

Carolyn George

From: Quentin Wiest
Sent: Saturday, July 4, 2020 6:24 PM
To: Carolyn George
Subject: Lawsuit OPRA 20-0220

We have identified four lawsuits in response to this OPRA.

1. Djangman – Mahwah Township Police
Date of Incident: 8/5/14
Cause: Alleged Deprivation of Due Process
Status: Closed
Total Incurred: \$8.95
2. Molt – Mahwah Township Police
Date of Incident: 11/28/16
Cause: Police approached suspect with knife and demanded he put the weapon down.
Status: Closed
Total Incurred: \$0.00
3. Robles – Mahwah Township Police
Date of Incident: 6/19/17
Cause: During MV stop, search of trunk found over \$24,000 in quarters without explanation. Clmt arrested.
Status: Open, in suit
Total Incurred: \$0.00
4. Minor – Mahwah Township Police
Date of Incident: 9/16/19
Cause: Charged with cybercrime as a minor; psych and malicious prosecution alleged
Status: Open, not in suit
Total Incurred: \$0.00

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

OSCAR ROBLES,

Plaintiff,

-against-

ENTERPRISE HOLDINGS, INC.;
ENTERPRISE RENT-A-CAR COMPANY;
EAN HOLDINGS, LLC; TOWNSHIP OF
MAHWAH; and OFFICER RICHARD
ALBRO of the MAHWAH POLICE
DEPARTMENT, Individually and in his
official capacity,

Defendants.

19-CV- 14018

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff OSCAR ROBLES, by his attorney CHRISTOPHER H. FITZGERALD,
complaining of the defendants, respectfully alleges the following:

I. PRELIMINARY STATEMENT

1. Plaintiff OSCAR ROBLES, ("Plaintiff"), brings 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 Constitutions of the State of New Jersey and the United States.

2. Plaintiff also brings this action for compensatory damages, punitive damages, and attorney's fees pursuant to the statutory and common law of the State of New Jersey for negligence, breach of contract, and breach of the implied covenant of good faith and fair dealing, through this Court's exercise of supplemental jurisdiction.

II. JURISDICTION

3. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the United States Constitution. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331, 1343(3) and (4) and the aforementioned statutory and constitutional provisions.
4. Plaintiff further invokes this Court's supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over any and all State law claims and causes of action which derive from the same nucleus of operative facts and are part of the same case or controversy that gives rise to the federally based claims and causes of action.

III. VENUE

5. Venue is proper for the United States District Court for the District of New Jersey, pursuant to 28 U.S.C. §§ 1391(a), (b), and (c) and §1402(b), where the plaintiff resides and the defendant TOWNSHIP OF MAHWAH, maintains its relevant places of business, and where the majority of the actions complained of herein occurred.

IV. JURY DEMAND

6. Plaintiff respectfully demands a trial by jury of all issues in this matter pursuant to Fed. R. Civ. P. 38(b).

V. THE PARTIES

7. That at all times hereinafter mentioned, the plaintiff was a resident of the County of the Passaic, State of New Jersey.
8. That at all times hereinafter mentioned, the defendants, ENTERPRISE HOLDINGS, INC.; ENTERPRISE RENT-A-CAR COMPANY; and EAN HOLDINGS, LLC, were private corporations, duly organized and existing by virtue of the laws of the State of New Jersey.
9. That at all times hereinafter mentioned, the defendant, THE TOWNSHIP OF MAHWAH, NEW JERSEY, was and is a municipal corporation, duly organized and existing under by virtue of the laws of the State of New Jersey.
10. The TOWNSHIP OF MAHWAH is authorized to maintain a police department which acts as its law enforcement agent and for which it is ultimately responsible. The TOWNSHIP OF MAHWAH assumes the risks incidental to the maintenance of its police force and is charged with enforcement of all state and municipal law within the municipality and the employment of its police officers.
11. That at all times hereinafter mentioned, the individually named defendant, POLICE OFFICER RICHARD ALBRO ("ALBRO"), was employed by the TOWNSHIP OF MAHWAH POLICE DEPARTMENT.
12. That at all times hereinafter mentioned, the defendant officer was acting within the scope and course of his employment with the TOWNSHIP OF MAHWAH Police Department, and under color of state law.

