

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

VARIAN HOOKS,
Plaintiff

V.

SUMMONS IN A CIVIL CASE

CITY OF ENGLEWOOD, ET AL.,
Defendant

CASE
NUMBER: 2:17-CV-08635-KM-MAH

TO: (Name and address of Defendant):

*Police Officer Gallego
Englewood Police Dept.
75 South ~~Van~~ Brunt St.
Englewood, NJ 07631*

RECEIVED
CITY CLERK'S OFFICE
ENGLEWOOD, N.J.
2017 NOV -7 P 3:55

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:

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

Brian Y. Lawrence

(By) DEPUTY CLERK



ISSUED ON 2017-10-19 15:09:13, Clerk
USDC NJD

RETURN OF SERVICE		
Service of the Summons and complaint was made by me(1)	DATE	
NAME OF SERVER (PRINT)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
☐ Served personally upon the defendant. Place where served: _____ _____ ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. ☐ Name of person with whom the summons and complaint were left: _____ ☐ Returned unexecuted: _____ _____ ☐ Other (specify) : _____ _____ _____		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL
DECLARATION OF SERVER		
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.		
Executed on _____ Date _____ <i>Signature of Server</i> _____ <i>Address of Server</i>		

Nathaniel Davis, Esq.
972 Broad Street
8th Floor
Englewood, New Jersey 07102
Telephone: (973) 792-9005
Attorney for the Plaintiff,
Varian Hooks

VARIAN HOOKS	:	UNITED STATES DISTRICT COURT
	:	FOR THE STATE OF NEW JERSEY
	:	
	:	
Plaintiff	:	Civil Action No:
	:	
	:	COMPLAINT
	:	
	:	
CITY OF ENGLEWOOD, CITY OF	:	
ENGLEWOOD POLICE DEPARTMENT,	:	
POLICE CHIEF JOHN COLLINS, POLICE	:	
OFFICER MEJIA, POLICE OFFICER	:	
MIGLIORE, POLICE OFFICER GALLEGGO,	:	
ABC CORP. 1-10, AND JOHN DOE 1-10	:	
	:	
	:	
Defendant(s)	:	

Plaintiff, Varian Hooks, by his attorney, Nathaniel M. Davis, Esq., complains of defendants, City of Englewood, City of Englewood Police Department, Police Officer Mejia, Police Officer Migliore, and Police Officer Gallego, ABC Corp. 1-10, and John Doe 1-10 hereinafter referred to as "Defendants", and allege as follows:

INTRODUCTION

This action arises under the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution; under federal law, specifically, 42 U.S.C. §§1983 and 1988 for abuse of power, use of excessive force, assault and intimidation, false arrest, false detention, false imprisonment, and an illegal seizure of the Plaintiff's person and the New Jersey Constitution.

While the Defendants, individual police officers, were acting in the scope of their employment and under color of state law, they engaged in a police brutality by willful use of excessive force to the Plaintiff. The Defendants' actions caused injury to the Plaintiff and he seeks compensatory and punitive damages.

Action is brought against the City of Englewood and the City of Englewood Police Department for its failure to properly train and/or supervise the individual Defendants in the proper manner to secure a proper arrest of an individual and for its establishment of policies, procedures, practices, and customs regarding false arrests and false detentions and an illegal seizure of the Plaintiff's person.

JURISDICTION AND VENUE

1. This action arises under the Constitution of the United States, particularly the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the Constitution of the United States, and under the laws of the United States, particularly the Civil Rights Act, Title 42 of the United States Code, Sections 1983 and 1988.

2. The jurisdiction of this court is invoked under the provisions of Title 28 of the United States Code, Sections 1331 and 1343.

3. This court has supplemental jurisdiction pursuant to 28 U.S.C. §1367(a) over any and all state constitutional and state law claims that are so related to the claims within the original jurisdiction of this Court.

