

PLAINTIFF'S EXHIBIT  
**PX-1**

Date 10/21/2014 Tour 1457 X 2330 Color of the Day WHITE Module # TRT Assignment (Pct) MS PCTS

Time of TAC Meeting 1530 Radio TAC S  Buy and Bust  Case Case # (if applicable) NA

Arresting Officer (Rank, Last Name, First, M.I.) DET. REGINA MATTHEW SH#2389 Tax # [REDACTED]

Training (e.g. Precinct Crime Trends, Recent Shootings, Index Crime Spikes, Assaults on MOS, Member Safety, Sens itive/Haza rdous Locations, Community Concerns etc.)

IMEI NUMBERS ON VOUCHERS, PRISONER DEBRIEFING, SHOOTING 10PCT 425 WEST 25 STREET. 9PCT 637 EAST 5 STREET

CITYWIDE PATTERN #66 & #3.5

Tactics Discussed (e.g. Coordination with Patrol, Car Stops, Firearms Control, U/C Safety. Include Discussion of Potential Hazards e.g. Dogs, Children, Fortifications etc.)

FIREARMS CONTROL, DISPLAY SHIELDS AROUND NECKS, CAR STOPS, PRISONER SECURITY, NICKNAMES, TATTOS.

UNDERCOVER SAFETY, SAFE DRIVING

Weather:

Clear  Overcast  Rain  Snow  Windy  Other

Equipment Inspection:

Raid Jacket  Vest  Flashlight  Red Dash Light  OC Spray  Megaphone  Chains

Kel #: S/N 73136781 Kel Receiver #: A045100067 Booster / Repeater  Yes  No

Supervisor Certifying Operability of Kel (Print Rank, Name) Mandatory if Kel Used:

Kel Operable LT PATANE Signature: [Signature] Tax No: 904758

Entry Tools / Other: BUNKER/KELLY/SLEDGE/RAM

Team Leader	Radio #	Team # 1	Radio #	Team #2	Radio #
<u>LT PATANE</u>	<u>35776</u>	<u>DET MILLER</u>	<u>35812</u>	<u>NA</u>	<u>NA</u>
<u>DET. REGINA</u>	<u>35782</u>	<u>DET. ALLISON</u>	<u>35823</u>	<u>NA</u>	<u>NA</u>
<u>DET. DEL TORO</u>				<u>NA</u>	<u>NA</u>
Assignment: <u>LEADER CAR, A/O</u>		Assignment: <u>CHASE #1</u>		Assignment: <u>NA</u>	
Equipment: Megaphone (mandatory) <input checked="" type="checkbox"/> Yes		Equipment: <u>CHAINS/CUFFS</u>		Equipment: <u>NA</u>	
Auto # <u>47027</u>		Auto # <u>47317</u>		Auto # <u>NA</u>	
Color/Make: <u>BLK / DODGE</u>		Color/Make: <u>BLK / VZV</u>		Color/Make: <u>NA</u>	

Team #3	Radio #	Prisoner Van	Radio #	Undercover Officer(s)	Radio #
<u>NA</u>	<u>NA</u>	<u>DET. LAHENS</u>	<u>35808</u>	<u>U/C 0084</u>	<u>10959</u>
<u>NA</u>	<u>NA</u>	<u>DET LEE</u>	<u>35836</u>	<u>U/C 0017</u>	<u>10964</u>
<u>NA</u>	<u>NA</u>				
Assignment: <input type="checkbox"/> Marked RMP		Equipment: <u>CHAIN AND SHACKLES</u>		Assignment: <u>U/C / GHOST</u>	
Supervisor Authorizing: <u>NA</u>		Auto: <u>47182</u>		Equipment: <u>KEL</u>	
Reason for Use: <u>NA</u>		Color/Make: <u>BLUE FORD</u>		Auto # <u>47094</u>	
Location Used: <u>NA</u>		P-Van Search: <input type="checkbox"/> POS <input checked="" type="checkbox"/> NEG		Color/Make: <u>CONFIDENTIAL</u>	

At end of tour, make Activity Log or Activity Report Entry

Location	Set-Up Location	Reason for Deployment	Time(s) of Visit
<u>1. CHELSEA HOUSES</u>	<u>V/O</u>	<u>PCT PLAN- SHOOTING CRACK / MARIJUANA / COKE</u>	
<u>2. 637 EAST 5 STREET</u>	<u>V/O</u>	<u>PCT PLAN HIGH RADIO RUNSCRACK / HEROIN</u>	<u>2035 - 2130</u>
<u>3. W.14 AND 9TH AVENUE</u>	<u>V/O</u>	<u>PCT PLAN- HEROIN / CRACK / MARIJUANA</u>	
<u>4. ST MARKS AND 3 AVE</u>	<u>V/O</u>	<u>PCT PLAN- HEROIN / CRACK / MARIJUANA</u>	
<u>5. UNION SQUARE PARK</u>	<u>V/O</u>	<u>PCT PLAN- HEROIN / CRACK / MARIJUANA</u>	<u>1800 - 1915</u>
<u>6. AVENUE D AND 3</u>	<u>V/O</u>	<u>PCT PLAN- HEROIN / CRACK / MARIJUANA</u>	<u>1930 - 2030</u>
<u>7. B + B</u>	<u>V/O</u>	<u>Case Buy Heroin 10/4/5</u>	<u>1715 - 1745</u>
<u>8.</u>			

Emergency Hospital BELLEVUE HOSPITAL Location WEST 34 ST. & FDR DRIVE Hospital Route EAST ON WEST 34 STREET

Supervisor's Cell Phone # [REDACTED] Conferred w Pct/PSA?  Yes  No If Yes, Rank Name of MOS SGT. GARCIA PSA 4


Prepared By: (Lt/Sgt.): LT PATANE Supervisor's Signature: [Signature] Tax No: 904758

Post-Enforcement Tactical Meeting

e of Meeting 2200 Location 9th Pct Supervisor Conducting LT Patane

PLAINTIFF'S EXHIBIT  
**15**



		<b>New York City Police Department</b> <b>Omniuniform System - Arrests</b>															
<b>RECORD STATUS: NYSID ENTERD</b>		<b>Arrest ID: M14692369 - N</b>															
<b>Arrest Location: OPPOSITE OF 465 EAST 10 STREET</b>		<b>Pct: 009</b>															
<b>Arrest Date: 10-21-2014</b> Processing Type: ON LINE		Current Location of Perpetrator:															
<b>Time: 20:15:00</b> DCJS Fax Number: MO057744		Borough: Manhattan															
Sector: A Special Event Code: NA - NARC TNT ENFORC		Type:															
Strip Search Conducted: NO DAT Number: 0		Location: 009 PRECINCT															
Viper Initiated Arrest: NO																	
Stop And Frisk: NO Return Date: 0000-00-00																	
Serial #: 0000-000-00000																	
<b>COMPLAINTS:</b>		<b>Arrest #: M14692369</b>															
<table border="1"> <thead> <tr> <th>COMPLAINT NUMBER</th> <th>REPORT DATE</th> <th>RECORD STATUS</th> <th>OCCUR DATE</th> <th>OCCUR TIME</th> </tr> </thead> <tbody> <tr> <td>2014-009-05693</td> <td>2014-10-21</td> <td>Valid, No Arrests</td> <td>2014-10-21</td> <td>20:10</td> </tr> </tbody> </table>				COMPLAINT NUMBER	REPORT DATE	RECORD STATUS	OCCUR DATE	OCCUR TIME	2014-009-05693	2014-10-21	Valid, No Arrests	2014-10-21	20:10				
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2014-009-05693	2014-10-21	Valid, No Arrests	2014-10-21	20:10													
<b>CHARGES:</b>		<b>Arrest #: M14692369</b>															
<table border="1"> <thead> <tr> <th>CHARGE</th> <th>ATTEMPT?</th> <th>LAW CODE</th> <th>CLASS</th> <th>TYPE</th> <th>COUNTS</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>TOP</td> <td>No</td> <td>PL 160.05</td> <td>F</td> <td>D</td> <td>1</td> <td>ROBBERY-3RD</td> </tr> </tbody> </table>				CHARGE	ATTEMPT?	LAW CODE	CLASS	TYPE	COUNTS	DESCRIPTION	TOP	No	PL 160.05	F	D	1	ROBBERY-3RD
CHARGE	ATTEMPT?	LAW CODE	CLASS	TYPE	COUNTS	DESCRIPTION											
TOP	No	PL 160.05	F	D	1	ROBBERY-3RD											
DWI Arrest from:	# Injured: 00	# Fatalities: 00	Test Given:	B.A.C:	Reason Not Forfeit:												
<b>DETAILS:</b>		<b>Arrest #: M14692369</b>															
AT T/P/O DEFT DID FORCILBLY REMOVE PROPERTY FROM A PERSON KNOWN TO THE DEPARTMENT . DEFT THEN USED FORCE BY THREATHEING COMP/MC WITH BODILY HARM TO RETAIN SAID PROPERTY . DEFT THEN RAN FROM LOCATION AND WAS ARRESTED A SHORT TIME LATE WITHOUT FURTHER INCIDENT.																	
<b>DEFENDANT: FRASER, JAWAWN</b>		NYSID #: 11875722P	Arrest #: M14692369														
Nick/AKA/Malden:		Height: 5FT 8IN															
Sex: MALE		Weight: 135															
Race: BLACK		Eye Color: BROWN															
Age: 18		Hair Color: BLACK															
Date Of Birth: 02/24/1996		Hair Length: NORMAL															
U.S. Citizen: YES		Hair Style: AFRO															
Place Of Birth: NEW YORK		Skin Tone: DARK															
Is this person not Proficient In English?: NO		Complexion: CLEAR															
If Yes, Indicate Language:		Soc.Security 128-84-# 8284															
Accent: NO		Occupation: OTHER															
Identification ID:		Order Of Protection: NO															
Identification #:		Issuing Court:															
Physical Condition: APPARENTLY NORMAL		Docket #:															
Drug Used: NONE		Expiration Date:															
		Relation to Victim: UNKNOWN/NONE															
		Living together: NO															
		Can be Identified: YES															
		Gang/Crew Affiliation: NO															
		Name:															
		Identifiers:															
<table border="1"> <thead> <tr> <th>LOCATION</th> <th>ADDRESS</th> <th>CITY</th> <th>STATE/CNTRY</th> <th>ZIP</th> <th>APT/ROOM</th> <th>PCT</th> </tr> </thead> <tbody> <tr> <td>HOME-PERMANENT</td> <td>911 ROOSEVELT DRIVE</td> <td>MANHATTAN</td> <td>NEW YORK</td> <td></td> <td>4D</td> <td>009</td> </tr> </tbody> </table>				LOCATION	ADDRESS	CITY	STATE/CNTRY	ZIP	APT/ROOM	PCT	HOME-PERMANENT	911 ROOSEVELT DRIVE	MANHATTAN	NEW YORK		4D	009
LOCATION	ADDRESS	CITY	STATE/CNTRY	ZIP	APT/ROOM	PCT											
HOME-PERMANENT	911 ROOSEVELT DRIVE	MANHATTAN	NEW YORK		4D	009											
Phone # and E-Mail Address:																	
N.Y.C.H.A. Resident: YES N.Y.C. Housing Employee: NO On Duty: NO																	
Development: RIIS N.Y.C. Transit Employee: NO																	
<b>Physical Force: THREATENED</b>																	
Gun:																	
Weapon Used/Possessed: NONE		Make: Recovered: NO															
Non-Firearm Weapon:		Color: Serial Number Defaced:															
Other Weapon Description:		Caliber: Serial Number:															
		Type:															
		Discharged: NO															
Used Transit System: NO																	
Station Entered:																	
Time Entered:																	
Metro Card Type:																	
Metro Card Used/Poses:																	
Card #:																	
<b>CRIME DATA</b>		<b>DETAILS</b>															
MODUS OPERANDI: UNKNOWN																	
ACTIONS TOWARD VICTIM UNK																	
CLOTHING		OUTERWEAR - SNORKEL, SKI, HOODED JACKET - BLACK															
CLOTHING		ACCESSORIES - SWEAT / JOGGING CLOTHES - GRAY															



CLOTHING	FOOTWEAR - SNEAKERS - GRAY		
CLOTHING	HEADGEAR - UNK - UNKNOWN COLOR		
CHARACTERISTICS	UNKNOWN		
BODY MARKS	ARM -TATOO WITH WORDS ONLY - DESCRIBE:MY BROTHER KEEPER		
BODY MARKS	ARM -TATOO WITH WORDS ONLY - DESCRIBE:LAUGH NOW CRY LATER		
IMPERSONATION	UNKNOWN		
<b>JUVENILE DATA:</b>			
Arrest #: M14692369			
Juvenile Offender:	Relative Notified: M Personal Recog:		
Number Of Priors: 0	Name: JANICE		
School Attending:	Phone Called: 9178081047		
Mother's Maiden Name:	Time Notified: 2100		
<b>ASSOCIATED ARRESTS:</b>			
Arrest #: M14692369			
<b>ARREST ID COMPLAINT #</b>			
<b>DEFENDANTS CALLS:</b>			
Arrest #: M14692369			
<b>CALL # NUMBER DIALED NAME CALLED</b>			
1	917-808-1047 ROBINSON,JANICE		
<b>INVOICES:</b>			
Arrest #: M14692369			
<b>INVOICE# COMMAND PROPERTY TYPE VALUE</b>			
<b>ARRESTING OFFICER: DT3 MATTHEW REGINA</b>			
Arrest #: M14692369			
Tax Number: [REDACTED]	On Duty: YES		
Other ID (non-NYPD): [REDACTED]	In Uniform: NO		
Shield: 2389	Squad: NA		
Department: NYPD	Chart: 97		
Command: 750	Primary Assignment:		
<b>Force Used: NO</b>			
Type:			
Reason:			
Officer Injured: NO			
Arresting Officer Name:	Tax #:	Command:	Agency:
DT3 REGINA, MATTHEW	[REDACTED]	750	NYPD
Supervisor Approving:	Tax #:	Command:	Agency:
LT PATANE JOHN	[REDACTED]	750	NYPD
Report Entered by:	Tax #:	Command:	Agency:
DT2 LEE, HOIPING	[REDACTED]	750	NYPD
END OF ARREST REPORT M14692369			

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PLAINTIFF'S  
EXHIBIT

**PX-3**

CITY OF NEW YORK  
**POLICE DEPARTMENT**

**A 979778**

Name Det. MATTHEW, REGINA SHARON Tax Reg. No. [REDACTED]

Date Opened 9/15/2014 Supervisory Officer LT RATANE

Date Closed 9/28/2015 Supervisory Officer LT HYLAND

PLAINTIFF'S  
EXHIBIT

**16**

Fraser 002425 (07-09)



