

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

RECEIVED
CLERK'S OFFICE

KISAAC MARTIN,
Plaintiff

2018 MAY 16 A 10:52

V.

CITY OF HACKENSACK
SUMMONS IN A CIVIL CASE

CITY OF HACKENSACK, ET AL.,
Defendant

CASE NUMBER: 2:18-CV-07819-CCC-MF

TO: (Name and address of Defendant):

City of Hackensack
65 Central Ave.
Hackensack, NJ 07601

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

Susan Miller

(By) DEPUTY CLERK



ISSUED ON 2018-04-18 09:42:05, 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>		

LAW OFFICES OF
NANCY E. LUCIANNA, P.C.
1638 CENTER AVENUE
FORT LEE, NEW JERSEY 07024
(201) 947-6484
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NANCY E. LUCIANNA, ESQ., ATTORNEY ID #024831986
ATTORNEYS FOR PLAINTIFF, KISAAC MARTIN

KISAAC MARTIN,

Plaintiff.

vs.

CITY OF HACKENSACK,
HACKENSACK POLICE
DEPARTMENT, HACKENSACK
POLICE OFFICER ROCCO DUARDO,
HACKENSACK POLICE OFFICER
JOSEPH GONZALEZ, HACKENSACK
POLICE OFFICER SCOTT SYBEL,
JOHN AND JANE DOES 1-10
(UNIDENTIFIED POLICE OFFICERS),

Defendants.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

DOCKET NO.: _____

CIVIL ACTION

**COMPLAINT AND TRIAL BY JURY
DEMAND**

JURISDICTION AND VENUE

1. This action is brought pursuant to 42 U.S.C. §§ 1983, 1985(2) (3), 1986 and 1988 and the First, Fourth, Fifth, Eighth, and Fourteenth Amendments to the United State Constitution. Jurisdiction is founded on 28 U.S.C. §§1331 and 1343 (1) (2) (3) (4) and the aforementioned statutory and Constitutional provisions for civil rights violations. Plaintiff further invokes the pendent jurisdiction of this court to consider claims arising under State law, including but not limited to: (a) Failure to Implement Appropriate Policies, Customs and Practices, (b) False Arrest; (c) Unlawful Detention and Confinement; (d) Intentional Infliction of Emotional Distress; (e) Negligence; (f) Conspiracy; (g) Malicious Prosecution; (h) Negligent Supervision;

(i) Negligent Hiring and Retention; (j) Denial of Access to the Courts, and (k) Violation of Constitutional Rights.

2. Venue is proper pursuant to 28 U.S.C. § 1391(b) (1) as at least one Defendant is an officer or employee of the United States. This District also is an appropriate venue for this action under 28 U.S.C. § 1391(b) (2) as all the facts and events of each cause of action giving rise to the claims asserted herein occurred in this judicial district.

3. The amount in controversy exclusive of interest and costs exceeds the sum of \$75,000.00.

PARTIES

4. At all relevant time herein, the Plaintiff KISAAC MARTIN resided and is a resident of the State of New Jersey, residing in the City of Hackensack, New Jersey.

5. The Defendants: CITY OF HACKENSACK is a municipality incorporated within the State of New Jersey, and the Hackensack Police Department, which at all relevant times herein, employed the Defendants Hackensack Police Officer Rocco Duardo, Hackensack Police Officer Joseph Gonzalez, and Hackensack Police Officer Scott Sybel and John and Jane Does 1-10 (unidentified police officers) along with other Hackensack Police Officers who are sued herein individually and in their official capacity.

6. HACKENSACK POLICE DEPARTMENT is a municipal corporation located in the City of Hackensack which at all relevant times herein, employed the Defendant POLICE OFFICER ROCCO DUARDO, JOSEPH GONZALEZ, and SCOTT SYBEL.

7. At all relevant times mentioned hereafter, Defendant HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, and HACKENSACK POLICE OFFICER SCOTT SYBEL were employed by Defendant HACKENSACK POLICE DEPARTMENT and are sued in their individual and official

capacities and were acting in the course and scope of their employment and acting under color of law.