4. Venue of this action is proper under 28 USC § 1391(b) because it is where the Plaintiff resides.

PARTIES

5. Plaintiff, Varian Hooks, is and at all times mentioned a legal

resident of the United States of America, and resident of the State of New Jersey and was and at all times an African American man.

6. Upon information and belief, and at all times hereinafter mentioned, plaintiff, Varian Hooks, is hereinafter referred to as "Plaintiff".

7. At all times hereinafter mentioned, the defendant, City of Englewood, was a municipal corporation organized and existing under and by virtue of the laws of the State of New Jersey who employed the defendant officers.

8. At all times hereinafter mentioned, the defendant, City of Englewood Police Department, is a department of the City of Englewood and at all times employed the defendant police officers.

9. At all times hereinafter mentioned, the defendant, Police Chief John Collins, hereinafter referred to as "Chief Collins", was employed as the Police Chief of the City of Englewood and its Police Department. Defendant is sued in his individual and official capacity.

10. At all times hereinafter mentioned, the defendant, Police Officer Mejia, hereinafter referred to as "Mejia", was employed as a police officer of the City of Englewood and its Police Department. Defendant is sued in his individual and official capacity.

11. At all times hereinafter mentioned, the defendant, Police Officer Migliore, hereinafter referred to as "Migliore", was employed as a police officer of the City of Englewood and its Police Department. Defendant is sued in his individual and official capacity.

12. At all times hereinafter mentioned, the defendant, Police Officer Gallego, hereinafter referred to as "Gallego", was employed as a police officer of the City of Englewood and its Police Department. Defendant is sued in his individual and official capacity.

13. At all times hereinafter mentioned, the defendants, ABC Corp. 1-10, were unknown entities under the control of the City of Englewood and its Police Department. Defendant is sued in his individual and official capacity.

14. At all times hereinafter mentioned, the defendants, John Doe 1-10, were unknown persons employed by the City of Englewood and its Police Department.

15. At the time of the alleged incident and at all times pertinent hereto, Defendants acted under color of law, of a statute, ordinance, regulation, custom, or usage.

STATEMENT OF FACTS

16. On March 13, 2016, Plaintiff was in front of his home located at 31 Mattledge Place, Englewood, New Jersey.

17. At about 7:50 pm., the mother of the Plaintiff's child, Tiffany Ray, and his child pulled up to the front of the Plaintiff's home in a Black Lexus to obtain money for the Plaintiff's child.

18. The Plaintiff approached the driver's side of the vehicle to talk to the mother of his child.

19. A grey Nissan Maxima was also parked in front of the Plaintiff's home. It was owned by a friend of the Plaintiff, Jason Eaves, who was visiting with the Plaintiff.

20. At the time in question, Defendant Mejia ran up to the Plaintiff and grabbed him without any warning.

23. Defendants Migliore and Gallego ran up to the Plaintiff and assisted with the arrest and assault on the Plaintiff.

24. The Plaintiff cried out in pain as the defendant police officers continuously assaulted him.

25. The defendant police officers Mejia, Migliore, and Gallega assaulted the Plaintiff on numerous parts of his body with their hands.

26. During the assault, the Plaintiff instructed his child's mother, Tiffany Ray, to drive off so that his child would not see him being beaten by the police as his child was crying profusely.

27. As a result of the assault, the Plaintiff was severely injured and had to be hospitalized by the Englewood Police Department where he required medical attention.

28. Defendants Mejia, Migliore, and/or Gallego were assaultive and

FIRST CAUSE OF ACTION
{42 U.S.C. 1983}
DEPRIVATION OF CIVIL RIGHTS
ABUSE OF POWER AND EXCESSIVE FORCE

29. The Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

30. On March 13, 2016, Plaintiff was in front of his home talking to his child's mother when he was assaulted and attacked by the defendant police officers Mejia, Migliore, and Gallego.

31. The Plaintiff was assaulted by the defendant police officers in an excessive and unreasonable manner.

32. Defendant police officers all acted maliciously, willfully, knowingly, and with specific intent to deprive Plaintiff of his right to freedom and cause harm.