10/21/2014 Tuesday 1427x1300

1705 - PFD NBMQ

1700 - TAC A/O, B+B

LEADER GJR 4/7/10/10

1705 - V/O

1740 - PFD UC 0017 TSP

1745 - 98

1800 UNION SQ PFD

1900 - LANDR 1/5/010

UN SQ P/K EAST

2015 - LANDR UP 465 E.19

Rob. UC 0054

2100 - LANDR Ave B+B

2105 - LANDR Ct 7

2140 - 9TH PCT PFD

0245 - 98

0300 - RTC

0330 - EOT

10/22/14 WED - 0727x1600

0727 - PFD

ECA3 NEW ARRES +

1600 - EOT

10/23/2014 Thurs. 1427x2300

1457 - PFD NBM

1700 - TAC PLAN

110 9TH PCT B+B

1900 - 9TH PCT

0300 - EOT

10/24/2014 Fri. 1427x2300



**New York City Police Department**  
**Omniform System - Complaints**

Report Cmd: 009	Jurisdiction: N.Y. POLICE DEPT	Record Status: Final, No Arrests	Complaint #: 2014-009-05693	No Other Legacy Blue Versions	No Other Complaint Revisions
<b>Occurrence Location:</b> NORTH EAST CORNER AVENUE D & EAST 8 STREET Name Of Premise: . Premises Type: OPEN AREAS (OPEN LOT) Location Within Premise: WALKWAYS Visible By Patrol?: YES		<b>NYC Parks Dept. Property</b> Did this offense occur on NYC Parks Dept. Property? NO Command: NYC Parks Dept. Property Name:		Precinct: 009 Sector: A Beat: 2 Post:	
<b>Occurrence From: 2014-10-21 20:10 TUESDAY</b> Occurrence thru: 2014-10-21 20:15 Reported: 2014-10-21 23:00 Complaint Received: PICK-UP				Aided # Accident # O.C.C.B. #	
<b>Classification: ROBBERY</b> Attempted/Completed: COMPLETED Most Serious Offense Is: FELONY PD Code: 397 ROBBERY, UNCLASSIFIED, OPEN AREA PL Section: 16010 Keycode: 105 ROBBERY			<b>Case Status: CLOSED</b> Unit Referred To: Clearance Code: O.C.C.B. ARREST Log/Case #: 0 Clearance Arrest Id: Clearance AO Cmd: File #: Prints Requested? NO		
Is This Related To Stop And Frisk Report NO		SQF Number: 0000-000-00000	Was The Victim's Personal Information Taken Or Possessed? NO	Was The Victim's Personal Information Used To Commit A Crime? NO	
Gang Related? NO	OCCB FOD Log #:	Name Of Gang:		Child Abuse Suspected? NO	
DIR Required? NO		Child in Common? NO		Intimate Relationship? NO	
<b>If Burglary:</b> Forced Entry? Structure: Entry Method: Entry Location:		<b>Alarm:</b> Bypassed? Comp Responded?: Company Name/Phone: Crime Prevention Survey Requested?: Complaint/Reporter Present?:	<b>If Arson:</b> Structure: Occupied?: Damage by:	<b>Taxi Robbery:</b> Partition Present: Amber Stress Light Activated: Method of Conveyance: Location of Pickup:	
Supervisor On Scene - Rank / Name / Command : LT PATANE 750		Canvas Conducted: NO		Translator(if used):	
<b>NARRATIVE:</b> AT TI/PO DEFT DID FORCIBLY REMOVE PROPERTY FROM A PERSON KNOWN TO THE DEPARTMENT. DEFT THEN USED FORCE BY THREATENING COMP/VIC WITH BODILY HARM TO RETAIN SAID PROPERTY. DEFT THEN RAN FROM LOCATION AND WAS ARRESTED A SHORT TIME LATER WITHOUT FURTHER INCIDENT.					
<b>No NYC TRANSIT Data for Complaint # 2014-009-05693</b>					
Total Victims: 1	Total Witnesses: 0	Total Reporters: 0	Total Wanted: 0		





<b>VICTIM: # 1 of 1</b>		Name:	Complaint#: 2014-009-05693			
Nick/AKA/Maiden: UMOS: YES Sex/Type: PSNY Race: UNKNOWN Age: 0 Date Of Birth: UNKNOWN Disabled? NO  Is this person not Proficient in English?: If Yes, Indicate Language: N.Y.C.H.A Resident? Is Victim fearful for their safety / life? Escalating violence / abuse by suspect? Were prior DIR's prepared for C/V?		Gang/Crew Affiliation: Name: Identifiers:		Will View Photo: Will Prosecute: Notified Of Crime Victim Comp. Law: NO		
LOCATION ADDRESS CITY STATE/COUNTRY ZIP APT/ROOM						
Phone #:						
Action against Victim:			Actions Of Victim Prior To Incident:			
Victim Of Similar Incident:			If Yes, When And Where			
<b>ARRESTS:</b>		Complaint # 2014-009-05693				
<u>Arrest ID</u>	<u>Status</u>	<u>Defendant Name</u>	<u>Sex</u>	<u>Race</u>	<u>AGE</u>	<u>Arrest Date</u>
M14692369	ACTIVE	FRASER, JAWAWN	MALE	BLACK	18	10/21/2014
<b>No IMEI Data for Complaint # 2014-009-05693</b>						
Reporting/Investigating M.O.S. Name: DT2 LEE HOIPING		Tax #: [REDACTED]	Command: NAR BMS	Rep.Agency: NYPD		
Supervisor Approving Name: LT PATANE JOHN		Tax #: [REDACTED]	Command: NAR BMS	Rep.Agency: NYPD		
Complaint Report Entered By: DT2 LEE		Tax #: [REDACTED]	Command: NAR BMS	Rep.Agency: NYPD		
Signoff Supervisor Name: SGT GARCIA		Tax #: [REDACTED]	Command: 009 PCT	Rep.Agency: NYPD		
END OF COMPLAINT REPORT # 2014-009-05693						

Print this Report



**NYPD PETS** PROPERTY and EVIDENCE TRACKING SYSTEM  
**Property Clerk Invoice**  
 PD 521-141 (Rev. 11/09)



Invoice No. **1000567423**

PLAINTIFF'S EXHIBIT  
**PX-5**

Invoicing Command  
**9TH PCT.**

Invoice Status  
**OPEN**

Invoice Date **10/22/2014** Property Type **GENERAL PROPERTY** Property Category **ARREST EVIDENCE**

Officers	Rank	Name	Tax No.	Command	
Invoicing	DT3	DEL TORO, JASON	[REDACTED]	NBMS	OCME EU No.
Arresting	DT3	REGINA, MATTHEW	[REDACTED]	NBMS	OCME FB No.
Investigating	N/A				Police Lab Evid. Ctr. No.
Det Squad Supervisor	N/A				Det Sqd. Case No. <b>N/A</b>
CSU/ECT Processing	N/A				CSU/ECT Run No. <b>N/A</b>

Item	Total QTY	Article(s)	PETS No.	Pkg. QTY	Disposition
1	1	OTHER MAKE: PAPER COLOR: WHITE PHOTO COPY OF DRIVER LICENSE	1202084800	1	

REMARKS:  
 931019 10/22/2014 00:28 : ITEM VOUCHERED AS ARREST EVIDENCE.

Date Of Incident	Penal Code/Description	Crime Classification	Related To	Receipt
10/21/2014	PL160.05	FELONY	N/A	REFUSED

Prisoner(s) Name	D.O.B	Age	Address	Arrest No./Summons No.	NYSID No.
1 FRASER, JAWAWN	02/24/1996	18	911 ROOSEVELT DRIVE, 4D, MANHATTAN, NY	M14892369	11875722P

Name	Tax No.	Address	Phone No.
------	---------	---------	-----------

Finder(s) REGINA, MATTHEW [REDACTED] 1 POLICE PLAZA, NEW YORK, NY 10038  
 Owner(s) PSNY  
 Complainant(s) PSNY

Complaint No. N/A  
 Related Comp No.(s) N/A  
 Aided/Accident No.(s) N/A  
 Related Invoice(s) N/A

Approvals	Rank	Name	Tax No.	Command	Date	Time
Entered By	DT3	REGINA, MATTHEW	[REDACTED]	NBMS	10/22/2014	00:19
Invoicing Officer	DT3	DEL TORO, JASON	[REDACTED]	NBMS	10/22/2014	00:31
Approved By	LT	PATANE, JOHN	[REDACTED]	NBMS	10/22/2014	01:54

Plaintiff's  
**Exhibit 1**

PCD Storage No.  
**14M066572**

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Invoice No. **1000567423**

Property Clerk Copy  
 printed: 05/13/2015 09:39





**NYPD PETS** PROPERTY and EVIDENCE TRACKING SYSTEM  
**Property Clerk Invoice**  
 PD 521-141 (Rev. 11/09)



Invoice No. **1000567454**

Invoicing Command  
**9TH PCT.**

Invoice Status  
**OPEN**

Invoice Date **10/22/2014** Property Type **GENERAL PROPERTY** Property Category **ARREST EVIDENCE**

Officers	Rank	Name	Tax No.	Command	
Invoicing	DT3	REGINA, MATTHEW	[REDACTED]	NBMS	OCME, EU No.
Arresting	DT3	REGINA, MATTHEW	[REDACTED]	NBMS	OCME, FB No.
Investigating	N/A				Police Lab Evid. Ctrf. No.
Det Squad Supervisor	N/A				Det Sqd. Case No. <b>N/A</b>
CSU/ECT Processing	N/A				CSU/ECT Run No. <b>N/A</b>

Item	Total QTY	Article(s)	PETS No.	Pkg. QTY	Disposition
1	1	CELL PHONE COLOR: BLACK MAKE: SAMSUNG	1202084797	1	
2	1	CELL PHONE COLOR: BLACK MAKE: APPLE	1202084797	1	

**REMARKS:**  
 931019 10/22/2014 01:10 : THE ABOVE ITEMS IS BEING VOUCHERED AS ARREST EVIDENCE  
 341843 05/14/2015 13:35 : OTC

Date Of Incident	Penal Code/Description	Crime Classification	Related To	Receipt
10/21/2014	160/ROBBERY	FELONY	N/A	ACCEPTED

Prisoner(s) Name	D.O.B	Age	Address	Arrest No./Summons No.	NYSID No.
1 FRASER, JAWAWN	02/24/1996	18	911 ROOSEVELT DRIVE, 4D, MANHATTAN, NY	M14692369	11875722P

Name	Tax No.	Address	Phone No.
Findér(s) REGINA, MATTHEW	[REDACTED]	1 POLICE PLAZA, NEW YORK, NY 10038.	
Owner(s) FRASER, JAWAWN		911 ROOSEVELT DRIVE, 4D, MANHATTAN, NY	
Complainant(s) PSNY			

Complaint No. **N/A**  
 Related Comp No.(s) **N/A**  
 Aided/Accident No.(s) **N/A**  
 Related Invoice(s) **N/A**



Invoice No. **1000567454**

Property Clerk Copy  
 printed: 09/17/2015 11:29

PCD Storage No.  
**14M066573**

Page No. 1 of 2



**NYPD PETS** PROPERTY and EVIDENCE  
TRACKING SYSTEM  
**Property Clerk Invoice**  
PD 521-141(Rev. 11/09)



Invoice No. **1000567454**

Approvals	Rank	Name	Tax No.	Command	Date	Time
Entered By	DT3	REGINA, MATTHEW	[REDACTED]	NBMS	10/22/2014	01:03
Invoicing Officer	DT3	REGINA, MATTHEW <i>[Signature]</i>		NBMS	10/22/2014	01:12
Approved By	LT	PATANE, JOHN <i>[Signature]</i>		NBMS	10/22/2014	01:45



Invoice No. **1000567454**

Property Clerk Copy  
printed: 09/17/2015 11:29

PCD Storage No.  
**14M066573**

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CRIMINAL COURT OF THE CITY OF NEW YORK  
COUNTY OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK

-against-

FELONY

Jawawn Fraser (M 18),

Defendant.

ADA Gregory Sangermano  
(212) 335-3521



Detective Matthew Regina, Shield 2389 of the Narcotics Borough Manhattan South, states as follows:

*The defendant is charged with:*

PL 160.10(1)

Robbery in the Second Degree  
(defendant #1: 1 count)

On or about October 21, 2014 at about 8:10 P.M., at 465 East 10 Street in the County and State of New York, the defendant forcibly stole property while being aided by another person actually present.

*The factual basis for this charge is as follows:*

I am informed by UC #C0084 that informant was conducting a buy and bust operation when he was approached by defendant. Defendant demanded to see informant's ID to see if he was a police officer. Defendant then called approximately six other individuals over who stood close to informant. Defendant said to informant, in substance, "give me your money and ID or I'll fuck you up." Informant then handed defendant a sum of U.S. currency and his identification.

False statements made in this written instrument are punishable as a class A misdemeanor pursuant to section 210.45 of the Penal Law, and as other crimes.

\_\_\_\_\_  
Detective Matthew Regina

10/22/14 \_\_\_\_\_  
Date Time

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

IN THE MATTER OF AN APPLICATION FOR A  
WARRANT TO SEARCH  
A BLACK SAMSUNG CELLULAR TELEPHONE AND  
A BLACK APPLE IPHONE (“THE TARGET DEVICES”)

AFFIDAVIT IN SUPPORT OF  
SEARCH WARRANT

Detective Matthew Regina Shield # 2389, of the Narcotics Boro Manhattan South of the New York City Police Department (“NYPD”), being duly sworn, deposes and says:

1. I am a Detective assigned to the Narcotics Boro Manhattan South and as such I am a public servant of the kind specified in CPL 690.05(1). I have been an officer with the NYPD for 13 years, I have made or assisted in over a thousand arrest, and executed over 15 search warrants.

2. This affidavit is submitted in support of an application for a warrant to search a black Samsung cellular telephone and a black Apple iPhone contained in NYPD Property Clerk Invoice number 1000567454 (“the target devices”), where there is reasonable cause to believe that evidence of the commission of the crimes of Robbery in the Second Degree, may be found in the form of the following property:

- a. The telephone number, ESN number, serial number, and SIM card number of said devices;
- b. Any and all data, information, or images which contain any references to the commission of the crimes stated above in paragraph 2;
- c. Any and all data, information, or images which tend to establish Jawawn Fraser’s intent to commit the crimes stated above in paragraph 2 and which tend to establish his state of mind prior to and during the commission of said crimes;
- d. Any and all data, information, or images which evidence ownership and use of the target devices, including but not limited to, calendar entries, email account addresses, stored telephone numbers and labels given said numbers, photographs stored on the target items, bank account documents, bills and invoices, recorded voice memos, and letters;
- e. Any and all data, information, or images showing or tending to show the



identity of the maker or user of the data and information contained in the target devices, such as passwords, sign-on codes, and program design;

f. Any and all data, information, or images evidencing passwords which may be used to unlock or decrypt the evidence described above, which may or may not be stored in a locked or encrypted fashion within the target devices' medium, whether these passwords are letters, numbers, characters, words, or data strings (sequence of characters);

g. The log file of all activity relating to all accounts, including all electronic mail and attachments or graphics, read and unread, profiles, buddy lists, newsgroups, "cookies" (shared computer files that indicate that the subject computer was used to access a Website), Websites, e-mail addresses, screen names, or documents related to the robbery occurring on October 21, 2014.

3. As set forth below, there is reasonable cause to believe the above described property constitutes evidence, tends to demonstrate that an offense was committed and that a particular person participated in the commission of said offense.

4. Deponent states that on October 21, 2014 in the area of 465 East 10<sup>th</sup> Street he was involved in an undercover narcotics operation with U/C #84, among other officers. Deponent states that U/C #84 was attempting to purchase narcotics and acting in his capacity as an undercover officer. Deponent is informed by U/C #84 that during his attempt to purchase narcotics, Jawawn Fraser, along with several other individuals, approached him and demanded to know if he was a police officer. Mr. Fraser then demanded UC #84 turn over his money and identification or Mr. Fraser said he would "fuck up" UC #84. UC #84 then turned over his identification and a sum of US currency. Mr. Fraser then took a photograph of UC #84's identification on a cell phone and placed UC #84's identification into his pocket. UC #84 asked for his identification back and Mr. Fraser threatened to punch him in the face. During this time UC #84 signaled for his field team and Mr. Fraser was arrested. Mr. Fraser had the two cell phones that are the target of this warrant on his person.

5. The examination of any electronic storage or communication devices can be a time-consuming process due to the constantly changing universe of technologies, models, operation systems, and types of content stored. Further, searching electronic storage or communication devices often requires that the search be completed by a qualified person in a laboratory or other controlled environment because of the volume of evidence and technical requirements of the forensic examination. It is further requested that, with respect to the target devices that analysis of said devices and their contents be permitted at any time thereafter.

6. In addition, based on the above, I request:

a. that the Court authorize that, for purposes of the requirement that a search warrant be executed within ten days as mandated by C.P.L. Section 690.30(1), the warrant be deemed executed upon the initial seizure of the Target Devices for the purpose of beginning a forensic search pursuant to the warrant, and that the search may continue thereafter for whatever reasonable time is necessary to complete a thorough search pursuant to the warrant.

b. that the Court authorize a search of all files and data stored in the Target Devices, irrespective of how the data is filed, labeled, designated, encrypted, hidden, disguised or otherwise stored;

c. that the Court authorize the retrieval of the above-described information by printing said data, information and communications or otherwise reproducing them by converting them or copying them into storage in another device;

d. that the Court authorize specialists assigned to the High Technology Analysis Unit in the Cybercrime and Identity Theft Bureau at the New York County District Attorney's Office to assist me in accessing, downloading, retrieving, printing, copying and otherwise seizing the information described above.

WHEREFORE, deponent respectfully requests that the court issue a warrant and order of seizure in the form annexed authorizing a search of one black Samsung cellular phone and one black Apple iPhone vouchered with the NYPD under invoice number 1000567454 ("the target devices"), for the above described evidence; and directing that if such evidence is found, it be brought before the Court. It is requested that this affidavit and any transcript of any accompanying sworn testimony in support of this application be sealed, except that permission be granted for an assistant district attorney in the New York County District Attorney's Office to obtain a copy of any such sworn testimony and that permission be granted for an assistant district attorney in the New York County District Attorney's office to disclose the affidavit and/or accompanying sworn testimony in the course of the lawful discharge of his or her duties pursuant to a criminal investigation and/or prosecution, or upon written order of the Court.



No previous application has been made in this matter to any other Judge, Justice, or Magistrate.



