

SILVERSTEIN & SAPERSTEIN

ATTORNEYS AT LAW

ADMINISTRATION

87-4 2 3 36

August 1, 2016

Timothy J. Dacey, City Manager
City of Englewood
City Hall
2-10 North Van Brunt Street
Englewood, NJ 07631

Re: Lamar Alexander v. City of Englewood
2:16-CV-04599-ES-JAD

Dear Mr. Dacey:

Per my discussion with you today, I have enclosed a summons and complaint, together with two (2) copies of the waiver of service upon the City of Englewood. Please return one signed counterpart of the waiver, suitable for filing, in the SASE, also included. Thank you for your cooperation and consideration.

Yours truly,



Adam Silverstein

Enclosures

☐ **NYC OFFICE**

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UNITED STATES DISTRICT COURT

for the
District of New Jersey

Lamar Alexander

Plaintiff

v.

City of Englewood, et al.

Defendant

Civil Action No. 2:16-CV-04599-ES-JAD

WAIVER OF THE SERVICE OF SUMMONS

To: Adam Silverstein, Esq.

(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from 08/01/2016, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: 08/01/2016

Printed name of party waiving service of summons

Signature of the attorney or unrepresented party

Adam Silverstein, Esq.

Printed name

SILVERSTEIN & SAPERSTEIN
15 Maiden Lane, Suite 2005
New York, NY 10038

Address

adamlaw@att.net

E-mail address

(212) 233-4995

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LAMAR ALEXANDER,
Plaintiff

V.

SUMMONS IN A CIVIL CASE

CITY OF ENGLEWOOD, ET AL.,
Defendant

CASE NUMBER: 2:16-CV-04599-ES-JAD

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

CITY OF ENGLEWOOD

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:

Adam Silverstein, Esq.
15 Maiden Lane, Suite 2005
New York, NY 10038
(212) 233-4995
adamlaw@att.net

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 Reilly

(By) DEPUTY CLERK



ISSUED ON 2016-07-29 16:47:45, 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>		

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

LAMAR ALEXANDER,

Plaintiff

Civil Action

-against-

CITY OF ENGLEWOOD, CITY OF
ENGLEWOOD POLICE OFFICERS
JOHN/JANE DOES,
Nos. 1-10 (the names John and Jane Doe being
fictitious, as the true names presently unknown),

Defendants.

COMPLAINT

Plaintiff LAMAR ALEXANDER, by his attorneys, SILVERSTEIN & SAPERSTEIN,
respectfully alleges as follows:

NATURE OF ACTION

1. 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 violation of his civil rights under 42 U.S.C. § 1983 and the First, Fourth, and Fourteenth Amendments to the United States Constitution. Plaintiff also asserts supplemental claims under New Jersey law.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. § 1983 and 42 U.S.C. § 1988 and the First, Fourth, and Fourteenth Amendments to the United States Constitution.
3. The Court has jurisdiction over plaintiffs federal law claims under 28 U.S.C. §1331 and

28 U.S.C. § 1343.

4. The Court has jurisdiction over plaintiff's supplemental state law claims under 28 U.S.C. §1367.
5. Venue is proper in the District of New Jersey under 28 U.S.C. §1391(b) in that a substantial part of the events giving rise to plaintiff's claims occurred in this district.

JURY DEMAND

6. Plaintiff demands trial by jury of all issues properly triable thereby pursuant to Fed. R. Civ. P. 38(b).

PARTIES

7. Plaintiff LAMAR ALEXANDER is a resident of the City, County, and State of New York.
8. Defendant THE CITY OF ENGLEWOOD ("the City") is, and was at all times relevant herein, a municipal corporation duly organized and existing under the laws of the State of New Jersey. The City maintains the Englewood Police Department ("Englewood PD"), which acts as the City's agent in the area of law enforcement and for which the City is ultimately responsible. The City assumes the risks incidental to the maintenance of a Englewood PD force and the employment of Englewood PD officers, as said risks attach to the public consumers of the services provided by the Englewood PD.
9. All "John Doe" and "Jane Doe" defendants are, and were at all relevant times herein, duly appointed agents, employees, officers, and servants of the Englewood PD and are being sued in their individual capacities.
10. At all relevant times herein, the individual defendants were acting under color of state law in the course and scope of their duties and functions as agents, employees, officers,

and servants of the Englewood PD, and otherwise performed and engaged in conduct incidental to the performance of their lawful functions and duties. At all relevant times herein, the individual defendants were acting for and on behalf of the Englewood PD, with the power and authority vested in them as agents, employees, officers, and servants of the Englewood PD.

