

RANDY P. CATALANO, ESQUIRE
251 SOUTH WHITE HORSE PIKE
SUITE 100
AUDUBON, NJ 08106
Tel: (856)858-1115
Fax: (856)858-1114
Attorney for Plaintiff, Lindley Gallagher

LINDLEY GALLAGHER, Plaintiff v. MANTUA TOWNSHIP, MANTUA TOWNSHIP POLICE DEPARTMENT, POLICE CHIEF RODNEY J. SAWYER, MANTUA TOWNSHIP POLICE PATROLMAN A. HAYES, JOHN DOE POLICE OFFICERS 1-10, fictitious names, ABC entities 1-5, fictitious names, Police Chiefs Richard Roes 1-5, fictitious names, individually and in their Official Capacities, j/s/a, Defendants.	UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY CAMDEN VICINAGE CIVIL ACTION DOCKET NO: COMPLAINT AND JURY DEMAND
---	--

Plaintiff, Lindley Gallagher, by way of Complaint hereby says:

JURISDICTION

1. Plaintiff, Lindley Gallagher, brings this action against defendants to recover damages for deprivation and violation of rights secured to him by the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, by 42 U.S.C. § 1983, and by the New Jersey Constitution.

2. Plaintiff seeks redress for defendants' violations of his Fourth Amendment rights to be free from excessive force, unlawful arrest, false imprisonment, and malicious prosecution; for their violations of his capital and 14th amendment rights to due process of law; for their violation of his rights provided by 42 U.S.C. § 1983; for conspiring with each other to violate his rights under the 4th and 14th amendments; and for their violations of his constitutional rights,

including but not limited to his rights to be free from excessive force, false arrest, false imprisonment, malicious prosecution, malicious abuse of process, intimidation, retaliation, emotional distress and negligent acts; for defendants conspiracy to commit these violations.

3. This court has jurisdiction over this action under 28 USC §§ 1331 and 1343 (a)

for violation of constitutional rights is provided in 42 U.S.C. § 1983. Plaintiff seeks monetary damages as well as attorney's fees and costs pursuant to 42 U.S.C. § 1988.

4. Plaintiff also invokes the supplemental jurisdiction of this court over a state law claims against defendants pursuant to 28 U.S.C. § 1367 because the law claims form a part of the same case or controversy.

5. Venue is proper in this District Court pursuant to 28 U.S.C. § 1391 because the initial acts complained of occurred in the Township of Mantua, County of Gloucester and State of New Jersey.

PARTIES

6. Plaintiff was at all relevant times alleged herein a resident of Mantua, Gloucester County, and a private citizen.

7. Defendant, Patrolman A. Hayes is, upon information and belief, a Mantua Township police officer, and one of the officers involved in the excessive force, and arrest of the Plaintiff.

8. Mantua Township is upon information and belief, the municipality where the individual defendants were employed, and the municipality responsible for the acts/omissions of the individual defendants.

9. Mantua Township Police Chief Rodney J. Sawyer, is upon information and belief, the final decision maker for the Mantua Township Police Department, and the policy maker for the Mantua Township Police Department.

10. Mantua Township Police Department is the division of Mantua Township where,

upon information and belief, the individual defendants were employed.

11. John Does Police Officers 1-10, fictitious names are police officers that responded to the scene on the evening in question and were not identified in the police report.

12. ABC entities 1-5, fictitious names, are municipal entities who employed John Does 1-10, fictitious names, on the evening in question.

13. Richard Roes 1-5 are fictitious names for the police chiefs of ABC entities 1-5.

FACTS

14. At all relevant times alleged herein, plaintiff Lindley Gallagher, was a resident of Gloucester County.

15. The incident in question took place January 19, 2012 in Mantua Township, at or near the home of the plaintiff.

16. On the date of the incident in question, plaintiff was inside of his home when defendant A. Hayes approached and knocked on the door.

17. On the date in question, plaintiff was not alone in his home. The incident in question was witnessed by a neighbor.

18. On January 19, 2012 plaintiff, Lindley Gallagher answered the knock at his door by defendant A. Hayes.

19. Plaintiff got into a verbal dispute with defendant A. Hayes while plaintiff was standing in his doorway.

20. During the verbal dispute, defendant A. Hayes, without provocation or warning, became frustrated with plaintiff, grabbed him and threw him to the ground.

21. Plaintiff was injured as a result of being thrown, and could not move.

22. One of the witnesses ran over to plaintiff who was on the ground to see if plaintiff was alright.

23. Plaintiff responded that he was injured, and could not move.

24. Defendant, John Does 1-10, fictitious names, were officers who kicked plaintiff while he was injured and lying defenseless on the ground.