Detective Matthew Regina



Gregory San Germano

APPROVED: Assistant District Attorney

Sworn to before me this  
May 14, 2015



HON. RONALD A. ZWEIBEL

Judge

PT 41 MAY 14 2015

 CASTELLANO

\_\_\_\_\_  
Name of Court Reporter

SEARCH WARRANT

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK  
TO ANY POLICE OFFICER OF THE CITY OF NEW YORK

Proof by affidavit having been made this day before me by Detective Matthew Regina, Shield # 2389, of the Narcotics Boro Manhattan South of the New York City Police Department that there is reasonable cause to believe that certain property, to wit:

- a. The telephone number, ESN number, serial number, and SIM card number of said devices;
- b. Any and all data, information, or images which contain any references to the commission of the crimes stated above in paragraph 2;
- c. Any and all data, information, or images which tend to establish Jawawn Fraser's intent to commit the crimes stated above in paragraph 2 and which tend to establish his state of mind prior to and during the commission of said crimes;
- d. Any and all data, information, or images which evidence ownership and use of the target devices, including but not limited to, calendar entries, email account addresses, stored telephone numbers and labels given said numbers, photographs stored on the target items, bank account documents, bills and invoices, recorded voice memos, and letters;
- e. Any and all data, information, or images showing or tending to show the identity of the maker or user of the data and information contained in the target devices, such as passwords, sign-on codes, and program design;
- f. Any and all data, information, or images evidencing passwords which may be used to unlock or decrypt the evidence described above, which may or may not be stored in a locked or encrypted fashion within the target devices' medium, whether these passwords are letters, numbers, characters, words, or data strings (sequence of characters);
- g. The log file of all activity relating to all accounts, including all electronic mail and attachments or graphics, read and unread, profiles, buddy lists, newsgroups, "cookies" (shared computer files that indicate that the subject computer was used to access a Website), Websites, e-mail addresses, screen names, or documents related to the robbery occurring on October 21, 2014.

may be found in a black Samsung cellular telephone and a black Apple iPhone contained in NYPD Property Clerk Invoice number 1000567454 ("the target devices"); and that the above described

property constitutes evidence, tends to demonstrate that an offense was committed and that a particular person participated in the commission of said offense;

YOU ARE THEREFORE COMMANDED, to search a black Samsung cellular telephone and a black Apple iPhone contained in NYPD Property Clerk Invoice number 1000567454 ("the target devices") for the above-described evidence, and if you find such evidence or any part thereof, to bring it before the Court without unnecessary delay.


It is further ORDERED that for purposes of C.P.L. Section 690.30(1) this warrant shall be deemed executed upon the seizure of the Target Devices for the purpose of beginning a forensic search, and that the search may continue thereafter for whatever reasonable time is necessary to complete a thorough search pursuant to the warrant.

It is further ORDERED that a search of all files and data stored in the Target Devices be conducted, irrespective of how the data is filed, labeled, designated, encrypted, hidden, disguised or otherwise stored;

It is further ORDERED that specialists assigned to the High Technology Analysis Unit in the Cybercrime and Identity Theft Bureau at the New York County District Attorney's Office may assist in accessing, downloading, retrieving, printing, copying and otherwise seizing the information described above;

IT IS FURTHER ORDERED that the affidavit and any transcript of any accompanying sworn testimony in support of the application for this warrant is sealed, except that a copy of any such sworn testimony may be obtained by an assistant district attorney in the New York County District Attorney's Office and the affidavit and/or any such sworn testimony may be disclosed by an assistant district attorney in the New York County District Attorney's Office in the course of the lawful discharge of his or her duties pursuant to a criminal investigation and/or prosecution, or upon written order of the Court.

This warrant must be executed within 10 days of the date of issuance.

  
Judge of the Criminal Court

Dated: New York, New York

HON. RONALD A. ZWEIBEL

PT 41 MAY 14 2015



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**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

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IN THE MATTER OF AN APPLICATION FOR A  
WARRANT TO SEARCH

**A BLACK SAMSUNG CELLULAR TELEPHONE AND  
A BLACK APPLE IPHONE ("THE TARGET DEVICES")**

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**SEARCH WARRANT**

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**Cyrus R. Vance, Jr.  
District Attorney  
New York County  
One Hogan Place  
New York, New York 10013  
(212) 335-9000**



Rank and Name of Preparing Officer  
**DET U/C# C0084**

Shield No.  
**C0084**

Command  
**NBMS**

DATE	I T E M (Type)	EXPENDITURE
10/21/14	<p>INVOICE #: na</p> <p>U/C Case No. 2014-544-000040S</p> <p>NDV #: 1248 SUBJECT # 2a TIME OF BUY: 2015 LOCATION: C/O 8<sup>th</sup> st and Ave D Subject: Robbery</p> <p style="text-align: right;">           FUNDS EXPENDED..... \$70.00            FUNDS RECOVERED... \$ 00.00            FUNDS VOUCHERED... \$ 00.00            FUNDS RETURNED..... \$ 00.00            TOTAL COST..... \$70 .00         </p> <p>**Please credit the account of <u>It patane</u>**</p>	

I hereby certify that the items specified in the above schedule are correct; been, either in whole or in part, paid, satisfied or assigned, and that the full amount is now justly due. that the services and articles therein enumerated have in fact been performed and furnished, and by due authority; that the prices charged are reasonable and just; that no prerequisites, commissions or allowances of any kind, other as stated, have been or will be paid, directly or indirectly, in consideration of the procurement of the said articles or services; and that this claim has not

*UC 0084*

(SIGNATURE)

I HEREBY CERTIFY that I have examined these expenses and believe that they are correct, that the expenditures therein specified were essential for the proper performance of police work, and that the prices charged are reasonable and just.

Extensions and footings correct,

(COMMANDING OFFICER)

(CLERK)

New York, \_\_\_\_\_ 20\_\_\_\_\_

RECEIVED FROM THE AUDITOR OF THE POLICE DEPARTMENT, \_\_\_\_\_

the sum of \_\_\_\_\_ Dollars, in full payment of the above account.

\$ \_\_\_\_\_

PENALTY FOR FALSIFICATION: Falsification of Any Statement Made Herein Is an Offense Punishable by a Fine or Imprisonment or Both.(N.Y.C. Administrative Code, Section 1151-9.0)

DISTRIBUTION: 1-WHITE 2-BLUE--AUDIT AND ACCOUNTS SECTION 3-BLUE--COMMAND



COMPLAINT FOLLOW-UP  
INFORMATIONAL  
PD 313-081B (Rev. 2-86)-31

Crime  
U/C Buy Attempts

Pct  
0

DRAFT

PLAINTIFF'S  
EXHIBIT

**PX-9**

Complaint No. 2014-538-000275S	Date of this Report 10/22/2014 02:16	Date of Orig. Report 1/4/2014	Date Assigned 1/7/2014	Follow-up No. 1
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Unit Reporting  
NARCOTICS

Case No.  
2014-750-000596S

**DO NOT USE THIS FORM TO REPORT:** CRIME CLASSIFICATION CHANGES, CASE CLEARANCES, ALL ARRESTS, RECOVERED PROPERTY, ADDITIONAL STOLEN PROPERTY, SERIAL NUMBERS OBTAINED FOR PROPERTY PREVIOUSLY REPORTED.

**Subject: 10/21/2014 Robbery, Ave D and 8th St.**

On Tuesday October 21st 2014, I UC 0084 was conducting field operations with TRT while under the supervision of Lt. Patane. At approximately 1945 hours we were conducting B and B in the vicinity of Ave D and 8th st. At around 2000 hours I was approached by Jd brown. Jd brown asked me what I was looking for. I told Jd brown that I wanted fifty dollars worth of crack. Jd brown told me I would have to wait. Jd brown placed a phone call and told me that her man was coming down. Jd brown asked for the money. I handed Jd brown fifty dollars prbm. Jd brown told me to wait on the bench. Jd brown waited fifteen to twenty feet away. While waiting for the dealer to come out of the building I was approached by jd black. Jd black asked me what I was doing there. I told Jd black I was waiting for a friend. Jd black asked me what I was looking for. I told Jd black I was waiting for crills from a friend. Jd black asked me who my friend was. I told Jd black that I was good. Jd black then walked up close to me and became aggressive. Jd black told me to show him my ID to show I was not a cop or else he would punch me in the face. I stood up from the benches as JD black got closer. Jd black started balling up his fists. Jd black called over some other persons. There was a group of six who stood 5 feet off to my right. Jd black then told me to give him my money or else he'd fuck me up. I took out twenty dollars prbm and my ID. JD black grabbed both from me. I told Jd black to give me back my ID. Jd black then told me if I moved he would fuck me up. Jd black also told me he would give me back my ID in a second. JD black then took a picture of my ID and then put the money and ID in his pants pocket. I then asked for my ID back. JD black told me he wasn't giving me shit back. Jd black then began making more threats to me. I put over a distress signal. As the team was moving in Jd black put his hand in front of him and started reaching in his pants. JD black told me he was going to get me good. I stepped back thinking that Jd black was reaching for a weapon. Jd black then started struggling with me. The field team moved in and Jd black ran north bound. I observed Jd black in the custody of Del. Regina. opposite of 465 East 10th St. Jd brown was not found after the foot chase.

Jd brown - F/B 45-50yoa, 5'0"-5'4", brown leather jacket, orange head band, went by the name diane (lost subject)

Jd black - M/B 17-20yoa, 5/7"-5'9", 130-140lbs, black hoody, gray sweat pants (later known as fraser, jawaun)


Reporting Investigating Officer's Rank, Sign., Com'd. <i>UC 0084</i>	Name Printed Detective C0084, C0084	Tax Registry No. C0084	Supervisor Signature	C.O.'s Initials
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SHORT PINK

PLAINTIFF'S  
EXHIBIT

**51**



  
**FRASER, JAWAWN**

<i>Arrest Info pre-screening</i>		<i>Arresting Officer pre-screening</i>	
Arrest #	M14692369	Ecab #	2651374
Date	10/21/2014	NYSID	11875722P
Time	20:15	Command	Narcotics
Category	F	Borough	Manhattan South
Case Type	Online Telephone	Arrest	009
	Return Date	Precinct	3852900
		Shield	2389
		Tax #	████████
		Contact #	
		Contact #	

Occurrence Location	AVENUE D EAST 8 STREET MANHATTAN NY								
Arrest Narrative	AT T/P/O DEFT DID FORCIBLY REMOVE PROPERTY FROM A PERSON KNOWN TO THE DEPARTMENT . DEFT THEN USED FORCE BY THREATHEING COMP/VIC WITH BODILY HARM TO RETAINSAID PROPERTY . DEFT THEN RAN FROM LOCATION AND WAS ARRESTED A SHORT TIME LATE WITHOUT FURTHER INCIDENT.								
Arrest Charges	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Charge</th> <th>Count</th> <th>Cat</th> <th>Cl</th> </tr> </thead> <tbody> <tr> <td>PL 1600500</td> <td>0001</td> <td>F</td> <td>D</td> </tr> </tbody> </table>	Charge	Count	Cat	Cl	PL 1600500	0001	F	D
Charge	Count	Cat	Cl						
PL 1600500	0001	F	D						
ECAB Supervisor Name	TB: _____								
Notes	_____ _____ _____								
D Rated ?	<input type="checkbox"/>								
Possible Elevated Charges (Bump-Up)									
Pre-Written Bail Application	None Available								
Arrest Alerts									
Other Cases at DANY									

**Defendant Arrest**

Name	Arrest Date & Time	Precinct	DAT Return	UF61
Jawawn Fraser	Tuesday, 10/21/2014 8:15 PM	009 PCT		2014-009-005693
	Location: 465 East 10 Street, Manhattan			

**911 Call**

Defendant	Description
Jawawn Fraser	



Supreme Court of the City of New York  
County of New York

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THE PEOPLE OF THE STATE OF NEW YORK

Indictment Number:  
4844/2014

v.

JAWAWN FRASER,

Defendant(s)  
-----

Rosario List

1. Criminal Court complaint
2. DA Datasheet – 3 pages
3. Arrest Information Sheet
4. Grand Jury testimony of UC #84 – 11 pages
5. Grand Jury testimony of Detective Regina – 5 pages
6. NYPD Omniform Arrest Report – 2 pages
7. NYPD Arrest Report – 2 pages
8. Prisoner Movement Slip
9. NYPD Vouchers – 3 pages
10. Device Extraction Reports with photographs – 38 pages
11. Video scrolling through contents of Samsung cellphone
12. Search Warrant and Affidavit – ~~6~~<sub>7</sub> pages





UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Joseph Loglisci,  
Plaintiff,  
  
-against-  
  
The City of New York, Stephan Munafo,  
Undercover Police Officer Shield Number 9386,  
John Patane, Anthony Demonte, Christopher  
Bender, Jason Del Toro, Robert Lotufo, Joseph  
Petrelli, Undercover Police Officer Shield Number  
352, John Does 1 through 10,  
  
Defendants

ECF CASE

FIRST AMENDED COMPLAINT AND  
DEMAND FOR JURY TRIAL

09 Civ. 1220 (SHS) (THK)

**PRELIMINARY STATEMENT**

1. This is an action for money damages brought pursuant to the Civil Rights Act of 1871, 42 U.S.C. §§ 1983 and 1988 for the defendants' commissions of acts under color of law in violation of plaintiff's rights under the Fourth and Fourteenth Amendments to the Constitution of the United States and the Constitution and laws of the State of New York.

[REDACTED]

2. [REDACTED]

[REDACTED]

3. [REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED]

[REDACTED]

5. [REDACTED]





**PARTIES**

6. Plaintiff JOSEPH LOGLISCI is a citizen of the United States and a resident of Kings County. Until the time of his arrest, he worked as a baker at Sapienza’s Bagels and Deli in Howard Beach, New York.

7. Defendant THE CITY OF NEW YORK (the “City”) is a municipal corporation within the State of New York.

8. The New York City Police Department (the “NYPD”) is the department of the City responsible for, among other functions, arresting persons for offenses and maintaining custody over such persons prior to their initial appearance in court. At all times relevant hereto, the NYPD, together with the City, was responsible for the policy, practice, supervision, implementation, and conduct of all NYPD matters and was responsible for the appointment, training, supervision, and conduct of all NYPD personnel. In addition, at all relevant times, the NYPD, together with the City, was responsible for enforcing the rules of the NYPD, and for ensuring that NYPD personnel obeyed the Constitutions and laws of the United States and of the State of New York.

9. At all relevant times herein, defendant STEPHAN MUNAFO was employed as a police officer by the NYPD and was acting in the capacity of agent, servant, and employee of the City.

10. At all relevant times herein, defendant Munafo’s shield number was 25679.

11. At all relevant times herein, defendant Munafo held the rank of police officer.

12. At all relevant times herein, defendant Munafo’s command was the Narcotics Borough Manhattan South.

13. At all relevant times herein, defendant UNDER COVER POLICE OFFICER SHIELD NUMBER 9386 (“U.C. 9386”) was employed by the NYPD and was acting in the capacity of agent, servant, and employee of the City.

14. Plaintiff is unable to determine the actual name or rank of defendant U.C. 9386.

15. At all relevant times herein, defendant U.C. 9386’s command was the Narcotics Borough Manhattan South.

16. At all relevant times herein, defendant JOHN PATANE was employed as a police officer by the NYPD and was acting in the capacity of agent, servant, and employee of the City.

17. At all relevant times herein, defendant Patane held the rank of Lieutenant.

18. At all relevant times herein, defendant Patane’s command was the Narcotics Borough Manhattan South.

19. At all relevant times herein, defendant ANTHONY DEMONTE was employed as a police officer by the NYPD and was acting in the capacity of agent, servant, and employee of the City.

20. At all relevant times herein, defendant Demonte’s shield number was 915.

21. At all relevant times herein, defendant Demonte held the rank of sergeant.

22. At all relevant times herein, defendant Demonte’s command was the Narcotics Borough Manhattan South.

23. At all relevant times herein, defendant CHRISTOPHER BENDER was employed as a police officer by the NYPD and was acting in the capacity of agent, servant, and employee of the City.

24. At the time of Plaintiff’s arrest, defendant Bender held the rank of police officer

25. Defendant Bender's current shield number is 1205.

26. Defendant Bender currently holds the rank of Detective.

27. At all relevant times herein, defendant Bender's command was the Narcotics Borough Manhattan South.

28. At all relevant times herein, defendant JASON DEL TORO was employed as a police officer by the NYPD and was acting in the capacity of agent, servant, and employee of the City.