33. Each alleged act committed by defendants were the proximate cause of all injuries and damages to Plaintiff in violation of his constitutional rights secured by the Fourth, Sixth, and Fourteenth Amendment to the Constitution of the United States, and by Title 42, United States Code, Sections 1983 and 1988.

SECOND CAUSE OF ACTION
VIOLATION OF 42 U.S.C. § 1983
FAILURE TO IMPLEMENT APPROPRIATE POLICIES, CUSTOMS AND
PRACTICES

34. The Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

35. Defendants, City of Englewood and the City of Englewood Police Department, and Chief Collins, implicitly or explicitly adopted and implemented careless and reckless policies, customs, or practices, that included, among other things, allowing police officers of the City of Englewood, City of Englewood Police Department, and Chief Collins, to confront citizens without any reasonable training of when to use force in effecting arrests and in such a way as to cause the deprivation of Plaintiff's right to be free from unreasonable seizures under the Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States.

36. The failure of the City of Englewood, the City of Englewood Police Department, and Chief Collins as employer and supervisor of defendant police officers to adequately train defendant police officers, amounts to deliberate indifference to the rights of Plaintiff to be free from excessive force and unreasonable seizures under the Fourth, Fifth, and Fourteenth Amendments to the Constitution of the United States.

37. As a result of this deliberate indifference to the Plaintiff's rights, Defendants were the proximate cause of the Plaintiff's personal, physical and emotional injuries and is entitled to relief under 42 U.S.C. §1983.

THIRD CAUSE OF ACTION
{42 U.S.C. 1983}

38. The Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

39. At all times material to the herein complaint, the City of Englewood, acting through the City of Englewood Police Department, had in effect de facto policies, practices, and customs that were a direct and proximate cause of the unconstitutional conduct of Defendants. These de facto policies, practices, and customs include, inter alia: the failure to properly screen, supervise, discipline, transfer, counsel, and/or otherwise control police officers who are repeatedly accused of such acts; and the police code of silence wherein police officers regularly cover up police misconduct and unjustified force and tactics by telling false and incomplete stories or by failing to report the misconduct and unjustified force and tactics by police officers.

40. On information and belief, the defendant, City of Englewood and the City of Englewood Police Department have failed to effectively screen, hire, train, supervise, and discipline their police officers including the individually named defendant police officers for their misconduct and for their failure to protect citizens from unconstitutional conduct of police officers thereby permitting and allowing the individually named defendant police officers to be in a position to unjustifiably arrest and restrain the Plaintiff and to otherwise cause him injury and violate his federal and state constitutional rights.

41. On information and belief, the City of Englewood and City of Englewood Police Department, maintained an inadequate structure for risk containment and stress management relative to its police officers and failed to create proper means of containing

such risk and managing such stress. Inter alia, the structure was deficient at the time selection of police officers and thereafter during their employment, in its ability to evaluate and exchange information within the command structure about the performance of individual police officers, in its training of supervisory personnel to effectively and adequately evaluate performance of an officer and in its ability to otherwise put the command structure on notice that an individual was at significant levels of risk to the public at large, and to the Plaintiff specifically. The effect of this was to permit police officers to function at levels of significant and substantial risk to the public.

42. As a result of the above described policies and customs, the individually named defendant police officers believed that their actions would not be properly monitored by supervisory officers and that misconduct would not be investigated or sanctioned but would be tolerated.

43. The defendants, City of Englewood and City of Englewood Police Department, failed to adequately and properly hire, train, supervise, discipline, or in any other way control the behavior and performance of the individually named defendant police officers and that the defendants, City of Englewood and City of Englewood Police Department, hiring practices and exercise of police functions and their failure to enforce the laws of the State of New Jersey and the City of Englewood is evidence of the reckless lack of caution in regard to the rights of the public including the Plaintiff in that the individually named defendant police officers exhibited a lack of that degree of due care which prudent and reasonable individuals would show in executing his duties.

