

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JASON MCGEE,
Plaintiff

V.

SUMMONS IN A CIVIL CASE

BRICK TOWNSHIP, ET AL.,
Defendant

CASE
NUMBER: **3:17-CV-06245-FLW-LHG**

TO: *(Name and address of Defendant):*

Brick Township Police Dept.
401 Chambers Bridge Rd
Brick, NJ 08723

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States Agency, or an office or employee of the United States described in Fed. R. civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Law Offices of Michael Botton, LLC

1314 Main Street
Belmar, NJ 07719

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

WILLIAM T. WALSH

CLERK

John Moller

(By) DEPUTY CLERK



ISSUED ON 2017-08-18 09:55:00, Clerk
USDC NJD

THE LAW OFFICES OF MICHAEL BOTTON, LLC
Michael Botton, ESQ (MB8412)
1314 Main Street
Belmar, NJ 07719
Phone: (732) 894-3686
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JASON MCGEE

Plaintiff

v.

STATE OF NEW JERSEY, COUNTY OF
OCEAN, BRICK TOWNSHIP, BRICK
TOWNSHIP POLICE DEPARTMENT,
MICHAEL BEVACQUA individually and as
Police Detective of Brick, and ABC
Corporations (#1-#10), JOHN DOES (#1-#10)
and JANE DOES (#1-#10)

Defendant(s)

Civil Action No.:

COMPLAINT

Plaintiff, Jason McGee, residing at 236 Attison Way, Toms River, New Jersey, by way of
Complaint against the Defendants says:

PARTIES

1. Plaintiff Jason McGee is a citizen of the State of New Jersey.
2. Defendant State of New Jersey is a State located within the United States and an address of PO Box 620, Trenton, New Jersey, 08625.
3. Defendant County of Ocean is a county located in the State of New Jersey with an address of 212 Hooper Avenue, Toms River, New Jersey.

4. Defendant Township of Brick is a township incorporated within Ocean County, State of New Jersey with a mailing address of 401 Chambers Bridge Road, Brick New Jersey 08723.
5. Defendant Brick Township Police Department is a police department within the Township of Brick, New Jersey and is located at 401 Chambers Bridge Road, Brick New Jersey 08723.
6. Defendant Michael Bevacqua (hereafter "Bevacqua") at all times during the events herein set forth, was employed as a Detective in the Township of Brick, New and acted in his capacity as an agent, servant and/or employee of the city and/or individually.
7. Defendant John Does (#1-#10), Jane Does (#1-#10) and ABC Corporations (#1-#10), inclusive, represent other individuals an/or entities unknown to the Plaintiff at this time, who participated in the causes of Plaintiff's damages and who will be specifically identified through discovery.

SUBJECT MATTER JURISDICTION

This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question) in that the claims herein arise under 42 U.S.C. § 1983 as more fully set forth below.

VENUE

Venue is appropriate in the United States District Court, District of New Jersey, pursuant to 28 U.S.C. § 1391(b) as all the parties to this action are located in the State of New Jersey as stated above.

SUBSTANTIVE ALLEGATIONS

1. Plaintiff Jason McGee, (hereafter “McGee”) is resident of the city of Toms River, New Jersey, a licensed towing contractor in the State of New Jersey and the owner of ACME Towing and Recovery (hereafter “ACME”)
2. At all relevant times herein ACME towing had lawful and fully enforceable towing contracts with owners of private parking lots within the Township of Brick, New Jersey.
3. On or about March 17, 2015, ACME was contracted by Leonard Perry Motors to tow an abandoned fire truck off the property located at 945 Cedarbridge Avenue, Brick Township, New Jersey.
4. On March 17, 2015, a representative of ACME, Philip Mazzola, (hereafter “Mazzola”) and McGee arrived at the property to tow the fire truck.
5. Together McGee and Mazzola met with the owner of Leonard Perry Motors who showed them the vehicle, which was located around the rear of the building. The owner stated the truck had been on the property for approximately two years.
6. McGee then informed the owner of the property he would need to sign a contract to tow the vehicle as he works closely with consumer affairs and operates within the law.
7. McGee then presented the contract which was signed and copied by the owners secretary.
8. McGee stated Mazzola would return later to remove the fire truck.
9. When he returned, Mazzola was met the owner of the property and another individual.
10. The second individual identified himself as the owner of the fire truck, Gionvanni Filippo Siletti (hereafter “Siletti”).
11. Pursuant to a certificate of ownership, on March 15, 2017 the fire the Borough of Keyport owned the fire truck.