29. At the time of Plaintiff's arrest, Defendant Del Toro held the rank of police officer.

30. Defendant Del Toro's current shield number is 4218.

31. Defendant currently holds the rank of Detective.

32. At all relevant times herein, defendant Del Toro's command was the Narcotics Borough Manhattan South.

33. At all relevant times herein, defendant ROBERT LOTUFO was employed as a police officer by the NYPD and was acting in the capacity of agent, servant, and employee of the City.

34. At all relevant times herein, defendant Lotufo's shield number was 4648.

35. At all relevant times herein, defendant Lotufo held the rank of detective.

36. At all relevant times herein, defendant Lotufo's command was the Narcotics Borough Manhattan South.

37. At all relevant times herein, defendant JOSEPH PETRILLI was employed as a police officer by the NYPD and was acting in the capacity of agent, servant, and employee of the City.

38. At all relevant times herein, defendant Petrelli held the rank of detective.

39. At all relevant times herein, defendant Petrelli's command was the Narcotics Borough Manhattan South.



40. At all relevant times herein, defendant UNDER COVER POLICE OFFICER SHIELD NUMBER 352 (“U.C. 352”) was employed by the NYPD and was acting in the capacity of agent, servant, and employee of the City.

41. Plaintiff is unable to determine the actual name or rank of defendant U.C. 352.

42. At all relevant times herein, defendant U.C. 352’s command was the Narcotics Borough Manhattan South.

43. At all relevant times herein, defendant JOHN DOES 1 through 10 were police officers employed by the NYPD and each was acting in the capacity of agent, servant, and employee of the City.

44. Plaintiff is unable to determine the actual names of John Does 1 through 10 at this time and thus sues them under fictitious names.

45. At all times relevant herein, the individual defendants were acting under color of law in the course and scope of their duties and functions as agents, servants, employees and officers of the City and otherwise performed and engaged in conduct incidental to the performance of their lawful functions in the course of their duties. The individual defendants were acting for and on behalf of the City at all times relevant herein with the power and authority vested in them as officers, agents and employee of the City and incidental to the lawful pursuit of their duties as officers, employees and agents of the City.

#### **STATEMENT OF FACTS**

46. On May 28, 2008 at approximately 3:15 PM, plaintiff Joseph Loglisci was lawfully in the vicinity of Rutgers and Madison Streets in New York City.

47. Defendants Munafo, U.C. 9386, Patane, Demonte, Bender, Del Toro, Lotufo, Petrelli,

and U.C. 352 were part of a team of police officers conducting a “buy and bust operation.”

48. At that time and place and without any probable cause to do so, one of the defendant officers came up from behind Mr. Loglisci and handcuffed him.

49. Several other defendant officers were also present during, and participated in, Mr. Loglisci’s arrest.

50. After arresting him, a number of the defendant officers placed Mr. Loglisci in a waiting police vehicle, in which he was driven around — handcuffed behind his back the entire time — for at least five hours.

51. Mr. Loglisci was eventually transported to the NYPD’s 7th Precinct at 19 1/2 Pitt Street.

52. While at the 7th Precinct, Mr. Loglisci was subjected to a strip search in which officers directed him to lift up his shirt, drop his pants and underpants, lift up his genitals, turn around, squat and cough.

53. Mr. Loglisci was eventually brought by the police to Central Booking at 100 Centre Street.

54. The officers at the Precinct as well as those who transported him to Central Booking advised Mr. Loglisci not to seek treatment for the injuries caused by the handcuffs as they said that would delay his arraignment.

55. A felony complaint was filed against Mr. Loglisci charging him with Criminal Sale of a Controlled Substance in the Third Degree (N.Y. Penal Law § 220.39).

56. After more than 24 hours, Mr. Loglisci was arraigned on the felony complaint and bail was set.

57. On June 3, 2008, after six days in custody, Mr. Loglisci was finally released, pursuant to NY CPL § 180.80 for the District Attorney's failure to dispose of the felony complaint or to commence a hearing thereon.

58. The case was adjourned to July 29, 2008.

59. On July 29, 2008, the charge against Mr. Loglisci was dismissed on the motion of the New York County District Attorney's office with the prosecution stating that it could not prove the case beyond a reasonable doubt.

60. The NYPD has a formal policy, contained in its Patrol Guide, by which it authorizes strip searches only in situations where "the arresting officer reasonably suspects that weapons, contraband, or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods. Other factors that should be considered in determining the necessity for a strip search include, the nature of the crime (serious violent felony), arrest circumstances, subject's reputation (extremely violent person), act of violence, and discoveries from previous searches." Additionally, an NYPD directive, limiting and clarifying the strip search policy, was issued on May 13, 2004.

61. This notwithstanding, on information and belief, the NYPD has, and had at the time of the incident giving rise to this Complaint, a *de facto* policy and practice of strip-searching persons for reasons other than those specified in the Patrol Guide or NYPD directives.

62. As a result of all the foregoing, Mr. Loglisci lost his job and sustained, *inter alia*, physical injuries to his wrists, arm and shoulder, emotional distress, embarrassment, humiliation, anxiety, deprivation of his liberty and a violation of his constitutional rights.

[REDACTED]

63. [REDACTED]

**CAUSES OF ACTION**

**FIRST CAUSE OF ACTION**

**42 U.S.C. § 1983 Against the Individual Defendants**

64. All other paragraphs herein are incorporated by reference as though fully set forth.

65. By arresting, detaining, charging and searching plaintiff, the individual defendants engaged under color of law in the violation of plaintiff's rights under the Fourth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983 to, *inter alia*, be free from unreasonable searches and seizures, false arrest and imprisonment, excessive force and malicious prosecution.

[REDACTED]

66. [REDACTED]

67. [REDACTED]

[REDACTED]

68. [REDACTED]

[REDACTED]

[REDACTED]

69. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

**THIRD CAUSE OF ACTION  
Pendant State Law Claim for  
False Arrest and False Imprisonment**

70. All other paragraphs herein are incorporated by reference as though fully set forth.

71. By the actions described above, the individual defendants, jointly and severally, violated the plaintiff's rights under New York law to be free from false arrest and false imprisonment, as a direct and proximate result of which he suffered the loss of physical liberty and emotional distress and suffering.

72. [REDACTED]

**FOURTH CAUSE OF ACTION  
Pendant State Law Claim for  
Malicious Prosecution**

73. All other paragraphs herein are incorporated by reference as though fully set forth.

74. By the actions described above, the individual defendants, jointly and severally, violated plaintiff's rights under New York law to be free malicious prosecution, as a direct and proximate result of which the plaintiff suffered continued damage in his attempt to clear himself from the false and maliciously imposed charges.

75. [REDACTED]

**FIFTH CAUSE OF ACTION  
Pendant State Law Claim for  
Assault and Battery**

76. All other paragraphs herein are incorporated by reference as though fully set forth.

77. By the actions described above, the individual defendants, jointly and severally

violated the plaintiff's rights under New York law to be free from assault, battery and battery committed in performance of public duty or authority, as a direct and proximate result of which he suffered and continues to suffer from physical pain and injury, and emotional distress and suffering.

78. [REDACTED]

**SIXTH CAUSE OF ACTION  
Pendant State Law Claim for  
Violation of Rights under New York State Constitutional**

79. All other paragraphs herein are incorporated by reference as though fully set forth.

80. In arresting, detaining and using excessive, unreasonable and unjustified force against the plaintiff without sufficient cause, the individual defendants, jointly and severally violated the Plaintiffs rights under Article I, Section 12 of the New York Constitution.

81. [REDACTED]

[REDACTED]

1. [REDACTED]

2. [REDACTED]

[REDACTED]

3. [REDACTED]

4. [REDACTED]

Dated: New York, New York  
June 9, 2009

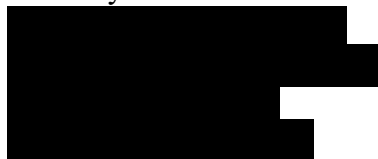
Respectfully submitted,

Darius Wadia, L.L.C.

/s/

---

By: Darius Wadia (Bar number DW8679)  
Attorney for Plaintiff

A large black rectangular redaction box covering the signature and name of the attorney.

*Darkline*

PLAINTIFF'S EXHIBIT  
**PX-14**

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX**

-----X  
**DONNELL MURRAY,**  
Plaintiff

-against-

**THE CITY OF NEW YORK, DET. JASON DEL TORO,  
SHIELD #4218 OF MANHATTAN SOUTH AND SGT.  
PATRICK MCGILL, SHIELD #3531 OF THE 47<sup>TH</sup>  
PRECINCT,**

Defendants  
-----X

Index No. \_\_\_\_\_  
Purchased \_\_\_\_\_  
Plaintiff designates  
Bronx County as the place of trial

The basis of the venue is where the  
tort arose and  
where Plaintiff resides  
**SUMMONS**

Plaintiff resides at  
**DONNELL MURRAY**  
[REDACTED]

**TO THE ABOVE NAMED DEFENDANT:**

**YOU ARE HEREBY SUMMONED**, to answer the complaint in this  
action and to serve a copy of your answer, or if the complaint is not served with this  
summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days  
after the service of this summons, exclusive of the day of service (or within 30 days after  
the service is complete if this summons is not personally delivered to you within the State  
of New York); and in case of your failure to appear or answer, judgment will be taken  
against you by default for the relief demanded in the complaint.

Dated: Bayside, New York  
September 11, 2009

*[Handwritten Signature]*

**PAPA, DEPAOLA AND BROUNSTEIN**  
Attorneys for Plaintiffs  
[REDACTED]

Defendants' Addresses:  
**CORPORATION COUNSEL OF THE  
CITY OF NEW YORK**  
[REDACTED]

**DET. JASON DEL TORO, SHIELD #4218 OF  
MANHATTAN SOUTH**  
[REDACTED]

**SGT. PATRICK MCGILL, SHIELD #3531  
OF THE 47<sup>TH</sup> PRECINCT,**  
[REDACTED]

CLERK  
BRONX COUNTY  
SEP 15 PM 3:43

Plaintiff's  
**Exhibit 3**

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX**

-----X  
**DONNELL MURRAY,**  
Plaintiff

Index No. \_\_\_\_\_  
Purchased \_\_\_\_\_

-against-

**THE CITY OF NEW YORK, DET. JASON DEL TORO,  
SHIELD #4218 OF MANHATTAN SOUTH AND SGT.  
PATRICK MCGILL, SHIELD #3531 OF THE 47<sup>TH</sup>  
PRECINCT,**

**VERIFIED COMPLAINT**

Defendants  
-----X

**DONNELL MURRAY, by his attorneys, PAPA, DEPAOLA AND BROUNSTEIN,**  
respectfully alleges as follows:

**AS AND FOR A FIRST CAUSE OF ACTION**

1. At all times mentioned, Plaintiff **DONNELL MURRAY** was a resident of Bronx County, City and State of New York.
2. At all times mentioned, Defendant **CITY OF NEW YORK**, was and is a municipal corporation duly organized and existing by virtue of the laws of the State of New York.

3. [REDACTED]



[REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

5. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

6. Upon information and belief, at all times mentioned, Defendants **DET. JASON DEL TORO, SHIELD #4218 OF MANHATTAN SOUTH AND SGT. PATRICK MCGILL, SHIELD #3531 OF THE 47<sup>TH</sup> PRECINCT** were and are police officers of the Defendant City of New York, and at all times herein were acting in such capacity as the agents, servants and employees of the Defendant, **THE CITY OF NEW YORK.**

7. On or about February 10, 2007 at approximately 5:05 a.m. in a diner in the vicinity of 3260 Boston Road, Bronx, New York the Defendants jointly and severally in their capacity as police officers, wrongfully touched, grabbed, handcuffed and seized the Plaintiff **DONNELL MURRAY**, in an excessive manner about his person, causing him physical pain and mental suffering. At no time did the Defendants have legal cause to grab, handcuff seize or touch the Plaintiff, nor did the Plaintiff consent to this illegal touching nor

was it privileged by law.

**AS AND FOR A SECOND CAUSE OF ACTION**

8. Plaintiff repeats, reiterates and re-alleges all of the allegations contained in Paragraphs "1" through "7" with full force and effect as though set forth at length herein.
9. On or about February 10, 2007 at approximately 5:05 a.m. in a diner in the vicinity of 3260 Boston Road, Bronx, New York the Defendants, jointly and severally did place Plaintiff **DONNELL MURRAY** in imminent fear of physical contact by approaching the Plaintiff with their loaded firearms, outstretched limbs and other objects which they used to physically seize, strike and restrain the Plaintiff. All of the above actions placed the Plaintiff in imminent fear of physical contact. At no time did the Plaintiff consent to the unlawful actions of the Defendants.

**AS AND FOR A THIRD CAUSE OF ACTION**

10. Plaintiff repeats, reiterates and re-alleges all of the allegations contained in Paragraphs "1" through "9" with full force and effect as though set forth at length herein.
11. On or about February 10, 2007 at approximately 5:05 a.m. in a diner in the vicinity of 3260 Boston Road, Bronx, New York the Defendants, jointly and severally without any warrant, order or other legal process and without any legal right, wrongfully and unlawfully arrested the Plaintiff, restrained him and his liberty and then took him into custody to a police station in the County of the Bronx and there charged him with the crimes on Docket No.

2007BX049001018. The Plaintiff was thereafter held in custody over the course of 2 days before he was released on his own recognizance after arraignment. The Defendants intentionally confined the Plaintiff without his consent and the confinement was not otherwise privileged by law and, at all times, the Plaintiff was conscious of his confinement.

AS AND FOR A FOURTH CAUSE OF ACTION

12. Plaintiff incorporates, repeats, and re-alleges all of the allegations contained in Paragraphs "1" through "11" with full force and effect as though set forth at length herein.
13. Upon information and belief, on or about February 10, 2007 and from that time until the dismissal of charges on or about September 23, 2008 which was a favorable termination for the accused by the Honorable Judge presiding at, Bronx Supreme Court, Defendants **DET. JASON DEL TORO, SHIELD #4218 OF MANHATTAN SOUTH AND SGT. PATRICK MCGILL, SHIELD #3531 OF THE 47<sup>TH</sup> PRECINCT** deliberately and maliciously prosecuted Plaintiff **DONNELL MURRAY**, an innocent man without any probable cause whatsoever, by filing or causing a felony complaint to be filed in the Criminal Court of the City of New York, Bronx County, for the purpose of falsely accusing the plaintiff of violations of the criminal laws of the State of New York.
14. The Defendants, jointly and severally, their agents, servants or employees failed to take reasonable steps to stop the prosecution of the Plaintiff and instead maliciously and deliberately provided false and/or incomplete information to the District Attorney's office to induce prosecution of the

Plaintiff.

15. The commencement of these criminal proceedings under Docket No. 2007BX049001018 was malicious and began in malice and without probable cause, so that the proceedings could succeed by the Defendants and due to the absence of probable cause malice can be inferred.
16. As a result of the malicious prosecution, Plaintiff was deprived of his liberty and suffered the humiliation, mental anguish, indignity and frustration of an unjust criminal prosecution. The Plaintiff made multiple court appearance to defend his liberty against these unjust charges. Plaintiff was illegally imprisoned, deprived of his liberty as a result of his malicious prosecution.

**AS AND FOR A FIFTH CAUSE OF ACTION**

17. Plaintiff repeats, reiterates, and re-alleges all of the allegations contained in paragraphs "1" through "16" as it set forth at length herein.
18. Defendants **DET. JASON DEL TORO, SHIELD #4218 OF MANHATTAN SOUTH AND SGT. PATRICK MCGILL, SHIELD #3531 OF THE 47<sup>TH</sup> PRECINCT** were at all times relevant, duly appointed and acting officers of the City of New York Police Department.
19. At all times mentioned herein, said police officer was acting under color of law, to wit: the statutes, ordinances, regulations, policies and customs and usage of the State of New York and/or City of New York.
20. Plaintiff **DONNELL MURRAY** is and at all times relevant herein, a citizen of the United States and a resident of Bronx County in the State of New York and brings this cause of action pursuant to 42 United States Code, Section

1983 and 42 United States Code, Section 1988.