44. The failure of the defendants, City of Englewood and City of Englewood Police Department, to hire, train, supervise, discipline, or in any other way control their employees including the individually named defendant police officers in the exercise of the police

officers functions is evidence that the individually named defendant police officers' actions are and were carried out willfully, wantonly, maliciously, and with such reckless disregard for the consequences so as to display a conscious disregard for the dangers of harm and injury to the Plaintiff.

45. Due the acts of the individually named defendant police officers and the failure of the defendants, City of Englewood and City of Englewood Police Department, to discipline and properly train and supervise the individually named defendant police officers and the continued employment of the officers presented a clear and present danger to the Plaintiff.

46. Although the defendants, City of Englewood and City of Englewood Police Department, knew or should have known that a pattern of conduct was carried out by its agents, servants, and/or employees including the individually named defendant police officers, its agents have not taken any steps or made any efforts to halt this course of conduct, to make redress to the Plaintiff or other citizens injured thereby, nor taken any disciplinary action whatsoever against any of their employees or agents.

47. The above described policies and customs demonstrate a deliberate indifference on the part of policymakers of the defendants, City of Englewood and City of Englewood Police Department, to the constitutional rights of the Plaintiff, and were the proximate cause of the violations of the Plaintiff's rights alleged herein.

48. Plaintiff claims damages for the injuries set forth above under 42 USC §1983 and 42 USC §1988 against the defendants, City of Englewood and City of Englewood Police Department, for violations of the Plaintiff's constitutional rights as set forth above by the defendant police officers, acting under color of law.

FOURTH CAUSE OF ACTION
VIOLATION OF 42 USC §1983
SUPERVISORY LIABILITY RESPONDENT SUPERIOR

49. The Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

50. The defendants, City of Englewood and City of Englewood Police Department, were deliberately indifferent in hiring and/or retaining and/or supervising its employees, the individually named defendant police officers, in that said employees lacked the experience, deportment, and ability to be employed by the defendants in that the defendants failed to exercise due care and caution in its employment practices and in particular in hiring, retaining, supervising, training, and promoting the aforementioned employee.

51. That the aforesaid occurrence to wit: abuse of power, use of excessive force, imprisonment, abuse of process, malicious prosecution, violation of civil rights, infliction of emotional distress, and the resulting injuries of mind and body therefrom were caused wholly and solely by reason of the gross negligence or deliberate indifference of the defendants, City of Englewood and City of Englewood Police Department, without any negligence on the part of the Plaintiff.

52. That by reason of the aforesaid, the Plaintiff was injured in mind and body and suffered conscious pain and physical injury.

FIFTH CAUSE OF ACTION
VIOLATION OF NEW JERSEY STATE CONSTITUTION

53. The Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

54. The aforementioned acts of Defendants, Defendants have violated Plaintiff's rights under the New Jersey State Constitution including, but not limited to Article I,

Paragraph 1, Paragraph 5, and Paragraph 12 of the New Jersey State Constitution thereby giving rise to the constitutional protections pursuant to Article I.

55. The conduct and actions, set forth above, of Defendants Mejia, Migliore, and Gallega, acting under color of law, violated Plaintiff's rights under the New Jersey State Constitution and proximately caused harm to Plaintiff.

56. The City of Englewood and the City of Englewood Police Department through their officers, agents, servants, and employees violated Plaintiff's rights under the New Jersey State Constitution because they knew or should have known about the lack of training and supervision of police officers, and where they made a deliberate choice to follow this willful course of conduct, risking harm to the citizens of the State of New Jersey and proximately causing the harms, as set forth above, to Plaintiff.

57. Upon information and belief, at all times material to this complaint the defendant, the City of Englewood, acting through the City of Englewood Police Department, failed to provide training and/or supervision of their police officers, and this failure amounts to a deliberate indifference to the safety and lives of the citizens of the City of Englewood. This deliberate indifference to supervision and/or training was a proximate cause of the injuries to Plaintiff.