25. The witnesses at the scene told the officers to call an ambulance.

26. While waiting for the ambulance, defendant A. Hayes and John Doe Officers 1-10, fictitious names, were laughing, and not doing anything to assist the plaintiff.

27. As a result of being thrown to the ground and being kicked by the officers plaintiff suffered severe and debilitating injuries, including a fractured cervical spine requiring spinal fusion surgery.

28. Plaintiff underwent neurosurgery and thereafter was required to spend months in a rehabilitation center.

29. Plaintiff, through counsel, filed a complaint with the Mantua Township Police department Internal Affairs Department.

30. Plaintiff has not received any response from the Internal Affairs Department.

31. Plaintiff, through counsel filed a timely notice of tort claim with Mantua Township.

COUNT ONE
Assault & Battery

32. Plaintiff repeats and realleges the contents of all preceding paragraphs as if set forth at length herein.

~~33. The actions by the defendants, jointly, severally, and individually constitute assault~~
and battery under New Jersey State law.

34. As a direct and proximate cause of the unlawful actions of the defendants jointly, severally, and individually, plaintiff suffered severe and debilitating injuries of a permanent nature.

WHEREFORE, plaintiff demands judgment against the defendants, jointly, severally, individually, and in the alternative for compensatory damages, punitive damages, pre-judgment interest, post-judgment interest, attorney's fees and costs of suit.

COUNT TWO
Malicious Prosecution

35. Plaintiff repeats and realleges the contents of all preceding paragraphs as if set forth at length herein.

36. As a result of the incident of January 19, 2012, defendants jointly, severally, individually, and in the alternative charged plaintiff with violations of New Jersey State law.

37. The charges are baseless and false.

36. The State Court charges have not yet been resolved. Plaintiff was forced to retain a criminal attorney to defend him for those frivolous charges.

38. The charges were brought in an attempt to cover up the acts committed against plaintiff.

39. The defendants jointly, severally, and individually willfully brought the charges against plaintiff knowing that they were false.

40. As a direct and proximate result of the willful and malicious acts of the defendants, plaintiff has suffered injuries.

WHEREFORE, plaintiff demands judgment against the defendants, jointly, severally, individually, and in the alternative for compensatory damages, punitive damages, pre-judgment interest, post-judgment interest, attorney's fees and costs of suit.

COUNT THREE
42 USC § 1983 Fourth Amendment
Individual Defendants

41. Plaintiff repeats and realleges the contents of all preceding paragraphs as if set forth at length herein.

42. Plaintiff's detention and arrest by the defendants jointly, severally, or in the alternative, and/or John Does 1-10, arrest and detention was done with malice and/or actual knowledge that the detention was without any legal justification, probable cause, or reasonable belief that probable cause existed.

43. The amount of force utilized in the arrest, detention, handcuffing, throwing plaintiff to the ground and kicking him while he was down was excessive under the circumstances, and violated the plaintiff's federal and state constitutional rights to be free from unlawful arrest, seizure and excessive force.

44. As a direct and proximate result of the unnecessary and grossly excessive use of force by the defendant officers, plaintiff sustained serious injuries of a temporary and permanent nature, and suffered severe pain and suffering, emotional distress, incurred medical expenses in an effort to cure his injuries.

45. As a direct and proximate result of the excessive force by the defendant Officers, and the serious injuries plaintiff sustained, plaintiff was unable to attend, and may in the future be unable to attend to his usual and customary affairs, and was otherwise injured and damaged.

WHEREFORE, plaintiff, Lindley Gallagher demands judgment against defendants jointly, severally and/or in the alternative, for compensatory damages, punitive damages, together with interest attorneys fees, and cost of suit.

COUNT FOUR
Individual Defendants NJ Civil Rights

46. Plaintiff repeats and realleges the contents of all previous paragraphs as if set forth at length herein.

47. The aforesaid improper actions of the defendants also violated the plaintiff's clearly established rights under the New Jersey Constitution.

48. Plaintiff is entitled to seek redress for such improper actions in a private action pursuant to the New Jersey Civil Rights Act.

49. As a direct and proximate result of the aforesaid violations of the plaintiff's State law rights, he sustained the aforementioned injuries and damages.

50. Plaintiff is entitled to attorneys fees pursuant to N.J.S.A. 10:6-2, for the claims set forth herein.

WHEREFORE, plaintiff, Lindley Gallagher, demands compensatory and punitive damages, against defendants, A. Hayes and John Does 1-10, in their individual and official capacities, together with attorneys fees and costs of suit.