11. At all relevant times herein, the individual defendants acted jointly and in concert with each other. Each individual defendant had the duty and the opportunity to protect plaintiff from the unlawful actions of the other individual defendants but each individual defendant failed and refused to perform such duty, thereby proximately causing plaintiffs injuries.

STATEMENT OF FACTS

12. On July 29, 2014 at about 11pm, in the vicinity of the Englewood Police Department, 75 Van Brunt Street in Englewood, New Jersey, plaintiff, a black man, was standing outside.
13. Without provocation or any basis, officers of the Englewood PD, acting in unison, assaulted and tackled plaintiff, bringing him to the ground and causing plaintiff to suffer injuries to hands, right leg, left shoulder and side.
14. Plaintiff did not provoke the Englewood PD assault on him and offered no physical resistance.
15. Thereafter, plaintiff was arrested and detained inside the Police Station without probable cause to believe that he had committed any crime or offense.
16. Plaintiff was searched in connection with the arrest.
17. Shortly thereafter, plaintiff was released from custody. No charges were ever filed against plaintiff.

18. As a result of the foregoing, plaintiff sustained, inter alia, physical injuries, emotional distress, mental anguish, shock, fright, apprehension, embarrassment, humiliation, loss of liberty, physical restraints, and violation of his constitutional rights.
19. Plaintiff suffered various injuries, including a bone bruise/fracture of his right knee and injury to his left shoulder for which surgery has been recommended.
20. The above Englewood PD misconduct occurred as a direct result of unconstitutional customs, policies, and practices of the City and the Englewood PD, including, but not limited to: arresting innocent people on the basis of racial identity; physical abuse and intimidation of civilians; poor oversight and personnel management.
21. The existence of such unconstitutional customs, policies, and practices may be inferred from repeated occurrences of similar wrongful conduct as documented in civil rights actions filed against the City and police officers, as well as from notices of claims filed with the City.
22. The City has inadequately screened, hired, retained, trained, and supervised police officers, including those named as defendants herein, to respect the constitutional rights of individuals with whom they come in contact.

FIRST CLAIM FOR RELIEF

(False Arrest Claim Under 42 U.S.C. § 1983)

23. Plaintiff repeats and realleges paragraphs 1 through 22 with the same force and effect as if they were fully set forth herein.
24. Defendants, acting in concert and within the scope of their authority, stopped, arrested, and caused plaintiff to be imprisoned without probable cause or reasonable suspicion to believe that plaintiff had committed any crime or offense, in violation of plaintiff's right

to be free from unreasonable seizure under the Fourth and Fourteenth Amendments to the United States Constitution.

SECOND CLAIM FOR RELIEF

(Excessive Force Claim Under 42 U.S.C. § 1983)

25. Plaintiff repeats and realleges paragraphs 1 through 24 with the same force and effect as if they were fully set forth herein.

26. Defendants, acting in concert and within the scope of their authority, used objectively unreasonable force in arresting plaintiff, in violation of plaintiff's right to be free from unreasonable seizure under the Fourth and Fourteenth Amendments to the United States Constitution.

THIRD CLAIM FOR RELIEF

(False Arrest Under 42 U.S.C. § 1983)

27. Plaintiff repeats and realleges paragraphs 1 through 26 with the same force and effect as if they were fully set forth herein.

28. Defendants, acting in concert and within the scope of their authority, arrested and detained Plaintiff without justification or cause.

FOURTH CLAIM FOR RELIEF

(Unlawful Search Claim Under 42 U.S.C. § 1983)

29. Plaintiff repeats and realleges paragraphs 1 through 28 with the same force and effect as if they were fully set forth herein.

30. Defendants, acting in concert and within the scope of their authority, conducted a search of plaintiff without probable cause, privilege or consent, in violation of plaintiff's right to be free from unreasonable search under the Fourth and Fourteenth Amendments to the

plaintiff's safety, well-being, and constitutional rights.