58. Upon information and belief, at all times material to this complaint the defendant, the City of Englewood, acting through the City of Englewood Police Department, had policies, practices, customs and usages which were a direct and proximate cause of the unconstitutional conduct alleged herein, including: (a) abuse of power and use of excessive force. Each such policy, practice, custom and usage caused injury and damage in violation of Plaintiff's constitutional rights secured by the Fourth, Sixth, and Fourteenth Amendment

to the Constitution of the United States, and by Title 42, United States Code, Sections 1983 and 1988.

ALLEGATIONS

59. As a result of the foregoing, Plaintiff was deprived of his liberty, suffered physical abuse, physical injuries, fear and humiliation, public ridicule, loss of personal reputation, loss of income, costs and expenses, and was otherwise damaged.

60. By reason of the above premises, Plaintiff is entitled to damages.

61. Plaintiff has incurred attorneys' fees and other expenses in defending himself against Defendants' abusive, malicious and unreasonable conduct.

62. Defendants acted maliciously and with the intent to injure Plaintiff.

63. By reason of the above premises, Plaintiff is entitled to punitive damages.

64. Pursuant to 42 USC § 1988, Plaintiff is entitled to a reasonable allowance for attorneys fees as part of his costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Varian Hooks, requests that this Court:

- (1) Accept jurisdiction over the parties;
- (2) Impanel and charge a jury with respect to this actions
- (3) Award to Plaintiff, Varian Hooks, compensatory and punitive damages with pre and post-judgment interest to compensate him for the injuries he has suffered;
- (4) Order Defendants to pay cost of suit.
- (5) Order Defendants to pay the reasonable attorneys fees and other costs incurred by Plaintiff as provided by Section 1988 of Title 42 and the Civil Rights Acts;

(6) Award plaintiff, Varian Hooks, any other relief deemed necessary, just and proper.

Dated: October 12, 2017

Respectfully submitted,

/s/ Nathaniel Davis

Nathaniel Davis, Esq.
972 Broad Street
8th Floor
Newark, New Jersey 07102
Telephone: (973) 792-9005

NJ SUPERIOR COURT LAWYER REFERRAL AND LEGAL SERVICE LIST

ATLANTIC COUNTY:

Deputy Clerk, Superior Court
Civil Division, Direct Filing
1201 Bacharach Blvd., 1st Fl.
Atlantic City, NJ 08401
LAWYER REFERRAL
(609) 345-3444
LEGAL SERVICES
(609) 348-4200

BERGEN COUNTY:

Deputy Clerk, Superior Court
Civil Division, Room 115
Justice Center, 10 Main St.
Hackensack, NJ 07601
LAWYER REFERRAL
(201) 488-0044
LEGAL SERVICES
(201) 487-2166

BURLINGTON COUNTY:

Deputy Clerk, Superior Court
Central Processing Office
Attn: Judicial Intake
First Fl., Courts Facility
49 Rancocas Road
Mt. Holly, NJ 08060
LAWYER REFERRAL
(609) 261-4862
LEGAL SERVICES
(609) 261-1088

CAMDEN COUNTY:

Deputy Clerk, Superior Court
Civil Processing Office
Hall of Justice
1st Fl, Suite 150
101 South 5th Street
Camden, NJ 08103
LAWYER REFERRAL
(856) 482-0618
LEGAL SERVICES
(856) 964-2010

CAPE MAY COUNTY:

Deputy Clerk, Superior Court
9 N. Main Street
Cape May Court House, NJ
08210
LAWYER REFERRAL
(609) 463-0313
LEGAL SERVICES
(609) 465-3001

CUMBERLAND COUNTY:

Deputy Clerk, Superior Court
Civil Case Management Office
60 West Broad Street
P. O. Box 10
Bridgeton, NJ 08302
LAWYER REFERRAL
(856) 696-5550
LEGAL SERVICES
(856) 691-0494