13. That at all times hereinafter mentioned, all of the actions of the individual defendant alleged herein were done within the scope and course of their employment with the TOWNSHIP OF MAHWAH Police Department.

14. That all of the causes of action pleaded herein fall within one or more of the exceptions set forth in the New Jersey Tort Claims Act with respect to joint and several liability.

VI. STATEMENT OF FACTS

15. On June 19, 2017, plaintiff OSCAR ROBLES (hereinafter "Plaintiff") was lawfully in possession of a motor vehicle bearing the New Jersey state license plate number Y51DDZ and VIN number 1FADP3F22DL337240.

16. This vehicle, bearing the New Jersey state license plate number Y51DDZ and VIN number 1FADP3F22DL337240, was owned by defendant EAN HOLDINGS LLC.

17. Alternatively, this vehicle was owned by defendant ENTERPRISE HOLDINGS, INC., doing business as ENTERPRISE RENT-A-CAR.

18. Plaintiff had rented the aforesaid vehicle—a black Ford with New Jersey plate number Y51DDZ—from defendants on June 17, 2017.

19. Upon information and belief, the subject vehicle had not been properly registered on the date of rental, and in fact had a registration that expired.

20. On or about June 19, 2019, at approximately 1:30 a.m., plaintiff was lawfully operating the aforesaid vehicle on southbound Route 17 in the Township of Mahwah, State of New Jersey.

21. Plaintiff's vehicle was pulled over by defendant POLICE OFFICER RICHARD ALBRO of the Mahwah Police Department, allegedly for exceeding the speed limit.

22. To the best of his ability, plaintiff cooperated with the commands and instructions of defendant ALBRO, despite his limited proficiency in English.
23. Upon information and belief, defendant ALBRO is not proficient in Spanish, and therefore a significant language barrier existed between Plaintiff and Defendant ALBRO.
24. Plaintiff informed defendant ALBRO of his difficulty with English, and requested an officer or other individual who would be able to translate. This request was denied.
25. Plaintiff cooperated with Officer ALBRO's request for driver's license and vehicle registration, producing both.
26. Officer ALBRO then alleged that the vehicle registration was expired and commanded Plaintiff to exit the vehicle.
27. Plaintiff complied and, to the best of his ability, tried to answer Officer ALBRO's questions, despite having difficulty understanding.
28. Plaintiff then consented to a search of the vehicle.
29. No evidence of criminal activity was found.
30. Plaintiff was lawfully in possession of an amount of United States currency, in excess of \$20,000.00.
31. Plaintiff admitted that the currency was his, and informed Officer ALBRO that he was the rightful owner of this currency.
32. Despite uncovering no evidence of criminal activity after a thorough search, Officer ALBRO charged Plaintiff with Title 2C of the New Jersey Code of Justice, Section 2C:21-25A—"Transporting Property Derived from a Crime."
33. Plaintiff had committed no such crime, nor any other crime.

34. No probable cause existed that Plaintiff had committed the enumerated crime, nor any other crime.
35. Defendant ALBRO's statements, which include official police records and court testimony, contained multiple fabrications and exaggerations that purported to identify evidence of criminal activity, in an attempt to justify the Defendant's seizure of Plaintiff's cash.
36. Defendant ALBRO brought these charges against claimant in reckless disregard of Plaintiff's right to be free from arrest and criminal prosecution in the absence of probable cause. Despite overwhelming, objective evidence to the contrary, ALBRO continued to maintain the falsehoods that led to claimant's arrest and prosecution.
37. Plaintiff suffered severe anxiety, humiliation, and embarrassment; apprehension, fear and distrust of the police, and emotional and psychological trauma.
38. Plaintiff further incurred economic damages including attorney's fees and other out of pocket costs.

FIRST CLAIM FOR RELIEF:
NEGLIGENCE AGAINST ENTERPRISE HOLDINGS, INC.; ENTERPRISE RENT-A-
CAR COMPANY; and EAN HOLDINGS, LLC;

39. Plaintiff repeats, reiterates, and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.
40. On June 17, 2017 and continuing thereafter, defendants EAN HOLDINGS, LLC owned the subject vehicle the New Jersey state license plate number Y51DDZ and VIN number 1FADP3F22DL337240.