21. The Defendant **CITY OF NEW YORK** is a municipality duly incorporated under the laws of the State of New York.
22. On or about February 10, 2007 the Defendants, armed police, while effectuating the seizure of the Plaintiff **DONNELL MURRAY**, did search, seize, assault and commit a battery and grab the person of the Plaintiff without a court authorized arrest or search warrant. They did physically seize the person of the Plaintiff during the arrest process in an unlawful and excessive manner. The Plaintiff was falsely arrested, deprived of his liberty and maliciously prosecuted without the Defendants possessing probable cause to do so. Further, the plaintiff was subjected to a warrantless strip search with cavity inspection even though the defendants did not possess a reasonable and/or probable cause to believe that the plaintiff had secreted contraband in or on his person.
23. The above action of the Defendants resulted in the Plaintiff being deprived of the following rights under the United States Constitution:
  - a. Freedom from assault to his person;
  - b. Freedom from battery to his person;
  - c. Freedom from illegal search and seizure;
  - d. Freedom from false arrest;
  - e. Freedom from malicious prosecution;
  - f. Freedom from the use of excessive force during the arrest process;
  - g. Freedom from loss of liberty;



24. The Defendants subjected the Plaintiff to such deprivations, either in a malicious or reckless disregard of the Plaintiff's rights or with deliberate indifference to those rights used the fourth and fourteenth amendments of the United States Constitution.

25. The direct and proximate result of the Defendants' acts are that the Plaintiff has suffered severe and permanent injuries of a psychological nature. He was forced to endure pain and suffering, all to his detriment.

[REDACTED]

26. [REDACTED]  
[REDACTED]  
[REDACTED]

27. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

28. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]

29.

[REDACTED]

[REDACTED]

[REDACTED]

1.

[REDACTED]

[REDACTED]

2.

[REDACTED]

[REDACTED]

3.

[REDACTED]

[REDACTED]

4.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

29.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted]

30. [Redacted]

[Redacted]

31. [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

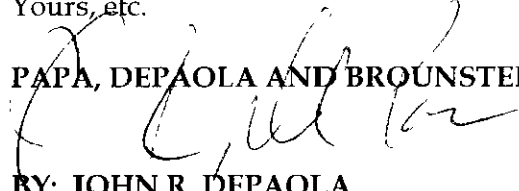
[Redacted]

[Redacted]

Dated: Bayside, New York  
September 11, 2009

Yours, etc.

**PAPA, DEPAOLA AND BROUNSTEIN**



**BY: JOHN R. DEPAOLA**

Attorneys for Plaintiff  
42-40 Bell Boulevard Suite 500  
Bayside, New York 11361  
(718) 281-4000

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
DONNELL MURRAY,

Plaintiff

Index No.  
Purchased:

-against-

VERIFICATION

THE CITY OF NEW YORK, DET. JASON DEL TORO,  
SHIELD #4218 OF MANHATTAN SOUTH AND SGT.  
PATRICK MCGILL, SHIELD #3531 OF THE 47<sup>TH</sup>  
PRECINCT

Defendants  
-----X

I, **JOHN R. DEPAOLA**, an attorney admitted to practice in the courts of New York State, state that I am a member of the firm of **PAPA, DEPAOLA AND BROUNSTEIN**, the attorneys of record for Plaintiffs in the within action; I have read the foregoing and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true. The reason this verification is made by me and not by Plaintiff is because Plaintiff resides outside the county where deponent maintains his office.

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated:            Bayside, New York  
                      September 11, 2009

  
\_\_\_\_\_  
**JOHN R. DEPAOLA,**

Index No. :

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

\_\_\_\_\_

DONNELL MURRAY,

Plaintiff

-against-

THE CITY OF NEW YORK, DET. JASON DEL TORO, SHIELD #4218 OF MANHATTAN  
SOUTH AND SGT. PATRICK MCGILL, SHIELD #3531 OF THE 47<sup>TH</sup> PRECINCT,

Defendants

\_\_\_\_\_

**SUMMONS AND VERIFIED COMPLAINT**

\_\_\_\_\_

PAPA DEPAOLA AND BROUNSTEIN  
BY: JOHN R. DEPAOLA  
Attorney for Plaintiffs

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

To: CORPORATION COUNSEL OF NEW YORK CITY

Attorney(s) for Defendants

\_\_\_\_\_

Service of a copy of the within is hereby admitted.

Dated \_\_\_\_\_

Attorney(s) for



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

MIRIAM NUNEZ and MEAGAN RIVERA,

Plaintiffs,

-against-

THE CITY OF NEW YORK, DET. JEFFREY  
MCAVOY, Shield No. 7380, DET. JASON DEL TORO,  
Shield No. 4218, P.O. GEORGE VELEZ, Shield No.  
31307, SGT. ANTHONY DEMONTE, Shield 915 and  
P.O.'s "JOHN DOE" #1-10, Individually and in their  
Official Capacity (the name John Doe being fictitious, as  
the true names are presently unknown),

Defendants.

-----X

**COMPLAINT**

**09 CV 8798**

**JURY TRIAL DEMANDED**

**ECF CASE**

Plaintiffs MIRIAM NUNEZ and MEAGAN RIVERA, by their attorneys, Cohen & Fitch  
LLP, complaining of the defendants, respectfully allege as follows:

**PRELIMINARY STATEMENT**

1. Plaintiffs bring this action for compensatory damages, punitive damages and  
attorney's fees pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1988 for violations of their civil  
rights, as said rights are secured by said statutes and the Constitutions of the State of New York  
and the United States.

[REDACTED]

2. [REDACTED]

[REDACTED]

3. [REDACTED]





[REDACTED]

4. [REDACTED]

[REDACTED]

[REDACTED]

5. [REDACTED]

[REDACTED]

**PARTIES**

6. Plaintiff MEAGAN RIVERA is a Hispanic female, a citizen of the United States, and at all relevant times a resident of the City and State of New York.

7. Plaintiff MIRIAM NUNEZ is a Hispanic female, a citizen of the United States, and at all relevant times a resident of the City and State of New York.

8. Defendant CITY OF NEW YORK was and is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

9. Defendant CITY OF NEW YORK maintains the New York City Police Department, a duly authorized public authority and/or police department, authorized to perform all functions of a police department as per the applicable sections of the New York State Criminal Procedure Law, acting under the direction and supervision of the aforementioned municipal corporation, City of New York.

10. That at all times hereinafter mentioned DET. JEFFREY MCAVOY, DET. JASON DEL TORO, P.O. GEORGE VELEZ, SGT. ANTHONY DEMONTE and P.O.'s "JOHN DOE" #1-10 were duly sworn police officers of said department and were acting under the supervision of said department and according to their official duties.

11. That at all times hereinafter mentioned the defendants, either personally or through their employees, were acting under color of state law and/or in compliance with the

official rules, regulations, laws, statutes, customs, usages and/or practices of the State or City of New York.

12. Each and all of the acts of the defendants alleged herein were done by said defendants while acting within the scope of their employment by defendant THE CITY OF NEW YORK.

13. Each and all of the acts of the defendants alleged herein were done by said defendants while acting in furtherance of their employment by defendant THE CITY OF NEW YORK.

### **FACTS**

14. On or about April 14, 2008, at approximately 6:00 a.m., plaintiffs were lawfully present in the premises known as 10 Avenue D, Apartment 8A, in the County of New York, State of New York.

15. At the aforesaid time and place, defendant police officers broke down the door of plaintiffs' home.

16. Upon information and belief, the police officers did not enter pursuant to a valid search warrant.

17. Upon information and belief, the police officers did not provide a copy of said warrant to plaintiffs upon repeated requests.

18. Upon information and belief, the police officers, if they did possess a warrant, did not enter in a manner or at a time authorized in the warrant.

19. Upon information and belief, none of the plaintiffs were listed or described as suspects or targets on any application for any warrant.

20. Defendant police officers then aggressively entered the apartment with their guns drawn, terrorizing plaintiffs.

21. Plaintiffs MEAGAN RIVERA and MIRIAM NUNEZ were asleep before defendants arrived and was startled awake by the sound of banging on the apartment door.

22. Plaintiffs got up and entered the hallway outside of the bedroom and were met by defendant officers with their guns drawn, pointed at them and screaming “GET DOWN ON THE FLOOR.”

23. Plaintiffs immediately complied with the aforementioned commands and went to the floor where they were immediately placed in handcuffs.

24. Defendant officers repeatedly asked plaintiffs “WHERE’S ERIC, WHERE’S ERIC.”

25. Plaintiffs explained to the officers that there was no one by that name living in there apartment.

26. While plaintiffs were in custody, defendant police officers searched the entire house.

27. Notwithstanding the lack of any evidence or contraband found on plaintiffs or within their custody or control, defendants arrested plaintiffs and charged them with Criminal Possession of a Weapon and Criminal Possession of a Forged Instrument.

28. The plaintiffs never possessed or controlled any contraband, weapons or forged instruments.

29. As a result of their unlawful arrest, plaintiffs spent approximately twenty four (24) hours in jail before the District Attorneys Office declined prosecution of the plaintiffs.

30. As a result of the foregoing, plaintiffs sustained, *inter alia*, loss of liberty, mental anguish, shock, fright, apprehension, embarrassment, and humiliation, and deprivation of their constitutional rights.

**FIRST CLAIM FOR RELIEF**  
**DEPRIVATION OF FEDERAL CIVIL RIGHTS UNDER 42 U.S.C. § 1983**

31. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs “1” through “30” with the same force and effect as if fully set forth herein.

32. All of the aforementioned acts of defendants, their agents, servants and employees, were carried out under the color of state law.

33. All of the aforementioned acts deprived plaintiffs of the rights, privileges and immunities guaranteed to citizens of the United States by the First, Fourth, Fifth, Eighth and Fourteenth Amendments to the Constitution of the United States of America, and in violation of 42 U.S.C. § 1983.

34. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers, with all of the actual and/or apparent authority attendant thereto.

35. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers, pursuant to the customs, usages, practices, procedures, and the rules of the City of New York and the New York City Police Department, all under the supervision of ranking officers of said department.

36. Defendants, collectively and individually, while acting under color of state law, engaged in conduct that constituted a custom, usage, practice, procedure or rule of the respective municipality/authority, which is forbidden by the Constitution of the United States.

**SECOND CLAIM FOR RELIEF**  
**FALSE ARREST UNDER 42 U.S.C. § 1983**

37. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs numbered “1” through “36” with the same force and effect as if fully set forth herein.

38. As a result of the aforesaid conduct by defendants, plaintiffs were subjected to illegal, improper and false arrest by the defendants and taken into custody and caused to be falsely imprisoned, detained, and confined, without any probable cause, privilege or consent.

39. As a result of the foregoing, plaintiffs' liberty was restricted for an extended period of time, they were put in fear for their safety, and they were humiliated and subjected to handcuffing and other physical restraints, without probable cause.

**THIRD CLAIM FOR RELIEF**  
**MALICIOUS ABUSE OF PROCESS UNDER 42 U.S.C. § 1983**

40. Plaintiffs repeat, reiterates and realleges each and every allegation contained in paragraphs "1" through "39" with the same force and effect as if fully set forth herein.

41. Defendants issued legal process to place plaintiffs under arrest.

42. Defendants arrested plaintiffs in order to obtain a collateral objective outside the legitimate ends of the legal process.

43. Defendants acted with intent to do harm to plaintiffs, without excuse or justification.

44. As a result of the foregoing, plaintiffs' liberty was restricted for an extended period of time, and they were put in fear for their safety and they were humiliated and subjected to handcuffing, and other physical restraints, without probable cause.

**FOURTH CLAIM FOR RELIEF**  
**UNLAWFUL SEARCH AND ENTRY UNDER 42 U.S.C. § 1983**

45. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs numbered "1" through "44" with the same force and effect as if fully set forth herein.

46. As a result of the aforesaid conduct by defendants, plaintiffs' home and possessions were illegally and improperly entered without consent, a valid warrant, probable cause, privilege or consent, in violation of their constitutional rights as set forth in the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

47. As a result of the aforesaid conduct by the defendants, plaintiffs' home was entered illegally at time not prescribed in the warrant, in violation of their constitutional rights as set forth in the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

48. As a result of the aforesaid conduct by the defendants, plaintiffs' were not provided a copy of said warrant upon their request, in violation of their constitutional rights as set forth in the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

49. As a result of the aforesaid conduct by defendants, plaintiffs' home and possessions were illegally and improperly searched without any warrant, probable cause, privilege or consent, in violation of their constitutional rights as set forth in the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

[REDACTED]

50. [REDACTED]

[REDACTED]

51. [REDACTED]

[REDACTED]

[REDACTED]

52. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



53. [Redacted]

[Redacted]

[Redacted]

54. [Redacted]

[Redacted]

[Redacted]

55. [Redacted]

[Redacted]

[Redacted]

56. [Redacted]

[Redacted]

[Redacted]

57. [Redacted]

[Redacted]

58. [Redacted]

A. [Redacted]

B. [Redacted]

C. [Redacted]

D. [Redacted]

E. [Redacted]

F. [Redacted]

59. [Redacted]

[Redacted]

[Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Dated: New York, New York  
October 8, 2009

BY: \_\_\_\_\_/S  
JOSHUA P. FITCH (JF-2813)  
COHEN & FITCH LLP  
Attorneys for Plaintiff  
225 Broadway, Suite 2700  
New York, N.Y. 10007  
(212) 374-9115





UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
A.T., a minor, by her parent and  
natural guardian, MADELINE SANCHEZ,

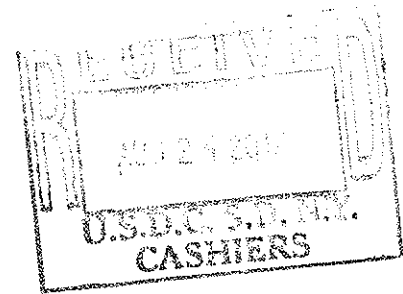
Plaintiff.

AMENDED COMPLAINT

-against-

12-CV-4146(JSR)(AJP)

THE CITY OF NEW YORK,  
SGT JAMIL PAYNE,  
SGT KENNETH TYSDAL, DETECTIVE  
GENNARO RUSSO, DETECTIVE Wael  
DEMES, DETECTIVE JASON DEL TORO,  
DETECTIVE BENNIE VANCE,  
DETECTIVE AARON JOHNSON,  
DETECTIVE LOUIS GUBITOSI,  
and POLICE OFFICERS JOHN DOE,  
Individually and in their Official Capacities,



Defendants.

-----X

Plaintiff, A.T., a minor, by her parent and natural guardian, MADELINE SANCHEZ, by  
and through her attorneys, **Fisher, Byrialsen & Kreizer PLLC**, complaining of the defendants  
herein, respectfully shows the Court and alleges:

PRELIMINARY STATEMENT

1. Plaintiff brings this action for compensatory damages, punitive damages, and  
attorney's fees pursuant to 42 U.S.C. §§ 1981, 1983, and 1988, for the wrongful acts of  
Defendants THE CITY OF NEW YORK and POLICE OFFICER JAMIL PAYNE, SGT  
KENNETH TYSDAL, DETECTIVE GENNARO RUSSO, DETECTIVE Wael DEMES,  
DETECTIVE JASON DEL TORO, DETECTIVE BENNIE VANCE, DETECTIVE AARON  
JOHNSON, DETECTIVE LOUIS GUBITOSI and POLICE OFFICERS JOHN DOE, as Officers



of the New York City Police Department, acting under color of state law and pursuant to their authority, in violation of Plaintiff's rights secured by the Civil Rights Act of 1871, 42 U.S.C. §§ 1981, 1983, 1988, by the United States Constitution, including its Fourth, Fifth, Eighth, and Fourteenth Amendments, and by the laws and Constitution of the State of New York.

[REDACTED]

2. [REDACTED]

[REDACTED]

[REDACTED]

3. [REDACTED]

[REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. [REDACTED]

[REDACTED]

[REDACTED]

6. [REDACTED]

[REDACTED]

PARTIES

7. At all times relevant hereto Plaintiff was a resident of New York, New York.

8. At all times relevant hereto defendant THE CITY OF NEW YORK (hereinafter,

“NYC”) was and is a municipality of the State of New York and owns, operates, manages, directs, and controls the New York City Police Department, which employs the other named Defendants.

9. At all times relevant to this action, Defendants SGT JAMIL PAYNE, SGT KENNETH TYSDAL, DETECTIVE GENNARO RUSSO, DETECTIVE WAEL DEMES, DETECTIVE JASON DEL TORO, DETECTIVE BENNIE VANCE, DETECTIVE AARON JOHNSON, DETECTIVE LOUIS GUBITOSI and POLICE OFFICERS JOHN DOE, are and were police officers employed by the New York City Police Department (hereinafter, “NYPD”), and acting under color of state law. They are being sued in both their individual and official capacities.

10. At all times relevant hereto and in all their actions described herein, the Defendants SGT JAMIL PAYNE, SGT KENNETH TYSDAL, DETECTIVE GENNARO RUSSO, DETECTIVE WAEL DEMES, DETECTIVE JASON DEL TORO, DETECTIVE BENNIE VANCE, DETECTIVE AARON JOHNSON, DETECTIVE LOUIS GUBITOSI and Officers John Doe were acting under color of statutes, ordinances, regulations, policies, customs, and usages of the NYPD and NYC, pursuant to their authority as employees, servants, and agents of the NYPD within the scope of employment and incidental to their otherwise lawful duties and functions as employees, servants, agents and police officers.