12. Siletti told Mazzola to “get the fuck out of here.”
13. At this time, the owner of Leonard Perry Motors stated he no longer wanted to tow the fire truck and Mr. Mazzola exited the property without towing the vehicle.
14. At no point did McGee tow the fire truck or remove it from the property.
15. On or about April 28, 2015, Detective Michael Bevacqua of the Brick Township Police Department filed a false complaint on behalf of Mr. Siletti as the victim, charging McGee with motor vehicle theft, 2C:20-3A, Brick Case #12923-15.
16. This complaint was based on the events of March 17, 2015. The criminal complaint was in retaliation for McGee previously towing vehicles belonging to friends and/or acquaintances of Bevacqua prior to March 17, 2015.
17. As a result of Bevacqua’s unlawful, untruthful and malicious abuse of his power, status and authority as a police officer, McGee was arrested and publicly humiliated.
18. In furtherance of his actions, Bevacqua provided falsified reports to the Ocean County Prosecutor’s Office to avoid the dismissal of the criminal complaint.
19. McGee was forced to retain counsel to defend himself against Bevacqua’s knowingly false statements and reports. On or about August 28, 2015, the Ocean County Prosecutor’s Office found the complaint to have no merit and the case was dismissed.

COUNT I

(42 U.S.C. § 1983)

1. Plaintiff hereby repeats and incorporate by reference all of the allegations set forth in the Facts to Count I, as if fully set forth herein.
2. McGee has a right, protected by the Fourth and Fourteenth Amendment to the United States Constitution, against false, baseless, and arbitrary arrest, detention, and

prosecution on criminal charges, and against arbitrary deprivations of his liberty and property.

3. The actions of the Defendants in this matter, in falsely and maliciously charging McGee with criminal offenses, violate those rights, in that those actions were baseless.
4. The actions of the individual defendants were taken under color of state law.
5. The Defendant Bevacqua, and officers John and Jane Doe (#1-#10), as Township of Brick employees, in their capacity as Township of Brick employees deprived McGee of his Federal Constitutional and Statutory Rights by causing McGee to be falsely arrested and maliciously prosecuted.
6. This is a violation of 42 U.S.C. § 1983.

WHEREFORE, Plaintiff McGee demand against the Defendants as follows:

- (a) A demand for money damages against all of the Defendants in favor of Plaintiff McGee for all losses and damages suffered as a result of the acts and transactions complained of herein.
- (b) Awarding Plaintiff McGee the costs, expenses, and disbursements incurred in this action, including reasonable attorney fees; and
- (c) Awarding Plaintiff McGee such other and further relief as the Court may deem just and proper in light of all the circumstances of this case.

COUNT II

(DEFAMATION AND SLANDER)

1. Plaintiff hereby repeats and incorporates by reference all of the allegations set forth in the paragraphs above as if fully set forth herein.
2. The Defendant Bevacqua, and officers John and Jane Doe (#1-#10), as Brick Township employees, in their capacity Brick Township employees used their

position(s) to slander and defame McGee's character by causing him to be publicly arrested and prosecuted maliciously and in violation of his Federal and State Constitutional Rights.

WHEREFORE, Plaintiff demands against the Defendants a Judgment as follows:

- (a) That Defendants pay full costs of this action to the Plaintiffs;
- (b) For compensatory damages;
- (c) For punitive damages;
- (d) For interest, attorney's fees and costs of suit; and
- (e) For such further relief as the Court shall deem just and proper.