41. Defendant EAN HOLDINGS, LLC owed a duty of care to the Plaintiff to provide a safe vehicle that was fully compliant with the vehicle and traffic laws of the United States and of the State of New Jersey.
42. Defendants EAN HOLDINGS, LLC breached this duty of care by failing to provide a vehicle compliant with the aforementioned laws.
43. Defendant EAN HOLDINGS, LLC were therefore a proximate cause of Plaintiff's detention, prosecution, and damages as a consequence of failing to duly registered the aforementioned vehicle.
44. As a result of this negligent conduct, Plaintiff was caused to suffer economic, psychological and emotional injuries, violation of his civil rights, emotional distress, anguish, anxiety, fear, humiliation, loss of freedom, and damage to his reputation and his standing within his community.
45. Defendant EAN HOLDINGS, LLC is, upon information and belief, a wholly owned subsidiary of ENTERPRISE HOLDINGS, INC. and/or ENTERPRISE RENT-A-CAR COMPANY.

SECOND CLAIM FOR RELIEF:
BREACH OF CONTRACT AGAINST ENTERPRISE HOLDINGS, INC.; ENTERPRISE
RENT-A-CAR COMPANY; and EAN HOLDINGS, LLC

46. Plaintiff repeats, reiterates, and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.
47. On June 17, 2017 and continuing thereafter, defendants EAN HOLDINGS, LLC owned the subject vehicle the New Jersey state license plate number Y51DDZ and VIN number 1FADP3F22DL337240.

48. Defendant EAN HOLDINGS, LLC entered into a binding agreement with Plaintiff to provide a safe vehicle that was fully compliant with the vehicle and traffic laws of the United States and of the State of New Jersey, for which Defendant received due consideration.

49. In failing to provide Plaintiff with a legally compliant vehicle, Defendant breached this agreement.

50. As a consequence of this breach, Plaintiff was caused to suffer economic, psychological and emotional injuries, violation of his civil rights, emotional distress, anguish, anxiety, fear, humiliation, loss of freedom, and damage to his reputation and his standing within his community.

51. Defendant EAN HOLDINGS, LLC were therefore a proximate cause of Plaintiff's detention, prosecution, and damages as a consequence.

52. Defendant EAN HOLDINGS, LLC is, upon information and belief, a wholly owned subsidiary of ENTERPRISE HOLDINGS, INC. and/or ENTERPRISE RENT-A-CAR COMPANY.

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

53. Plaintiff repeats, reiterates, and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

54. At the time of plaintiff's arrest and prosecution, there was no credible evidence that plaintiff had committed a crime.

55. All of the aforementioned acts of the Defendant TOWNSHIP OF MAHWAH and the individual defendants and their agents, servants, and employees, were carried out under the color of state law.
56. All of the aforementioned acts deprived Plaintiff of the rights, privileges and immunities guaranteed to citizens of the United States by the Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States of America, and in violation of 42 U.S.C. §1983.
57. The acts complained of were carried out by the aforementioned individual defendants, in particular ALBRO, in their capacities as police officers, with all of the actual and/or apparent authority attendant thereto.
58. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers, pursuant to their customs, usages, practices, procedures, and the rules of the TOWNSHIP OF MAHWAH, New Jersey and the MAHWAH Police Department, all under supervision of said department.
59. The individual defendants, and defendant TOWNSHIP OF MAHWAH, collectively and individually, while acting under color of state law, engaged in Constitutionally violative 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.
60. As a result of the above constitutionally impermissible conduct, Plaintiff was caused to suffer physical, psychological and emotional injuries, violation of his civil rights, emotional distress, anguish, anxiety, fear, humiliation, loss of freedom, and damage to his reputation and his standing within his community.