11. NYC was responsible for the hiring, training, supervision, discipline, retention and promotion of the police officers, sergeants and/or employees of the NYPD. They are being sued both in their individual and official capacities.

**FACTS**

12. On May 9, 2011 at about 8:30 p.m., Plaintiff A.T., a Hispanic juvenile female, was taking a shower at her mother's apartment.

13. When plaintiff heard banging on the door, she looked through the peep hole and observed police officers at the door to her apartment. Plaintiff informed the officers that she was not dressed, that she would put some clothing on and then open the door.

14. While plaintiff was attempting to get dressed, she heard the officers continue to bang on the door and eventually heard them break the door in and enter the apartment.

15. While plaintiff was undressed, approximately four male officers who were holding riot shields entered plaintiff's bedroom and pinned her down onto her bed.

16. Plaintiff was held by the officers, pinned face down on her bed for five to six minutes.

17. The officers then asked plaintiff her age and if anyone else was home.

18. The plaintiff informed the officers that she was fifteen years old and that no one else was home.

19. The officers then handcuffed the plaintiff, which caused plaintiff to drop her towel and she was left standing naked in handcuffs while the officers continued to interrogate her for approximately five minutes.

20. After the five minute interrogation by the male officers, a female officer entered the bedroom and released the plaintiff from the handcuffs and permitted the plaintiff to clothe herself.

21. The female officer then placed the plaintiff in handcuffs again explained that the officers were looking for an adult male individual.

22. The female officer asked the plaintiff her age and the plaintiff informed her that she



was fifteen years old.

23. While in handcuffs, the plaintiff was then taken to the kitchen and seated in a chair. Plaintiff was crying, but she sat compliantly in the chair.

24. Another officer then entered the kitchen and asked the plaintiff her age.

25. When the plaintiff informed the officer that she was fifteen years old, he advised her that he did not believe her.

26. The plaintiff then showed the officer her school identification card, which confirmed that she was fifteen years old.

27. The officers advised that they were going to arrest the plaintiff despite the fact that they were looking for an adult male and that there was no guardian to accompany her to the precinct.

28. The officers brought the plaintiff to the 9<sup>th</sup> precinct and left her handcuffed to a chair in the juvenile room.

29. The plaintiff's parents arrived at the precinct.

30. The officers took the plaintiff's photograph and fingerprints and required her to submit a urine sample.

31. Plaintiff was then left alone in the juvenile room for approximately two hours while the officers claimed to be awaiting the results on a warrant check.

32. The officers told the plaintiff that she was charged with a felony and she received an appearance ticket to appear in family court.

33. Plaintiff appeared in family court and was informed that the arresting officer was pursuing the charges against the plaintiff.

34. The next time plaintiff appeared in family court her case was not called and she was

advised that she would receive paperwork in the mail advising if she had to continue to return to court.

35. Two weeks later the plaintiff received paperwork advising that the charges against her had been dismissed.

36. As a result of this incident plaintiff has suffered severe emotional distress.

**FIRST CLAIM FOR RELIEF:  
DEPRIVATION OF FEDERAL CIVIL RIGHTS**

37. Plaintiff repeats and reiterates the allegations set forth in the foregoing paragraphs with the same force and effect as though fully stated herein.

38. All of the aforementioned acts of Defendants, their agents, servants, and employees were carried out under color of state law.

39. All of the aforementioned acts deprived PLAINTIFF of the rights, privileges, and immunities guaranteed citizens of the United States by the Fourth, Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States and in violation of 42 U.S.C. § 1983.

40. The acts complained of were carried out by the aforementioned individual Defendants in their capacities as police officers, with the entire actual and/or apparent authority attendant thereto.

41. The acts complained of were carried out by the aforementioned individual Defendants in their capacities as police officers, pursuant to the customs, usages, practices, procedures, and rules of NYC and the NYPD, all under the supervision of ranking officers of said department.

42. Defendants, collectively and individually, while acting under color of state law, engaged in conduct which constituted a custom, usage, practice, procedure, or rule of his/her

respective municipality/authority, which is forbidden by the Constitution of the United States.

43. By these actions, these Defendants have deprived Plaintiff of rights secured by the Fourth, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution, in violation of 42 U.S.C. § 1983, for which the Defendants are individually and jointly liable.

**SECOND CLAIM FOR RELIEF:  
FALSE ARREST**

44. Plaintiff repeats and reiterates the allegations set forth in the foregoing paragraphs with the same force and effect as though fully stated herein.

45. As a result of Defendants' aforementioned conduct, Plaintiff was subject to an illegal, improper, and false seizure and arrest by the Defendants and taken into custody and caused to be falsely imprisoned, detained, confined, incarcerated, and prosecuted by the Defendants in criminal proceedings, without any probable cause, privilege, or consent.

46. As a result of his false arrest, Plaintiff was subjected to severe emotional distress, humiliation, ridicule, and disgrace and was deprived of her liberty.

47. All of the aforementioned acts of the Defendants constituted false arrest under the laws of the State of New York and the Defendants are liable for said damage. Pursuant to 28 U.S.C. § 1367, this Court has pendant jurisdiction to hear and adjudicate such claims.

**THIRD CLAIM FOR RELIEF:  
FALSE IMPRISONMENT**

48. Plaintiff repeats and reiterates the allegations set forth in the foregoing paragraphs with the same force and effect as though fully stated herein.

49. As a result of her false imprisonment, Plaintiff was subjected to severe emotional distress, humiliation, ridicule, mental anguish and disgrace and was deprived of her liberty.

50. All of the aforementioned acts of the Defendants constituted false imprisonment under the law of the State of New York and the Defendants are liable said damage. Pursuant to 28 U.S.C. § 1367, this Court has pendant jurisdiction to hear and adjudicate such claims.

**FOURTH CLAIM FOR RELIEF:  
MALICIOUS PROSECUTION**

51. Plaintiff repeats and reiterates the allegations set forth in the foregoing paragraphs with the same force and effect as though fully stated herein.

52. By the actions described above the defendants THE CITY OF NEW YORK, SGT PAYNE, SGT KENNETH TYSDAL, DETECTIVE GENNARO RUSSO, DETECTIVE WAELE DEMES, DETECTIVE JASON DEL TORO, DETECTIVE BENNIE VANCE, DETECTIVE AARON JOHNSON, DETECTIVE LOUIS GUBITOSI and POLICE OFFICERS JOHN DOE maliciously and without probable cause, prosecuted the Plaintiff. The acts and conduct of the defendants were the direct and proximate cause of injury and damage to the Plaintiff and violated her statutory and common law right as guaranteed by the laws and constitution of the State of New York.

53. As a result of the foregoing, Plaintiff was deprived of her liberty, suffered great humiliation, anguish, costs and expenses and was otherwise damaged and injured.

[REDACTED]

54. [REDACTED]

[REDACTED]

55. [REDACTED]

[REDACTED]

[REDACTED]

[Redacted text block]

56. [Redacted text]

[Redacted text block]

57. [Redacted text]

[Redacted text block]

58. [Redacted text]

[Redacted text block]

59. [Redacted text]

[Redacted text block]

60. [Redacted text]

[Redacted text block]

61. [Redacted text]

[REDACTED]

62. [REDACTED]

[REDACTED]

63. [REDACTED]

[REDACTED]

64. [REDACTED]

[REDACTED]

65. [REDACTED]

[REDACTED]

66. [REDACTED]

[REDACTED]

a. [REDACTED]

b. [REDACTED]

c. [REDACTED]

d. [REDACTED]

e. [REDACTED]

**SIXTH CLAIM FOR RELIEF:  
CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS  
UNDER 42 U.S.C. § 1983, 1985, 1986**

67. Plaintiff repeats and reiterates the allegations set forth in the foregoing paragraphs with the same force and effect as though fully stated herein.

68. All the defendants, acting with each other individually and on behalf of and under the auspices and control of the City, and under color of law, conspired to injure plaintiff in his person and property and deprive plaintiff of his First, Fourth, Fifth and Fourteenth Amendment rights. The defendants jointly caused such deprivation of rights by acting in concert to disseminate false information concerning the plaintiff and by disseminating false information that lacked any reasonable basis or probable cause to support it that the plaintiff committed a crime, and/or to charge her with a crime, and/or to arrest her.

69. The defendants further deprived the plaintiff of her due process rights specifically by conspiring to and assisting in the arrest of the plaintiff without probable cause and participating in the prosecution of plaintiff; by denying the plaintiff her First, Fourth, Fifth and Fourteenth Amendment rights via a conspiracy to deprive the plaintiff of her liberty and taking her property without due process and compensation; conspiring together to cover up the misconduct they committed; and preventing the plaintiff from being compensated for her wrongful arrest, for the loss of her constitutional rights and for the emotional harm she suffered.

70. The aforesaid actions by the defendant police officers were done pursuant to an official municipal policy or custom of the city and state, which policy involved the



indiscriminate detention, interrogation, intimidation, denial of medical attention, and prosecution of individuals who were not engaged in criminal conduct, and for the purpose of thwarting the fair administration of justice.

71. The defendants' failure to stop these wrongful acts and actions constitutes a breach of their duty to do so under 42 U.S.C. § 1986.

72. The defendants knew or should have known that the misconduct and false and fabricated accusations and/or charges against plaintiff were violative of his First, Fourth, Fifth and Fourteenth Amendment rights to due process and equal protection, and were tantamount to unequal protection under the law, in violation of the plaintiff's fundamental rights under the Constitution.

73. Said defendants had the power to prevent the continued due process violations against the plaintiff, yet had failed to prevent the dissemination of false information and/or to dismiss the fabricated accusations and charges against plaintiff, and/or to protect the plaintiff from the unwarranted and potential harm and penalties of said charges.

74. Defendants herein, their agents, servants and employees, motivated in part by racial and/or ethnic animus, conspired to deprive plaintiff of his federal civil and constitutional rights, in violation of 42 U.S.C. § 1985.

75. All of the aforementioned acts of Defendants constituted a violation of Plaintiff's civil rights provided to him under the United States Constitution and 42 U.S.C. § 1983, 1985, and 1986.

[REDACTED]

[REDACTED]

[REDACTED]

1. [REDACTED]

[REDACTED]

2. [REDACTED]


[REDACTED]

3. [REDACTED]

4. [REDACTED]

DATED: New York, New York  
August 24, 2012

Respectfully submitted,



Alissa Bushnack, Esq. (AB0977)  
FISHER, BYRIALSEN & KREIZER PLLC  
*Attorney for Plaintiff*  
291 Broadway, Suite 709  
New York, New York 10007  
(212) 962-0848, ext 113



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- x

ROBERT BEST,

Plaintiff,

**COMPLAINT**

-against-

11 CV 5611 (CM)

THE CITY OF NEW YORK, RETIRED DETECTIVE  
JOSE VALENTIN, tax # 898683, UNDERCOVER  
OFFICER, shield # C0084, POLICE OFFICERS JOHN  
AND JANE DOES 1-5,

Jury Trial Demanded

Defendants.

----- x

**PRELIMINARY STATEMENT**

1. Plaintiff brings this civil rights action against the City of New York and several New York City Police Officers of Narcotics Borough Manhattan South alleging that, on November 21, 2009, defendants violated his rights under 42 U.S.C. § 1983 and the Fourth and Sixth Amendments to the United States Constitution by falsely arresting him, using excessive force on him, fabricating evidence against him and maliciously prosecuting him. The criminal case was dismissed on speedy trial grounds on July 15, 2010. Plaintiff seeks compensatory and punitive damages, attorney's fees and costs and such other and further relief as the court deems just and proper.

[REDACTED]

2. [REDACTED]

[REDACTED]

[REDACTED]



3. [REDACTED]

**PARTIES**

4. Plaintiff is a resident of Brooklyn.

5. The City of New York is a municipal corporation organized under the laws of the State of New York

6. Retired Detective Jose Valentin, Undercover Officer, shield # C0084 and Police Officers John and Jane Does 1-5 are or were members of the New York City Police Department (“NYPD”) who were employed in the unit Narcotics Borough Manhattan South on November 21, 2009. The defendants were acting under color of state law and in their capacities as members of the NYPD at all relevant times. The defendants are liable for directly participating in the unlawful acts described herein and for failing to intervene to protect plaintiff from unconstitutional conduct. The defendants are sued in his individual capacity.

**STATEMENT OF FACTS**

7. On November 21, 2009, plaintiff was on 42<sup>nd</sup> Street between Eighth and Ninth Avenues in Manhattan.

8. Although plaintiff had not committed a crime and was not acting in a suspicious manner, defendants approached and seized plaintiff.

9. In the course of arresting plaintiff, five of the male defendants, acting in concert, grabbed plaintiff and slammed him onto the ground, punched plaintiff several times in his face, pushed at least one knee into the rear of plaintiff’s neck obstructing his breathing, and handcuffed plaintiff excessively tight.

10. The aforesaid use of force caused plaintiff to suffer pain and injuries including lacerations and contusions.

11. None of the officers complied with plaintiff's requests to loosen the cuffs.

12. Plaintiff was taken to an unknown precinct where retired Detective Jose Valentin, with the approval and knowledge of the other officers, falsely charged plaintiff with sale and possession of marijuana and resisting arrest.

13. Several hours later, officers took plaintiff to Manhattan Central Booking.

14. While plaintiff was held in Central Booking, Valentin, with the approval and knowledge of the other officers, misrepresented to the New York County District Attorney's Office that plaintiff had sold and possessed marijuana and resisted arrest.

15. Valentin signed a criminal court complaint which commenced a criminal proceeding against plaintiff.

16. Plaintiff was arraigned in Criminal Court on November 22, 2011, at approximately 5:00 p.m., and the judge set bail.

17. Plaintiff's family posted bail at plaintiff's arraignment.

18. Plaintiff went to court several times after his arraignment.

19. On July 15, 2010, the false criminal charges were dismissed on speedy trial grounds.

20. Plaintiff received medical treatment at Bellevue Hospital while in police custody and, after he was released, at Jamaica Medical Center.

21. Plaintiff suffered damage as a result of defendants' actions. Plaintiff suffered an unlawful detention, physical injuries, emotional distress, fear, anxiety and humiliation.

**FIRST CLAIM**

**(FALSE ARREST)**

22. Plaintiff repeats the foregoing allegations.

23. At all relevant times, plaintiff did not commit a crime or violation.

24. Despite plaintiff's innocence, the defendants arrested plaintiff or failed to intervene to prevent his false arrest.

25. Accordingly, defendants are liable to plaintiff under the Fourth Amendment for false arrest.

**SECOND CLAIM**

**(UNREASONABLE FORCE)**

26. Plaintiff repeats the foregoing allegations.

27. Defendants' use of force upon plaintiff during the arrest at issue was objectively unreasonable and caused plaintiff pain and injury.

28. Accordingly, defendants are liable to plaintiff under the Fourth Amendment for using unreasonable force on him.

**THIRD CLAIM**

**(FABRICATION OF EVIDENCE AND DENIAL OF A FAIR TRIAL)**

29. Plaintiff repeats the foregoing allegations.

30. Defendants misrepresented to the New York County District Attorney's Office that plaintiff had committed a crime.

31. Defendants' misrepresentations deprived plaintiff of liberty in that he was required to appear in court after his arraignment.

32. Accordingly, defendants are liable to plaintiff under the Sixth Amendment for fabrication of evidence and for denying plaintiff a fair trial.

**FOURTH CLAIM**

**(MALICIOUS PROSECUTION)**

33. Plaintiff repeats the foregoing allegations.

34. Defendants maliciously misrepresented to the New York County District Attorney's Office that plaintiff had committed a crime and commenced a criminal case against him.

35. Defendants' motivation was not to serve justice but to obtain overtime compensation and increase their arrest numbers.

36. Defendants' misrepresentations deprived plaintiff of liberty in that he was required to appear in court after his arraignment.

37. The criminal case filed against plaintiff was ultimately dismissed.

38. Accordingly, defendants are liable to plaintiff under the Fourth Amendment for malicious prosecution.

[REDACTED]

[REDACTED]

39. [REDACTED]

40. [REDACTED]

[REDACTED]

41. [REDACTED]

[REDACTED]

42. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

43. [REDACTED]

[REDACTED]

44. [REDACTED]

[REDACTED]

45. [REDACTED]

[REDACTED]

46. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

47. [REDACTED]

[REDACTED]

[REDACTED]

48. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

a. [REDACTED]

b. [REDACTED]

c. [REDACTED]



d. [REDACTED]

DATED: August 11, 2011

/s/

\_\_\_\_\_  
RICHARD CARDINALE  
Attorney at Law

[REDACTED]



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
GARY PARRIS,

Plaintiff,

-against-

Ind. No. 13-cv-06686 (NRB)

**COMPLAINT**

THE CITY OF NEW YORK, POLICE OFFICER  
LISA McCALLA Shield No. 7346 of the Narcotics  
Boro Manhattan South, POLICE OFFICER  
Undercover Officer #84 of the Narcotics Boro  
Manhattan South, and JOHN DOE 1 of the Narcotics  
Boro Manhattan South his name being fictitious as it is  
presently unknown.