38. The foregoing customs, policies, and practices were the direct and proximate cause of the constitutional violations suffered by plaintiff.

39. The foregoing customs, policies, and practices were the moving force behind the constitutional violations suffered by plaintiff.

40. The foregoing customs, policies, and practices deprived plaintiff of the right to be free from unreasonable seizure, in violation of plaintiff's rights under the Fourth and Fourteenth Amendments to the United States Constitution.

SUPPLEMENTAL STATE LAW CLAIMS

41. Plaintiff repeats and realleges paragraphs 1 through 40 with the same force and effect as if they were fully set forth herein.

42. Within ninety (90) days after the claims herein arose, plaintiff duly served upon, presented to, and filed with the City a Notice of Claim setting forth all facts and information in respect of the incident.

43. The City has wholly neglected or refused to make an adjustment or payment thereof.

44. This action was commenced within the statute of limitations for all claims hereunder.

Plaintiff has complied with all conditions precedent to maintaining the instant action.

SEVENTH CLAIM FOR RELIEF (False Arrest)

45. Plaintiff repeats and realleges paragraphs "1" through "69" with the same force and effect as if they were fully set forth herein.

46. Defendants, acting in concert and within the scope of their authority, arrested and caused plaintiff to be imprisoned without probable cause to believe that plaintiff had committed any crime or offense, and without any warrant or authority to do so.

EIGHTH CLAIM FOR RELIEF

(Assault)

47. Plaintiff repeats and realleges paragraphs 1 through 46 with the same force and effect as if they were fully set forth herein.
48. Defendants, acting in concert and within the scope of their authority, placed plaintiff in apprehension of imminent harmful and offensive bodily contact.

NINTH CLAIM FOR RELIEF (Battery)

49. Plaintiff repeats and realleges paragraphs 1 through 48 with the same force and effect as if they were fully set forth herein.
50. Defendants, acting in concert and within the scope of their authority, made offensive contact with plaintiff without privilege or consent.

TENTH CLAIM FOR RELIEF (Unlawful Search)

51. Plaintiff repeats and realleges paragraphs 1 through 50 with the same force and effect as if they were fully set forth herein.
52. Defendants, acting in concert and within the scope of their authority, conducted a search of plaintiff without probable cause, privilege or consent, in violation of plaintiff's right to be free from unreasonable search under Article 1, Par. 7 of the New Jersey State Constitution.

ELEVENTH CLAIM FOR RELIEF (Respondeat Superior Liability)

53. Plaintiff repeats and realleges paragraphs 1 through 52 with the same force and effect as if they were fully set forth herein.
54. The City is vicariously liable for the acts of their employees and agents who were on duty and acting in the scope of their employment when they engaged in the above unlawful

conduct.

TWELFTH CLAIM FOR RELIEF (Negligent Screening, Hiring, and Retention)

55. Plaintiff repeats and realleges paragraphs 1 through 54 with the same force and effect as if they were fully set forth herein.

56. The City failed to use reasonable care in the screening, hiring, and retention of the employees who participated in the above unlawful conduct.

THIRTEENTH CLAIM FOR RELIEF (Negligent Training and Supervision)

57. Plaintiff repeats and realleges paragraphs 1 through 56 with the same force and effect as if they were fully set forth herein.

58. The City failed to use reasonable care in the training and supervision of the Englewood PD employees who participated in the above unlawful conduct.

PRAYER FOR RELIEF

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

- (A) Compensatory damages in an amount to be determined at trial;
- (B) Punitive damages in an amount to be determined at trial;
- (C) Reasonable attorney's fees and costs of this litigation; and
- (D) Such other relief as this Court deems just and proper.

Dated: New York, New York
July 28, 2106

Respectfully submitted,

Adam Silverstein, Esq.
Silverstein & Saperstein
15 Maiden Lane, Suite 2005
New York, New York 10038
(212) 233-4995
Fx (646) 762-9857
adamlaw@att.net

Attorneys for Plaintiff

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Date: 08/01/2016

Printed name of party waiving service of summons

Signature of the attorney or unrepresented party

Adam Silverstein, Esq.

Printed name

SILVERSTEIN & SAPERSTEIN
15 Maiden Lane, Suite 2005
New York, NY 10038

Address

adamlaw@att.net

E-mail address

(212) 233-4995

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