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

61. Plaintiff repeats, reiterates, and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.
62. At the aforementioned times and locations, plaintiff was detained and held under the imprisonment and control of the defendants, agents of the TOWNSHIP OF MAHWAH.
63. Defendants commenced the criminal action against the Plaintiff in the absence of any probable cause that a crime had been committed by Plaintiff, under Complaint No. S-2017-000348-0233, *The State of New Jersey vs. Oscar Robles*.
64. Defendants commenced this criminal action out of malice.
65. The criminal action against Plaintiff has terminated in his favor.
66. That at all times hereinafter mentioned, said arrest, confinement and restraint of liberty was not otherwise privileged.
67. Any attendant criminal complaint or felony indictment that resulted was the product of fraud, perjury, the fabrication of evidence, or other police conduct enumerated above undertaken in bad faith.
68. That as a direct, sole and proximate result of the defendants' actions, plaintiff was caused to sustain economic damages, humiliation and embarrassment, emotional and mental distress, moral and mental degradation, indignity and disgrace, injury to personal reputation, inconvenience, fear and distrust of the police, and the disturbance and disruption of life. Plaintiff's loss of liberty and unconstitutional seizure of Plaintiff's financial assets.

FIFTH CLAIM FOR RELIEF:
DEPRIVATION OF PLAINTIFFS' CONSTITUTIONAL RIGHT
TO DUE PROCESS AND A FAIR TRIAL UNDER 42 U.S.C. §1983

69. Plaintiff repeats, reiterates, and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.
70. At the aforementioned times and locations, plaintiff was detained and held under the imprisonment and control of the defendants TOWNSHIP OF MAHWAH Police Department and RICHARD ALBRO.
71. Defendants commenced this criminal action out of malice.
72. That at all times hereinafter mentioned, said arrest, confinement and restraint of liberty was not otherwise privileged.
73. The attendant criminal complaint and felony indictment that resulted was the product of fraud, perjury, the fabrication of evidence, or other police conduct enumerated above undertaken in bad faith.
74. This false information was communicated by defendant ALBRO to the Prosecutor's office, and constituted the basis of Plaintiff's prosecution.
75. That as a direct, sole and proximate result of the defendants' actions, plaintiff was caused to sustain psychological trauma, humiliation and embarrassment, emotional and mental distress, moral and mental degradation, indignity and disgrace, injury to personal reputation, inconvenience, and the disturbance and disruption of life, and significant economic damages.

SXTH CLAIM FOR RELIEF:
NEGLIGENT HIRING, RETENTION AND/OR SUPERVISION

76. Plaintiff repeats, reiterates, and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.
77. THE TOWNSHIP OF MAHWAH and the its police department has a duty to use reasonable care in the employment, training and supervision of its employees.
78. This includes a duty to investigate and find out whether employees are competent to do work without danger of harm to others.
79. THE TOWNSHIP OF MAHWAH knew or should have known that Defendant ALBRO was incompetent, had a propensity for dishonesty, and/or have a bad disposition.
80. THE TOWNSHIP OF MAHWAH failed to adequately investigate and correct Defendant ALBRO's disposition and propensity.
81. Because of this history, the false charges against Plaintiff were a foreseeable consequence of THE TOWNSHIP OF MAHWAH'S failure to adequately train, reprimand, or re-assign Defendant ALBRO.
82. Because of THE TOWNSHIP OF MAHWAH's failure to take appropriate action, plaintiff has suffered the injuries claimed herein.

DESIGNATION OF TRIAL COUNSEL

PLEASE TAKE NOTICE that attorney Christopher H. Fitzgerald is hereby designated as trial counsel in the above captioned litigation.

NOTICE OF UTILIZATION OF TIME-UNIT BASIS

PLEASE TAKE NOTICE that Plaintiff intends to utilize the time-unit basis for calculating unliquidated damages in Plaintiff's closing statement to the jury and the Court.

WHEREFORE, plaintiff demands the following relief jointly and severally against all of the defendants:

- a. Compensatory damages;
- b. Punitive damages;
- c. The convening and empaneling of a jury to consider the merits of the claims herein;
- d. Costs and interest and attorney's fees;
- e. Such other and further relief as this court may deem appropriate and equitable.

DATED:

New York, New York
JUNE 19, 2019

Respectfully submitted,

**The Law Office of
Christopher H. Fitzgerald**
Counsel for Plaintiff

/s/

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