8. Defendants JOHN and JANE DOES POLICE OFFICERS 1-20 are unidentified police officers and were at all relevant times herein acting in the course and scope of their employment and acting under the color of the law.

9. Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, AND HACKENSACK POLICE OFFICER SCOTT SYBEL, AND JOHN AND JANE DOES POLICE OFFICERS 1-10 participated in the arrest, detention, and prosecution of Plaintiff KISAAC MARTIN.

10. Each and all acts stated herein of the Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, AND HACKENSACK POLICE OFFICER SCOTT SYBEL, AND JOHN AND JANE DOES POLICE OFFICERS 1-10 (unidentified Police officers), along with other Hackensack Police Officers are alleged to have been done by them under the color of law and pretense of statutes, ordinances, regulations, customs and usages of the State of New Jersey, City of Hackensack, County of Bergen, and under the authority of their office as police officers of the City of Hackensack.

FACTUAL BASIS COMMON TO ALL CLAIMS

11. Plaintiff KISAAC MARTIN resides at 405 Taylor Avenue, Hackensack, State of New Jersey, 07601

12. On or about May 13, 2016, Plaintiff KISAAC MARTIN was lawfully driving in the City of Hackensack, County of Bergen, State of New Jersey.

13. On that date, Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO and HACKENSACK POLICE OFFICER SCOTT SYBEL unlawfully conducted a motor vehicle stop of Plaintiff KISAAC MARTIN.

14. HACKENSACK POLICE OFFICER ROCCO DUARDO and HACKENSACK POLICE OFFICER SCOTT SYBEL lacked reasonable and articulable suspicion to seize and detain Plaintiff KISAAC MARTIN.

15. During that motor vehicle stop, Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO and HACKENSACK POLICE OFFICER SCOTT SYBEL, unlawfully and illegally, without probable cause, arrested Plaintiff KISAAC MARTIN.

16. Plaintiff KISAAC MARTIN's arrest was based upon allegations that were fabricated and falsified by Defendants.

17. Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, and HACKENSACK POLICE OFFICER SCOTT SYBEL fabricated police reports, an investigation, and alleged narcotics transactions that never occurred.

18. Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, and HACKENSACK POLICE OFFICER SCOTT SYBEL falsified documents and committed perjury in order to deceive a court of the State of New Jersey to issue criminal complaints.

19. Plaintiff KISAAC MARTIN never engaged in any illegal conduct alleged by HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, and HACKENSACK POLICE OFFICER SCOTT SYBEL.

20. Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and JOHN AND JANE DOES 1-10 (unidentified police officers), acting under color of authority as Police Officers of the City of Hackensack, in concert with one another, and without probable cause or reasonable believe, basis or constitutional justification that Plaintiff KISAAC MARTIN had committed or was about to commit a crime, unlawfully arrested and imprisoned Plaintiff.

21. As a result, Plaintiff KISAAC MARTIN was arrested and detained. He was imprisoned at the Bergen County Jail located at 160 South River Street, Hackensack, New Jersey 07601 from May 13, 2016 until approximately January 6, 2017.

22. As part of the continued prosecution of Plaintiff KISAAC MARTIN, Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 purposely and/or knowingly lied, misrepresented facts, and/or fabricated testimony to a grand jury.

23. As part of the continued prosecution of Plaintiff KISAAC MARTIN, Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, knowing that they falsified and fabricated information presented to courts, acted maliciously.

24. As a result of the Defendants' acts and omissions, Plaintiff KISAAC MARTIN was indicted with felony charges in the State of New Jersey.

25. Plaintiff KISAAC MARTIN is innocent of criminal charges filed against him.

26. Plaintiff KISAAC MARTIN was forced to expend time and money appearing in court several times to defend himself against the illegal and fabricated criminal charges.

27. On or about July 21, 2017, all charges against the Plaintiff KISAAC MARTIN were dismissed after Plaintiff spent 239 days incarcerated.

