COURT EXHIBIT TO BENCH DECISION IN
***GRIFFIN-NOLAN v. CITY OF SYRACUSE*, 04-CV-1453-GTS (N.D.N.Y.)**

Exhibit A: Relevant Facts and Procedural History

On December 15, 2004, Plaintiff filed this civil rights action arising out of an incident that occurred at Carousel Mall on the evening of December 16, 2003. He filed this action against four Defendants: (1) the City of Syracuse; (2) Syracuse Police Sergeant Daniel Cecile (individually and in his official capacity); (3) Syracuse Police Officer James Mullen (individually and in his official capacity); and (4) Syracuse Police Officer David Hennessey (individually and in his official capacity). For the sake of brevity, the Court will not recite the legal claims asserted in Plaintiff's Complaint, but will refer the parties to the accurate summary of those claims in the Memorandum-Decision and Order of District Court Judge Frederick J. Scullin, Jr., which was issued in this action on June 20, 2005, and which is published at 2005 WL 1460424 (N.D.N.Y.).

In that decision, Judge Scullin dismissed various of Plaintiff's claims. Remaining after the decision were six of Plaintiff's claims. Currently before the Court is Defendants' motion for summary judgment with regard to each of those six claims. The six claims are as follows: (1) a Section 1983 claim against Officers Mullen and Hennessey for denying Plaintiff his First Amendment right to be free from retaliation; (2) a Section 1983 claim against the City for denying Plaintiff his First Amendment right to be free from retaliation; (3) a Section 1983 claim against the City for acting with deliberate indifference by failing to train Sergeant Cecile and Officers Mullen and Hennessey with respect to what constitutes the crime of Obstruction of Governmental Administration in the Second Degree (hereinafter "OGA") and how to handle the public; (4) a New York State common law claim against all Defendants for malicious prosecution; (5) a New York State common law claim against Officer Hennessey for libel; and

(6) a claim for attorney's fees pursuant to 42 U.S.C. § 1988.

Exhibit B: Legal Standard for Probable Cause

Probable cause to arrest exists when officers have "knowledge or reasonably trustworthy information of facts and circumstances that are sufficient to warrant a person of reasonable caution in the belief that the person to be arrested has committed or is committing a crime." *Weyant v. Okst*, 101 F.3d 845, 852 (2d Cir. 1996). "Courts should look to the totality of the circumstances when determining whether there is probable cause to arrest . . . ." *Panetta v. Crowley*, 460 F.3d 388, 395 (2d Cir. 2006). If there is no probable cause to believe that the plaintiff broke the law, a subsequent arrest is unreasonable. *See Zellner v. Summerlin*, 494 F.3d 344, 377 (2d Cir. 2007).

Exhibit C: Legal Standard for Municipal Liability

Municipal liability may be premised on the municipality's failure to train its employees only where that failure to train reflects "deliberate indifference" to constitutional rights. *See Canton v. Harris*, 489 U.S. 378, 388-91 (1989). To prove that the municipality's failure to train amounted to "deliberate indifference," or recklessness, a plaintiff must demonstrate three factors: (1) that a policymaker knows to a moral certainty that its employees will confront a given situation; (2) that the situation either presents the employee with a difficult choice of the sort that training or supervision will make less difficult or that there is a history of employees mishandling the situation; and (3) that the wrong choice by the employee will frequently cause the deprivation of a citizen's constitutional rights. *Walker v. City of New York*, 974 F.2d 293, 297-98 (2d Cir. 1992).