ESSEX COUNTY:

Deputy Clerk, Superior Court
Civil Customer Service
Hall of Records, Room 201
465 Dr. Martin Luther King Jr.
Blvd.
Newark, NJ 07102
LAWYER REFERRAL
(973) 622-6204
LEGAL SERVICES
(973) 624-4500

GLOUCESTER COUNTY:

Deputy Clerk, Superior Court
Civil Case Management Office,
Attn: Intake, First Fl., Court
House
1 North Broad Street
Woodbury, NJ 08096
LAWYER REFERRAL
(856) 848-4589
LEGAL SERVICES
(856) 848-5360

HUDSON COUNTY:

Deputy Clerk, Superior Court
Civil Records Dept.
Brennan Court House, 1st Floor
583 Newark Avenue
Jersey City, NJ 07306
LAWYER REFERRAL
(201) 798-2727
LEGAL SERVICES
(201) 792-6363

HUNTERDON COUNTY:

Deputy Clerk, Superior Court
Civil Division
65 Park Avenue
Flemington, NJ 08822
LAWYER REFERRAL
(908) 236-6109
LEGAL SERVICES
(908) 782-7979

MERCER COUNTY:

Deputy Clerk, Superior Court
Local Filing Office, Courthouse
175 S. Broad Street
P. O. Box 8068
Trenton, NJ 08650
LAWYER REFERRAL
(609) 585-6200
LEGAL SERVICES
(609) 695-6249

MIDDLESEX COUNTY:

Deputy Clerk, Superior Court
Middlesex Vicinage
Second Floor, Tower
56 Paterson Street
P. O. Box 2633
New Brunswick, NJ 08903-2633
LAWYER REFERRAL
(732) 828-0053
LEGAL SERVICES
(732) 249-7600

MONMOUTH COUNTY:

Deputy Clerk, Superior Court
Court House
P. O. Box 1269
Freehold, NJ 07728-1269
LAWYER REFERRAL
(732) 431-5544
LEGAL SERVICES
(732) 866-0020

MORRIS COUNTY:

Morris County Courthouse
Civil Division
Washington & Court Streets
P. O. Box 910
Morristown, NJ 07963-0910
LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 285-6911

OCEAN COUNTY:

Deputy Clerk, Superior Court
Court House, Room 121
118 Washington Street
P.O. Box 2191
Toms River, NJ 08754-2191
LAWYER REFERRAL
(732) 240-3666
LEGAL SERVICES
(732) 341-2727

PASSAIC COUNTY:

Deputy Clerk, Superior Court
Civil Division - Court House
77 Hamilton Street
Paterson, NJ 07505
LAWYER REFERRAL
(973) 278-9223
LEGAL SERVICES
(973) 523-2900

SALEM COUNTY:

Deputy Clerk, Superior Court
Attn: Civil Case Management
Office
92 Market Street
Salem, NJ 08079
LAWYER REFERRAL
(856) 935-5629
LEGAL SERVICES
(856) 691-0494

SOMERSET COUNTY:

Deputy Clerk, Superior Court
Civil Division Office
40 North Bridge Street
P. O. Box 3000
Somerville, NJ 08876
LAWYER REFERRAL
(908) 685-2323
LEGAL SERVICES
(908) 231-0840

SUSSEX COUNTY:

Deputy Clerk, Superior
Court
Sussex County Judicial
Center
43-47 High Street
Newton, NJ 07860
LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 383-7400

UNION COUNTY:

Deputy Clerk, Superior
Court
1st Floor, Court House
2 Broad Street
Elizabeth, NJ 07207-
6073
LAWYER REFERRAL
(908) 353-4715
LEGAL SERVICES
(908) 354-4340

WARREN COUNTY:

Deputy Clerk, Superior
Court
Civil Division, Court
House
413 Second Street
Belvidere, NJ 07823-
1500
LAWYER REFERRAL
(908) 859-4300
LEGAL SERVICES
(908) 475-2010