28. The detention and prosecution of Plaintiff KISAAC MARTIN was predicated upon purposeful and/or knowing and/or reckless and/or malicious conduct of CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, and JOHN AND DOES 1-10, specifically but not limited to falsifying reports regarding Plaintiff KISAAC MARTIN, committing perjury to courts of the State of New Jersey and an grand jury of the State of New Jersey, and fabricating evidence against Plaintiff KISAAC MARTIN.

29. Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, and JOHN AND DOES 1-10 were served with a Notice of Intention to Make Claim on or about August 29, 2017 via certified mail and regular mail, notifying the Defendants of the Plaintiff's claim and Plaintiff's injuries. More than six months have elapsed since the Notice was filed and to date, this claim has not been settled.

30. Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 have since been suspended and/or placed on administrative leave and/or fired from Defendant HACKENSACK POLICE DEPARTMENT.

31. An Internal Affairs Investigation was launched to investigate a pattern and practice of Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO's, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ's, HACKENSACK POLICE OFFICER SCOTT SYBEL's, and/or JOHN AND JANE DOES 1-10's police misconduct.

32. Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 knew of the systemic and pervasive misconduct occurring given the expansive nature of the misconduct committed by multiple individual Defendant Police Officers.

33. This pattern and practice of misconduct conduct by the Defendants encompassed levels and ranks of the HACKENSACK POLICE DEPARTMENT as HACKENSACK POLICE OFFICER ROCCO DUARDO and JOSEPH GONZALEZ were ranked at Detective while HACKENSACK POLICE OFFICER SCOTT SYBEL was ranked Lieutenant.

34. A criminal investigation was launched for a series of unprofessional and illegal conduct and misconduct related to their roles as Hackensack Police Officers and while acting under the color of law.

CAUSES OF ACTION

COUNT ONE

Violation of Civil Rights Pursuant to 42 U.S.C. § 1983 (General Allegation)

35. Plaintiff re-alleges and incorporates herein by reference set forth in the above paragraphs 1-34 of this Complaint.

36. In committing the acts complained of herein, Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, individually and in their official capacity, acted under the color of the law to deprive Plaintiff of certain constitutionally protected rights under the First, Fourth, Fifth, Eighth and Fourteenth Amendments of the United States Constitution including, but not limited to: a) the right to be free from unreasonable searches and seizures; b) the right not to be deprived of liberty without due process of law; c) the right not to be deprived of property without due process of law; and d) the right to be free from false arrest.

37. In violating Plaintiff's rights as set forth above and other rights to be proven at trial, Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, individually and in their official capacity acted under the color of the law and conducted an unlawful detainment, confinement and false arrest of Plaintiff KISAAC MARTIN.

38. Defendants displayed a pattern and practice of deliberate indifference to the civil rights of the Plaintiff and set into motion the chain of events that led to unlawful detainment and deprivation of liberty without due process in violation of Plaintiff's civil rights under the First, Fourth, Fifth, Eighth and Fourteenth Amendments of the United States Constitution.

39. As a direct and proximate cause result of the violation of Plaintiff KISAAC MARTIN's constitutional rights by the Defendants CITY OF HACKENSACK, HACKENSACK POLICE

DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, individually and in their official capacity, Plaintiff suffered and continues to suffer physical, psychological and emotional distress, humiliation, embarrassment, discomfort, anxiety, inconvenience, mental and emotional anguish and other compensatory damages in an amount to be determined by the jury and the Court.

40. Defendants' acts were willful, wanton, malicious, oppressive and/or done with conscious disregard and deliberate indifference for Plaintiffs' rights. Therefore, Defendants' actions justify an award to plaintiffs of punitive damages in an amount to be determined at trial.

41. Defendants' acts, omissions, and misconduct created a defacto policy within the respective departments and agencies of ignoring and/or violating the civil rights of Plaintiff's KISAAC MARTIN.