Defendants.

----- X

The plaintiff, complaining of the defendants, by his attorney, MICHAEL FINEMAN, ESQ.  
respectfully shows to this Court and alleges:

- 1. [REDACTED]
- 2. [REDACTED]
- 3. [REDACTED]
- 4. [REDACTED]
- 5. [REDACTED]



PARTIES

6. The plaintiff, is a United States citizen and is a resident of the United States, State of New York, and the County of Kings.
7. Defendant, the City of New York (hereinafter referred to as NYC), was and is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.
8. Defendant, NYC, maintains the New York City Police Department a duly authorized public authority and/or police department, authorized to perform all functions of a police department as per the applicable sections of the New York State Criminal Procedure Law, acting under the direction and supervision of the aforementioned municipal corporation, the City of New York.
9. At all times hereinafter mentioned, the individual defendants, LISA McCALLA Shield No. 7346 of the Narcotics Boro Manhattan South (hereinafter referred to as McCALLA), POLICE OFFICER Undercover Officer #84 of the Narcotics Boro Manhattan South (hereinafter referred to as UC #84) and JOHN DOE 1 of the Narcotics Boro Manhattan South (hereinafter referred to as JOHN DOE 1) were duly sworn police officers of said police department and was acting under the supervision of said police department and according to his official duties.
10. At all times hereinafter mentioned, the defendants, either personally or through their employees, were acting under color of state law and/or in compliance with the official rules, regulations, laws, statutes, customs, usages and/or practices of the State or City of New York.
11. Each and all of the acts of defendants, McCALLA, UC #84 and JOHN DOE 1, alleged herein were done by said defendants while acting within the scope of their employment by defendant NYC.
12. Each and all of the acts of the defendants, McCALLA, UC #84 and JOHN DOE 1, alleged herein were done by said defendants while acting in furtherance of their employment by defendant NYC.

PENDENT STATE CLAIMS

13. That Notice of the Plaintiff's Claims for violation of civil rights, false arrest, false imprisonment, assault and battery, punitive damages, negligence in hiring and retaining, negligence in performance and negligence in training and supervising, the nature of the claims and the date of, the time when, the place where and the manner in which the claims arose were duly served upon the Comptroller of the defendant, CITY OF NEW YORK, on or about May 21, 2007.
14. That more than thirty days have elapsed since the Notice of Claim has been served upon the defendants and the said defendants have neglected or refused to make an adjustment or payment thereof which is satisfactory to plaintiff.

That this action is commenced within one year and ninety days after the cause of action arose.

FACTS

15. Upon information and belief, on or about July 3, 2013 at approximately 2:00am plaintiff was walking in the vicinity of 351 West 45<sup>th</sup> Street in New York County, New York.
16. Upon information and belief, at the above time, date and location, plaintiff was approached by McCALLA, UC #84 and JOHN DOE 1 and ordered by said individuals to place his hands upon a a near by automobile.
17. Upon information and belief, at the above time, date and location, McCALLA, UC #84 and JOHN DOE 1 place handcuffs on plaintiff and proceeded to search the plaintiff's person, including his pockets and under his clothing.
18. Upon information and belief, at the time of the above-described search and seizure of the plaintiff, McCALLA, UC #84 and JOHN DOE 1 lacked any information to believe that the plaintiff had just committed a crime, and lacked any reasonable suspicion or probable cause to search and seize the plaintiff.
19. Upon information and belief, plaintiff was held in excess of Forty-Eight hours before being produced by the New York City Police Department for Arraignment in the Criminal Court of the County of New York.
20. Upon information and belief, Plaintiff was held on bail after arraignment and was not released from custody until July 6, 2012.
21. Upon information and belief, Plaintiff was required to attend court several times over the course of six months until the underlying criminal case was dismissed and sealed on January 23, 2013.
22. Upon information and belief, defendant McCALLA did intentionally and falsely complete a sworn statement stating that plaintiff was involved in the sale of a narcotic drug.

FIRST CAUSE OF ACTION FOR DEPRIVATION OF FEDERAL CIVIL  
RIGHTS UNDER 42 U.S.C. § 1983

23. Plaintiff repeats, reiterates and realleges all of the above allegations as though fully set forth herein.
24. All of the aforementioned acts of defendants, their agents, servants and employees were carried out under the color of law.
25. All of the aforementioned acts deprived plaintiff of the rights, privileges and immunities guaranteed to citizens of the United States by the First, Fourth, and Fourteenth Amendments to the Constitution of the United States of America, and in violation of 42 U.S.C. §1983.
26. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers, with all the actual and/or apparent authority attendant thereto.

27. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers, pursuant to the customs, usages, practices, procedures, and rules of the City of New York and the New York City Police Department, all under the supervision of ranking officers of said department.

28. Defendants, collectively and individually, while acting under color of state law, engaged in conduct which constituted a custom, usage, practice, procedure or rule of his/her respective municipality/authority, which is forbidden by the Constitution of the United States.

29. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers, with malice and discriminatory intent based on plaintiff's national origin and ethnic background and physical appearance.

30. Upon information and belief, as a result of defendants' conduct, plaintiff was caused to suffer physical and mental distress, anguish, pain and suffering.

31. [REDACTED]

SECOND CAUSE OF ACTION FOR FALSE ARREST UNDER 42 U.S.C. § 1983

32. Plaintiff repeats, reiterates and realleges all of the above allegations as though fully set forth herein.

33. As a result of defendants' aforementioned conduct, plaintiff was subjected to an illegal, improper and false arrest by the defendants and taken into custody and caused to be falsely imprisoned, detained, confined, and incarcerated by the defendants without any probable cause, privilege or consent in violation of the Fourth, and Fourteenth Amendments to the Constitution of the United States of America, and in violation of 42 U.S.C. §1983.

34. As a result of the foregoing, plaintiff's liberty was restricted for an extended period of time, and he was put in fear for his safety, was humiliated and subjected to handcuffing, and other physical restraints, without probable cause.

35. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers, with malice and discriminatory intent based on plaintiff's national origin, ethnic background and physical appearance.

36. Upon information and belief, as a result of defendants' conduct, plaintiff was caused to suffer physical and mental distress, anguish, pain and suffering.

37. [REDACTED]

THIRD CAUSE OF ACTION FOR FALSE IMPRISONMENT UNDER 42 U.S.C. § 1983

38. Plaintiff repeats, reiterates and realleges all of the above allegations as though fully set forth herein.

39. On the above mentioned date, defendant McCALLA did forcibly prevent the plaintiff from exiting the Police Precinct where plaintiff was taken to for arrest processing as well as the New York County Criminal Court Central Booking facility, and finally the New York City Department of Correction with plaintiff's knowledge and without the plaintiff's consent.

40. Upon information and belief, defendant McCALLA had no justifiable reason to detain, or cause plaintiff's detention.

41. Upon information and belief, as a result of defendants' conduct, plaintiff was caused to suffer physical and mental distress, anguish, pain and suffering.

42. Each and all of the acts of defendant McCALLA alleged herein were done by said person while acting within the scope of her employment by defendant NYC.

43. Upon information and belief, defendant McCALLA's conduct was in violation of the Fourth, and Fourteenth Amendments to the Constitution of the United States of America, and in violation of 42 U.S.C. §1983.

44. The acts complained of were carried out by defendant McCALLA in her capacities as a employee of NYC, pursuant to the customs, usages, practices, procedures, and rules of defendant NYC, all under the supervision, and with the consent of managing and supervising employees and agents of defendant NYC.

[REDACTED]

FOURTH CAUSE OF ACTION FOR MALICIOUS PROSECUTION UNDER 42 U.S.C. § 1983

45. Plaintiff repeats, reiterates and realleges all of the above allegations as though fully set forth herein.

46. Defendants misrepresented and falsified evidence before the District Attorney.

47. Defendants did not make a complete and full statement of facts to the District Attorney.

48. Defendants withheld exculpatory evidence from the District Attorney.

49. Defendants were directly and actively involved in the initiation of criminal proceedings against plaintiff.

50. Defendants lacked probable cause to initiate criminal proceedings against plaintiff.

51. Defendants acted with malice in initiating criminal proceedings against plaintiff.

52. Defendants were directly and actively involved in the continuation of criminal proceedings against plaintiff.

53. Defendants lacked probable cause to continue criminal proceedings against plaintiff.

54. Defendants acted with malice in continuing criminal proceedings against plaintiff.
55. Defendant misrepresented and falsified evidence throughout all phases of the criminal proceeding.
56. Notwithstanding the perjurious and fraudulent conduct of defendants, the criminal proceedings were terminated in plaintiff's favor on or about January 23, 2013.
57. Upon information and belief, defendant McCALLA's conduct was in violation of the Fourth, and Fourteenth Amendments to the Constitution of the United States of America, and in violation of 42 U.S.C. §1983.



FIFTH CAUSE OF ACTION FOR NEGLIGENCE AS AGAINST DEFENDANT NYC

58. Plaintiff repeats, reiterates and realleges each and every allegation contained in prior paragraphs with the same force and effect as if more fully and at length set forth herein.
59. That the defendant NYC was negligent, careless and reckless in hiring and retaining as and for its employees, particularly defendants McCALLA, UC #84 and JOHN DOE 1 in that the said defendants lacked the experience, deportment and ability to be employed by defendant NYC; in that NYC failed to exercise due care and caution in their hiring practices, and in particular, in hiring the defendants McCALLA, UC #84 and JOHN DOE 1 who lacked the mental capacity and the ability to function as employees of defendant NYC; in that the defendant NYC failed to investigate the above named defendants' background and in that it hired and retained as employees of their police department individuals who were unqualified in that McCALLA, UC #84 and JOHN DOE 1 lacked the maturity, sensibility and intelligence to be employed when hired to be employee; and, in that the defendants, their agents, servants and employees were otherwise careless, negligent and reckless.
60. Upon information and belief, as a result of defendants' conduct, plaintiff was caused to suffer physical injury, including but not limited to lacerations and contusions to the face and body, loss of consciousness, as well as considerable pain and suffering, mental anguish, and anxiety.

61. [REDACTED]

Dated: New York, New York  
August 22, 2013

Very truly yours,

THE LAW OFFICE OF MICHAEL FINEMAN, ESQ.

By: \_\_\_\_\_ /s/

Michael Fineman, Esq. (MF0282)

Attorney for Plaintiff,

GARY PARRIS,  
[REDACTED]

[REDACTED]



PLAINTIFF'S  
EXHIBIT  
**PX-37**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

15 CV 3785

JOHN PIERALISI,

Plaintiff,

v.

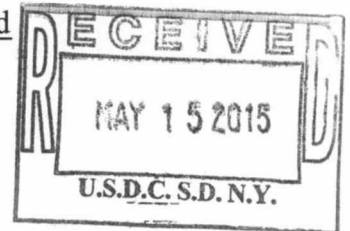
JUDGE ABRAMS

COMPLAINT

THE CITY OF NEW YORK, P.O. #C0084, P.O. #C0241, DET. PAUL RIVERA (Shield #1283), and P.Os "JOHN DOE" #1-15, Individually and in their Official Capacities (the names "John Doe" being fictitious, as the true names are presently unknown),

Defendants.

Jury Trial Demanded



Plaintiff John Pieralisi ("Plaintiff"), by his attorney, Kim E. Richman, complaining of the Defendants, respectfully alleges as follows:

PRELIMINARY STATEMENT

Plaintiff brings this action for damages and attorneys' fees pursuant to 42 U.S.C. §§ 1983 and 1988, for the wrongful acts of Defendants THE CITY OF NEW YORK ("CITY"), P.O. #C0084, P.O. #C0241, DET. PAUL RIVERA (Shield #1283), and P.Os "JOHN DOE" #1-15 (collectively "Defendants"), as Officers of the New York City Police Department and other agencies of the City of New York, all acting under color of state law and pursuant to their authority, in violation of Plaintiff's rights under the Constitution and laws of the United States and of the State of New York.

[REDACTED]

1. [REDACTED]

[REDACTED]

PLAINTIFF'S  
EXHIBIT  
**57**

2. [REDACTED]

[REDACTED]

3. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED]

[REDACTED]

5. [REDACTED]

[REDACTED]

**PARTIES**

6. Plaintiff JOHN PIERALISI was at all relevant times a resident of Leland, Mississippi.

7. Defendant CITY is and was at all relevant times a municipality of the State of New York. Defendant CITY operates, manages, directs and controls the New York City Police Department (“NYPD”) and other municipal agencies and departments that are responsible for carrying out law enforcement activities under color of state law.

8. Defendants P.O. #C0084, P.O. #C0241, DET. PAUL RIVERA (Shield #1283), and P.Os “JOHN DOE” #1-15 are and were at all relevant times police or correction officers, supervisors, and/or policymakers employed by Defendant CITY with the NYPD and/or other CITY agencies and acting under color of state law.

9. At all times relevant hereto and in all their actions alleged herein, Defendants were acting under color of the statutes, ordinances, regulations, policies, customs and usages of

Defendant CITY and its agencies and departments, including the NYPD, and pursuant to their authority as employees, servants and agents of the NYPD, and/or other agencies, and within the scope of their employment and incidental to their otherwise lawful duties and functions as employees, servants, agents and law enforcement officers.

10. Defendant CITY was responsible for the hiring, training, supervision, discipline, retention and promotion of officers, supervisors, and employees within its agencies, including the NYPD and/or other agencies which employed the Defendants herein.

### **FACTS**

11. This action stems from the unlawful search, arrest, and prosecution of Plaintiff JOHN PIERALISI, all of which was undertaken by Defendants in the absence of probable cause or any other legal justification.

12. On or about December 28, 2013, at approximately 5:28 pm, plaintiff was lawfully present at the southwest corner of 8<sup>th</sup> Avenue and West 33<sup>rd</sup> Street in Manhattan, which is located in the Southern District of New York.

13. At or about this time, Defendant NYPD officers, without probable cause or reasonable suspicion against Plaintiff for any crime, approached Plaintiff and ordered him to place his hands behind his back.

14. Defendant NYPD officers told Plaintiff that he was being arrested for selling drugs, shocking and emotionally distressing Plaintiff and his stepson, who was standing nearby and intended to attend a concert at Madison Square Garden with Plaintiff.

15. Plaintiff repeatedly told Defendant NYPD officers that he had done nothing wrong and that he had not sold drugs and did not possess drugs.

16. Despite lacking any probable cause, Defendant NYPD officers searched Plaintiff in full public view and found no contraband nor anything else suggesting Plaintiff was involved in

any criminal activity whatsoever.

17. Defendant NYPD officers handcuffed and arrested Plaintiff without any probable cause, reasonable suspicion or evidence of wrongdoing against him.

18. Defendant NYPD Officers then placed Plaintiff into an NYPD van, separating Plaintiff from his stepson who remained on the street, further distressing Plaintiff and causing him anxiety and fear.

19. Defendant NYPD Officers transported Plaintiff to the NYPD 14<sup>th</sup> Precinct.

20. Plaintiff remained detained at the NYPD 14<sup>th</sup> Precinct for several hours before being transferred to Manhattan Central Booking, where he remained overnight until his arraignment at approximately 4:15 p.m. on December 29, 2013.

21. Plaintiff was arraigned under Docket No. 2013NY097113 in Manhattan Criminal Court on the basis of an accusatory instrument signed by Defendant DET. PAUL RIVERA containing false allegations, including the allegation that Plaintiff had possessed and sold illegal narcotics, and charging Plaintiff with two felonies.<sup>1</sup>

22. After his arraignment on December 29, 2013, Plaintiff was finally released from custody, after having been deprived of his liberty for approximately twenty-one (21) hours.

23. A news story entitled “Phish Fans Encounter Crackdown at Garden,” published by The New York Times on December 31, 2013, mentioned Plaintiff specifically by name and accused him of participating an illegal drug transaction during the incident that gives rise to this civil case.