COUNT FIVE
42 U.S.C. § 1983
Municipal Liability

51. Plaintiff repeats and realleges the contents of all previous paragraphs as if set forth at length herein.

52. The defendant, A. Hayes was a police officer who was an employee of defendant, Mantua Township and/or Mantua Township Police Department.

53. John Does 1-10, fictitious names are police officers who are employees of ABC entities 1-5, fictitious names and worked under the authority of Police Chiefs Richard Roes 1-5, fictitious names..

54. At all relevant times alleged in the Complaint, defendant Police Chief Rodney J. Sawyer was the final decision maker for the Mantua Township Police Department. Sawyer is being sued in his official and individual capacities.

55. Defendants Sawyer and Mantua Township and/or Mantua Township Police Department had a policy, practice and/or custom of permitting its police officers to infringe upon the civil rights of citizens, including but not limited to plaintiff Gallagher.

56. Defendants Sawyer, Mantua Township, and/or Mantua Township Police Department have a pattern, practice, and/or custom of failing to investigate allegations of excessive force, failing to properly investigate allegations of police violations, and permitted the police officers to engage in conduct that violates the rights of citizens.

57. Defendant Sawyer is the final policymaker for Mantua Township and/or Mantua Township Police Department in the area of police policies and procedures. Richard Roes 1-5, Police Chiefs, fictitious names, are the final policymakers for ABC entities 1-5, fictitious names, in the area of police policies and procedures.

58. Defendants, Richard Roes 1-5, fictitious names, ABC entities 1-5, fictitious names, have a pattern, practice, and/or custom of failing to investigate allegations of excessive force,

failing to properly investigate allegations of police violations, and permitted the police officers to engage in conduct that violates the rights of citizens.

59. Richard Roes 1-5, Police Chiefs, fictitious name, were the final decision makers/policymakers for ABC entities 1-5, fictitious name with respect to police policies, procedure, and discipline.

60. Chief Sawyer and/or Richard Roes 1-5, fictitious names, had a policy, practice and/or custom of failing to investigate allegations of police misconduct, failing to discipline police officers, failing to properly follow the Attorney General Guidelines, failing to train officers on the proper use of force, probable cause to arrest, and acquiescing in matters of police misconduct.

61. As a direct and proximate result of the aforementioned policy, custom, and/or practice, plaintiff's rights were violated.

62. As a direct and proximate result of the aforementioned policy, custom and/or practice, plaintiff suffered and will continue to suffer injury and a violation of his constitutional rights.

WHEREFORE, plaintiff, Lindley Gallagher, demands judgment for compensatory damages against defendants, Mantua Township, Mantua Township Police Department, Police Chief Sawyer, ABC entities 1-5, fictitious names, Richard Roes 1-5 Police Chiefs, fictitious names, jointly, severally, and individually, together with pre and post-judgment interest and costs of suit.

COUNT SIX
Negligence

63. Plaintiff repeats and realleges the contents of all preceding paragraphs as if set forth at length herein.

64. To the extent that the acts/omissions of the defendants jointly, severally, and/or individually, are not willful and/or intentional, said actions constituted ordinary negligence under New Jersey state and common law.

65. Defendants owed a duty to plaintiff Lindley Gallagher, who is an ordinary citizen of the United States.

66. The actions and/or omissions of the defendants jointly, severally, and/or individually, breached the duty to plaintiff.

67. As a direct and proximate result of the aforesaid breach, plaintiff suffered injuries and damages.

WHEREFORE, Plaintiff Gallagher demands judgment for compensatory damages against defendants jointly, severally, and individually together with interest, fees, and costs of suit.

COUNT SEVEN
Emotional Distress

68. Plaintiff repeats and realleges the contents of all preceding paragraphs as if set forth at length herein.

69. The acts/omissions of the defendants jointly, severally, and individually were extreme and outrageous, and done recklessly with the intent to cause plaintiff severe emotional distress.

70. As a direct and proximate result of the reckless, extreme, and outrageous behavior of the defendants, plaintiff suffered and continues to suffer damages.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally, and individually for damages, fees, interest and costs of suit.

Dated: February 26, 2013


Randy R. Catalano, Esquire

JURY DEMAND

Plaintiff hereby demands a jury trial as to all issues in the Complaint.

Dated: February 26, 2013


Randy P. Catalano, Esquire

DESIGNATION OF TRIAL COUNSEL

Randy P. Catalano is hereby designated as trial counsel.

Dated: February 26, 2013


Randy P. Catalano, Esquire