COUNT III

(State Law – False Arrest)

1. Plaintiff hereby repeats and incorporates by reference all of the allegations set forth in the paragraphs above as if fully set forth herein.
2. McGee was arrested, detained and charged against his will.
3. McGee's arrest was without legal authority or legal justification.
4. Defendants' actions in subjecting McGee to arrest, detention and charge were deliberate, willful and malicious.
5. The individual defendants' actions will in falsely arresting McGee were taken in their capacities as officials or employees of the defendant, Brick Township and Brick Township Police Department, and are therefore attributable to the Township.
6. As a proximate result of Defendants' actions, McGee was injured in that he was subjected to false arrest and improper detention and suffered physical, mental, emotional and economic injury.

WHEREFORE, Plaintiff demands against the Defendants a Judgment as follows:

- (a) That Defendants pay full costs of this action to the Plaintiffs;
- (b) For compensatory damages;
- (c) For punitive damages;
- (d) For interest, attorney's fees and costs of suit; and
- (e) For such further relief as the Court shall deem just and proper.

COUNT IV

(State Law – Malicious Prosecution)

1. Plaintiff hereby repeats and incorporates by reference all of the allegations set forth in the paragraphs above as if fully set forth herein.
2. The Defendants initiated the criminal proceedings against McGee.
3. Defendants' initiating of criminal proceedings against McGee was actuated by malice.
4. The criminal charges against McGee were brought against him without probable cause.
5. The criminal prosecution of McGee terminated favorably to McGee, with a dismissal of the charge.
6. The individual defendant's actions in falsely arresting McGee were taken in their capacities as official of, or employees of the defendant, Brick Township and Brick Township Police Department, and are therefore attributable to the Township.
7. As a proximate result of Defendants' actions, McGee was injured in that he was subjected to false arrest and improper detention and suffered physical, mental, emotional and economic injury.

WHEREFORE, Plaintiff demands against the Defendants a Judgment as follows:

- (a) That Defendants pay full costs of this action to the Plaintiffs;

- (b) For compensatory damages;
- (c) For punitive damages;
- (d) For interest, attorney's fees and costs of suit; and
- (e) For such further relief as the Court shall deem just and proper.

COUNT V
(Civil Conspiracy)

1. Plaintiff hereby repeats and incorporates by reference all of the allegations set forth in the paragraphs above as if fully set forth herein.
2. The individual defendants conspired as set forth above to subject McGee to false arrest, detention and malicious prosecution.
3. The actions of the individual defendants were taken in their capacities as elected officials, appointed officers, or employees of the Defendant, Township of Brick and Brick Police Department, and are therefore attributable to the city.
4. As a proximate result of Defendants' actions, McGee was injured in that he was subjected to false arrest and improper detention and suffered physical, mental, emotional and economic injury.

WHEREFORE, Plaintiff demands against the Defendants a Judgment as follows:

- (a) That Defendants pay full costs of this action to the Plaintiffs;
- (b) For compensatory damages;
- (c) For punitive damages;
- (d) For interest, attorney's fees and costs of suit; and

(e) For such further relief as the Court shall deem just and proper.

Dated: August 15, 2017

/Michael Botton, Esq./

Michael Botton (MB) MB8412
The Law Offices of Michael Botton, LLC
1314 Main Street
Belmar, NJ 07719
Phone: (732) 894-3686
Attorney for the Plaintiff

JURY DEMAND

PLEASE TAKE NOTICE that Plaintiff demands a trial by jury on all issues.

Dated: August 15, 2017

/s/Michael Botton, Esq.

Michael Botton, Esq. MB8412
Law Office of Michael Botton, LLC
Attorneys for Plaintiffs

DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE that MICHAEL BOTTON, ESQ., is hereby designated as Trial Counsel.

Dated: August 15, 2017

/s/ Michael Botton, Esq.

Michael Botton, Esq. MB8412
Law Office of Michael Botton, LLC
Attorneys for Plaintiffs