24. The false criminal complaint against Plaintiff was the exclusive source used by The New York Times in making these accusations against him, including that Plaintiff “offered to keep

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<sup>1</sup> Plaintiff was charged with: PL 220.06(1) – Criminal Possession of a Controlled Substance in the Fifth Degree; and PL 220.31 – Criminal Sale of a Controlled Substance in the Fifth Degree.

watch as his partners . . . sold some mushrooms on the southwest corner of Eighth Avenue and 33<sup>rd</sup> Street.”

25. The New York Times story humiliated Plaintiff and caused him severe emotional distress, particularly as he was in the midst of defending himself against these entirely baseless criminal charges in a city where he did not live.

26. On January 3, 2014, all charges against Plaintiff were dismissed in his favor. As a result of the aforementioned violations of his civil rights, Plaintiff was subjected to the humiliation and emotional distress of being stopped and frisked, arrested, searched and led away in full public view in front of his peers, detained and deprived of his liberty for approximately twenty-one (21) hours, and subjected to the stigma of being prosecuted on felony drug charges, all of which resulted in damage to his esteem and reputation within his community.

**FIRST CLAIM FOR RELIEF:  
DEPRIVATION OF FEDERAL CIVIL RIGHTS**

27. Plaintiff repeats and re-alleges each and every allegation set forth in the preceding paragraphs with the same force and effect as if fully set forth herein.

28. All of the aforementioned acts of Defendants, their agents, servants and employees were carried out under color of state law.

29. All of the aforementioned acts by Defendants deprived Plaintiff of the rights, privileges and immunities guaranteed by the Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States, said violations being actionable under 42 U.S.C. § 1983.

30. The acts complained of were carried out by the aforementioned individual Defendants in their capacities as police and law enforcement officers, with the actual and/or apparent authority attendant thereto.

31. The acts complained of were carried out by the aforementioned individual

Defendants in their capacities as police and law enforcement officers, pursuant to the customs, usages, practices, procedures, and rules of Defendant CITY and its NYPD, all under the supervision of ranking officers of said department.

32. Defendants, collectively and individually, while acting under color of state law, violated Plaintiff's civil rights; these violations were driven and motivated by, reflective of and carried out pursuant to a custom, usage, practice, procedure or rule of Defendant CITY that is forbidden by the Constitution of the United States.

33. By these actions, these Defendants have deprived Plaintiff of rights secured by the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, in violation of 42 U.S.C. § 1983, for which the Defendants are individually liable.

**SECOND CLAIM FOR RELIEF:  
FALSE ARREST UNDER 42 U.S.C. § 1983**

34. Plaintiff repeats and re-alleges each and every allegation set forth in the preceding paragraphs with the same force and effect as if fully set forth herein.

35. As a result of Defendants' aforementioned conduct, Plaintiff was subject to an illegal, improper and false arrest by Defendants and taken into custody and caused to be falsely imprisoned, detained, confined, incarcerated and prosecuted by the Defendants in criminal proceedings, without any probable cause, privilege or consent.

36. As a result of the foregoing, Plaintiff's liberty was restricted for an extended period of time and Plaintiff was at all times aware of his confinement; Plaintiff was put in fear for his safety and subjected to handcuffing and other physical restraints, without probable cause.

37. As a result of his false arrest, Plaintiff was subjected to humiliation, ridicule and disgrace before his neighbors and peers, confinement and emotional distress. Plaintiff was discredited in the minds of many members of his community.

38. The acts of Defendants were intentional, wanton, malicious, reckless and oppressive and entitle Plaintiff to an award of punitive damages.

**THIRD CLAIM FOR RELIEF:  
MALICIOUS ABUSE OF PROCESS UNDER 42 U.S.C. § 1983**

39. Plaintiff repeats and re-alleges each and every allegation set forth in the preceding paragraphs with the same force and effect as if fully set forth herein.

40. Defendants employed regularly issued legal process by arresting, processing, and initiating criminal proceedings against Plaintiff to forbear him of liberty and the lawful use of property.

41. Defendants acted with intent to do harm as there was at no point any reasonable suspicion or probable cause to subject Plaintiff, who was acting lawfully, to public humiliation, an unreasonable search, detention, arrest, booking, imprisonment, and prosecution.

42. Defendants undertook the aforementioned acts in order to obtain a collateral objective outside the legitimate ends of the process, namely to arrest persons known to be innocent to improve the arrest numbers of the NYPD. This abuse of power is outside of and contrary to the legitimate use of the law enforcement and criminal justice processes and undermines the civil rights of persons such as Plaintiff for whom there is no reasonable suspicion or probable cause as to any alleged criminal activity.

43. As a result of Defendants' unlawful acts, Plaintiff suffered numerous violations of his constitutional rights, including deprivation of liberty following his arrest.



44. The acts of Defendants were intentional, wanton, malicious, reckless and oppressive and entitle Plaintiff to an award of punitive damages.

**FOURTH CLAIM FOR RELIEF:  
MALICIOUS PROSECUTION UNDER 42 U.S.C. § 1983**

45. Plaintiff repeats and re-alleges each and every allegation set forth in the preceding paragraphs with the same force and effect as if fully set forth herein.

46. Defendants initiated criminal proceedings against Plaintiff without probable cause or reason to believe that the criminal charges against him could succeed and with actual malice, thereby causing Plaintiff to be prosecuted on baseless charges and to suffer a significant deprivation of liberty in connection therewith.

47. The criminal charges against Plaintiff were terminated in his favor.

48. Defendants and their agents, servants, and employees carried out all of the aforementioned acts under color of state law.

49. Defendants' unlawful prosecution of Plaintiff without probable cause and denial of associated due process rights, as described herein, violated Plaintiff's rights under the Constitution, for which Defendants are individually liable.

50. As a result of Defendants' malicious prosecution and other unlawful acts, Plaintiff was subjected to humiliation, ridicule, and disgrace before his neighbors and peers. Further, as a result of Defendants' unlawful acts, Plaintiff was discredited in the minds of many members of his community.

**FIFTH CLAIM FOR RELIEF:  
FAILURE TO INTERVENE UNDER 42 U.S.C. § 1983**

51. Plaintiff repeats each and every allegation contained in the paragraphs above and



incorporates such allegations by reference as if fully stated herein.

52. Those defendants that were present during the time when Plaintiff's constitutional rights were violated, but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

53. Accordingly, the defendants who failed to intervene violated the Fourth, Fifth, and Fourteenth Amendments.

54. As a direct and proximate result of this unlawful conduct, Plaintiff was subjected to humiliation, ridicule, and disgrace before her family and peers, confinement, pain and suffering, embarrassment and emotional distress.

[REDACTED]

55. [REDACTED]

[REDACTED]

56. [REDACTED]

[REDACTED]

[REDACTED]

57. [REDACTED]

[REDACTED]

[REDACTED]

58. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

59. [REDACTED]

[REDACTED]

60. [REDACTED]

[REDACTED]

61. [REDACTED]

[REDACTED]

62. [REDACTED]

[REDACTED]

63. [REDACTED]

[REDACTED]

64. [REDACTED]

[REDACTED]

65. [REDACTED]

[REDACTED]

[REDACTED]

66. [REDACTED]

[REDACTED]

a. [REDACTED];

b. [REDACTED]

[REDACTED]

c. [REDACTED]

d. [REDACTED]

e. [REDACTED]

[REDACTED]

[REDACTED]

1. [REDACTED]

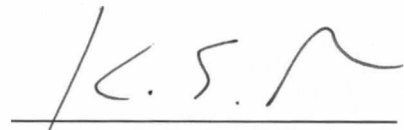
2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

DATED: New York, New York  
May 15, 2015

Respectfully submitted,



Kim E. Richman  
THE RICHMAN LAW GROUP  
195 Plymouth Street  
Brooklyn, NY 11201  
212-687-8291 (telephone)  
212-687-8292 (facsimile)

/s/ Jeffrey L. Davis  
Jeffrey L. Davis  
13-18 133<sup>rd</sup> Place  
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*Attorneys for Plaintiff*



UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

-----  
KEVIN WRIGHT,

Plaintiff,

-against-

**COMPLAINT**  
**JURY TRIAL DEMANDEI**

THE CITY OF NEW YORK, UNDERCOVER OFFICER #84,  
Individually and in his Official Capacity and NEW YORK CITY  
POLICE OFFICERS "JOHN DOE" 1-2, the true names being  
currently unknown, Individually and in their Official Capacities,

Defendants.  
-----

Plaintiff, KEVIN WRIGHT, by and through his attorneys, **THE LAW OFFICES OF MICHAEL S. LAMONSOFF, PLLC**, as and for his Complaint, respectfully alleges, upon information and belief:

**PRELIMINARY STATEMENT**

1. Plaintiff bring this action for compensatory damages, punitive damages and attorney's fees pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1988 for violations of his civil rights, as said rights are secured by said statutes and the Constitution of the United States of America.

[REDACTED]

2. [REDACTED]

[REDACTED]

3. [REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED]

[REDACTED]

5. [REDACTED]



**PARTIES**

6. Plaintiff, KEVIN WRIGHT, is, and has been, at all relevant times, a resident of the City and State of New York.

7. Defendant, THE CITY OF NEW YORK, was and is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

8. Defendant, THE CITY OF NEW YORK, maintains the New York City Police Department, a duly authorized public authority and/or police department, authorized to perform all functions of a police department as per the applicable sections of the New York State Criminal Procedure Law, acting under the direction and supervision of the aforementioned municipal corporation, THE CITY OF NEW YORK.

9. At all times hereinafter mentioned, the individually named defendants were duly sworn police officers of said department and were acting under the supervision of said department and according to their official duties.

10. At all times hereinafter mentioned the defendants, either personally or through their employees, were acting under color of state law and/or in compliance with the official rules, regulations, laws, statutes, customs, usages and/or practices of the State or CITY OF NEW YORK.

11. Each and all of the acts of the defendants alleged herein were done by said defendants while acting within the scope of their employment by defendant, THE CITY OF NEW YORK.

12. Each and all of the acts of the defendants alleged herein were done by said defendants while acting in furtherance of their employment by defendant, THE CITY OF NEW YORK.

**FACTS**

13. On or about November 12, 2014, at approximately 4:30 p.m., plaintiff KEVIN WRIGHT, was lawfully present in the vicinity of Avenue D and East 6<sup>th</sup> Street in New York County

in the State of New York.

14. At that time and place, the defendant undercover officer approached plaintiff and an acquaintance from the neighborhood, non-party Robert Joiner.

15. The defendant undercover officer asked the two men where he might purchase heroin.

16. Plaintiff informed Mr. Joiner that he believed the undercover officer to be a police officer, and went to wait for his bus uptown.

17. Upon information and belief, Mr. Joiner then retrieved crack/cocaine for the defendant officer.

18. Shortly thereafter, plaintiff was approached by uniformed officers and placed under arrest.

19. Defendants searched plaintiff uncovering no evidence of criminal or unlawful activity whatsoever.

20. At no time on or about November 12, 2014 did plaintiff commit any crime or violation of law.

21. At no time on or about November 12, 2014 did defendants possess probable cause to arrest plaintiff.

22. At no time on or about November 12, 2014 did defendants possess information that would lead a reasonable officer to believe probable cause existed to arrest plaintiff.

23. Nevertheless, plaintiff was taken into custody and accused of selling a controlled substance.

24. Plaintiff was thereafter transferred to a nearby precinct.

25. In connection with plaintiff's arrest, the defendants filled out false and/or misleading police reports and forwarded them to prosecutors at the New York County District Attorney's Office.

26. As a result of defendants' misconduct, bail was imposed upon the plaintiff in an

amount which he could not post.

27. As a result of defendants' misconduct, plaintiff remained in custody for approximately five months before all charges against him were dismissed when a jury found him not guilty.

28. As a result of the foregoing, plaintiff KEVIN WRIGHT sustained, *inter alia*, loss of liberty, mental anguish, shock, fright, apprehension, embarrassment, humiliation, and deprivation of his constitutional rights.

29. All of the aforementioned acts of defendants, their agents, servants and employees, were carried out under the color of state law.

30. All of the aforementioned acts deprived plaintiff of the rights, privileges and immunities guaranteed to citizens of the United States by the Fourth and Fourteenth Amendments to the Constitution of the United States of America, and were therefore in violation of 42 U.S.C. §1983.

31. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers with all the actual and/or apparent authority attendant thereto.

32. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers, pursuant to the customs, usages, practices, procedures, and rules of THE CITY OF NEW YORK and the New York City Police Department, all under the supervision of ranking officers of said department.

33. Defendants, collectively and individually, while acting under color of state law, engaged in conduct which constituted a custom, usage, practice, procedure or rule of the respective municipality/authority, which is forbidden by the Constitution of the United States.

**FIRST CLAIM FOR RELIEF FOR**  
**FALSE ARREST AGAINST THE NYPD DEFENDANTS**  
**UNDER 42 U.S.C. § 1983**



34. Plaintiff KEVIN WRIGHT repeats, reiterates, and realleges each and every allegation set forth above with the same force and effect as if fully set forth herein and at length.

35. As a result of the defendants' conduct, plaintiff was subjected to illegal, improper and false arrest, taken into custody, and caused to be falsely imprisoned, detained, and confined without any probable cause, privilege, or consent.

36. As a result of the foregoing, plaintiff's liberty was restricted, he was put in fear for his safety, and he was humiliated and subjected to handcuffing and other physical restraints, without probable cause.

**SECOND CLAIM FOR RELIEF FOR  
MALICIOUS PROSECUTION AGAINST THE NYPD DEFENDANTS  
UNDER 42 U.S.C. § 1983**

37. Plaintiff, KEVIN WRIGHT, repeats, reiterates, and realleges each and every allegation set forth above with the same force and effect as if fully set forth herein and at length.

38. Defendants misrepresented and falsified evidence before the New York County District Attorney.

39. Defendants did not make a complete and full statement of facts to the District Attorney.

40. Defendants withheld exculpatory evidence from the District Attorney.

41. Defendants were directly and actively involved in the initiation of criminal proceedings against plaintiff.

42. Defendants lacked probable cause to initiate criminal proceedings against plaintiff.

43. Defendants acted with malice in initiating criminal proceedings against plaintiff.

44. Defendants were directly and actively involved in the continuation of criminal proceedings against plaintiff.

45. Defendants lacked probable cause to continue criminal proceedings against plaintiff.

46. Defendants misrepresented and falsified evidence throughout all phases of the criminal proceedings.

47. Notwithstanding the perjurious and fraudulent conduct of defendants, the criminal proceedings were terminated in plaintiff's favor when the charges against him were dismissed.

48. As a result of the foregoing, plaintiff's liberty was restricted, he was put in fear for his safety, and he was humiliated and subjected to handcuffing and other physical restraints without probable cause.

[REDACTED]

49. [REDACTED]

50. [REDACTED]

51. [REDACTED]

52. [REDACTED]

53. [Redacted]

i. [Redacted]

ii. [Redacted]

iii. [Redacted]

iv. [Redacted]

54. [Redacted]

[Redacted]

i. [Redacted]

ii. [Redacted]

iii. [Redacted]

iv. [Redacted]

55. [Redacted]

[Redacted]

56. [Redacted]

[Redacted]

57. [Redacted]

[Redacted]

58. [Redacted]  
[Redacted]  
[Redacted]

59. [Redacted]  
[Redacted]

60. [Redacted]  
[Redacted]  
[Redacted]

61. [Redacted]  
[Redacted]  
[Redacted]

[Redacted]

- i. [Redacted]
- ii. [Redacted]
- iii. [Redacted]
- iv. [Redacted]  
[Redacted]

Dated: New York, New York  
June 9, 2015

Respectfully submitted,

**LAW OFFICES OF MICHAEL S.  
LAMONSOFF, PLLC**  
*Counsel for the Plaintiff*



By: MATTHEW SHROYER (MS-6041)  
80 Maiden Lane, 12<sup>th</sup> Floor

New York, New York 10038  
(212) 962-1020

Docket No.  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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---

KEVIN WRIGHT,

Plaintiff,

-against-

THE CITY OF NEW YORK, UNDERCOVER OFFICER #84, Individually and in his Official Capacity and NEW YORK CITY POLICE OFFICERS "JOHN DOE" 1-2, the true names being currently unknown, Individually and in their Official Capacities,

Defendants.

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**SUMMONS AND COMPLAINT**

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**LAW OFFICES OF MICHAEL S. LAMONSOFF, PLLC**  
*Attorneys for Plaintiff*

[Redacted]  
[Redacted]  
[Redacted]

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TO: Corporation Counsel  
CITY OF NEW YORK  
c/o New York City Law Dept  
[Redacted]  
[Redacted]

Undercover Officer #84  
c/o New York City Police Dept  
[Redacted]  
[Redacted]

Pursuant to 22NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of the State of New York, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.



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Matthew Shroyer