9165 and placed a call to the secretary, Joanne Hamilton and advised her of the Borough Ordinance of solicitation and signs. She advised that she will have the workers retrieve the signs and it will not happen again.

Sgt. Farrow #133

Reporting Officer:
FARROW, JOSEPH

Date Time:
2014-02-16 00:00:00

EXHIBIT B

Chief Patrick Rotella

From: Chief Patrick Rotella
Sent: Monday, October 05, 2015 3:10 PM
To: kzyskowski@usrpd.net; apulizzano@usrpd.net; cparrella@usrpd.net; dhausch@usrpd.net; dlally@usrpd.net; ekane@usrpd.net; emcdowell@usrpd.net; jfarrow@usrpd.net; kcampbell@usrpd.net; kosborne@usrpd.net; krodriquez@usrpd.net; mspina@usrpd.net; Patrolman Collin Gurney; tkilduff@usrpd.net; vsiracusa@usrpd.net; wlynch@usrpd.net
Subject: new ordinances
Attachments: trees.PDF; Plymouth.PDF; Telephonepoles.PDF

Please familiarize yourself with the attached ordinances

- No Left Turn Plymouth Dr
- No posting of items on telephone poles
- Tress

Chief Patrick A. Rotella
Upper Saddle River Police Department
368 West Saddle River Road
Upper Saddle River, NJ 07458

P. 201-327-2700
F. 201-934-3992



Confidentiality Warning:

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EXHIBIT C

Chief Patrick Rotella

From: Lieutenant David Lally
Sent: Wednesday, July 26, 2017 4:32 PM
To: Patrolman Anthony Pulizzano; Patrolman Colin Gurney; Sergeant Craig Parrella; Sergeant Donald Hausch; Lieutenant David Lally; Detective Lieutenant Edward Kane; Patrolman Kevin Mc Williams; Patrolman Kenneth Osborne; Patrolman Kenneth Rodriguez; Patrolman Kyle Zyskowski; Patrolman Louis Lupinacci; Patrolman Lucas Gallo; Sergeant Michael Spina; Chief Patrick Rotella; Detective Tara Kilduff; Patrolman Vincent Siracusa; Sergeant William Lynch
Subject: Signs on Poles and trees

To all,

As we have always done in the past, remove any sign that is posted on any utility pole. Going forward we are to create a Cad report that the sign was removed. During normal business hours the Upper Saddle River Code Enforcement Officer may be utilized.

See the Boro Ord below.

§ 122-17 Unlawful acts.

It shall be unlawful to:

G.

Post or affix any sign, advertisement, notice, poster, paper, device, or other matter to any public utility pole, shade tree, lamp post, curbstone, sidewalk, or upon any public structure or building, except as may be authorized or required by law.

[Added 10-1-2015 by Ord. No 16-15]

Lt. David Lally
Upper Saddle River Police
368 West Saddle River Road
Upper Saddle River, NJ 07458

Phone 201-327-2700

Fax 201-934-3992