42. Defendants' de facto policy and pattern of violating constitutional and civil rights within the departments and individually was systemic with violations occurring across departments and ranks.

43. Defendants' policies, practices, conduct and acts alleged herein have resulted and will continue to result in irreparable injury to the Plaintiff.

44. Defendants acted with discriminatory intent in violation of Plaintiff's legal and constitutional rights, and have directly and proximately caused Plaintiff's humiliation, mental pain and suffering. As a direct and proximate result of Defendants' violations of Plaintiff's statutory, constitutional and common law rights, Plaintiff KISAAC MARTIN was caused to suffer damages.

WHEREFORE, Plaintiff KISAAC MARTIN demands judgment against Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, individually and in their official capacity, jointly, severally and/or individually for:

- (a) compensatory damages;
- (b) attorney fees under 42 U.S.C. § 1983, filing fees and cost of suit; and
- (c) any further relief which the Court may deem equitable and just.

COUNT TWO

**Violation of Civil Rights Pursuant to 42 U.S.C. § 1983
(Failure to Implement Appropriate Policies, Customs, and Practices)**

45. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1-44 of this Complaint and Count One as if set forth at length herein.

46. On the aforementioned date and time, Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 did violate Plaintiff KISAAC MARTIN's constitutional rights and did so pursuant and custom to a de-facto pattern and practice of the Defendants' deliberate indifference to the Constitutional rights of Plaintiff KISAAC MARTIN.

47. The failure of the Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 to adequately train and supervise its' officers,

employees, and/or agents amounts to deliberate indifference to the civil rights of Plaintiff KISAAC MARTIN to be free from the deprivation of liberty without due process, the right to be free from false arrest, unreasonable search and seizure, under the Fourth, Fifth, and Fourteenth Amendments to the United States Constitution.

48. Defendants' acts, omissions, and misconduct created a defacto policy within the respective departments and agencies of ignoring and/or violating the civil rights of Plaintiff's KISAAC MARTIN.

49. As a direct and proximate result of Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 deliberate indifference which was committed under the color of the law, Plaintiff KISAAC MARTIN suffered and continues to suffer physical including bodily injury, psychological and emotional distress, humiliation, embarrassment, loss of freedom, anxiety, inconvenience, and mental and emotional anguish and is entitled to relief under 42 U.S.C. § 1983.

WHEREFORE, Plaintiff KISAAC MARTIN demands judgment against Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, individually and in their official capacity, jointly, severally and/or individually for:

- (a) compensatory damages;
- (b) attorney fees under 42 U.S.C. § 1983, filing fees and cost of suit; and
- (c) any further relief which the Court may deem equitable and just.

COUNT THREE

**Violation of Civil Rights Pursuant to 42 U.S.C. § 1983
(False Arrest)**

50. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1-49 of this Complaint, Count One and Count Two as if set forth at length herein.

51. Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 acted under the color of the law by falsely arresting and detaining Plaintiff KISAAC MARTIN with no basis in fact or law to do so.

52. The Defendants denied Plaintiff KISAAC MARTIN his rights, privileges, and/or immunities secured by the United States Constitution depriving him of his liberty without due process of law, by taking him into custody and holding him against his will.

53. Defendants' acts, omissions, and misconduct created a defacto pattern and policy within the respective departments and agencies of ignoring and/or violating the civil rights of Plaintiff's KISAAC MARTIN.

54. As a direct and proximate result of Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 concerted, unlawful violation of Plaintiff's right to be free from false arrest, Plaintiff KISAAC MARTIN suffered and continues to suffer physical, psychological and emotional distress, humiliation, embarrassment, loss of freedom, anxiety, inconvenience, mental and emotional anguish and is entitled to relief under 42 U.S.C. § 1983.

WHEREFORE, Plaintiff KISAAC MARTIN demands judgment against Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, individually and in their official capacity, jointly, severally and/or individually for:

- (a) compensatory damages;
- (b) attorney fees under 42 U.S.C. § 1983, filing fees and cost of suit; and
- (c) any further relief which the Court may deem equitable and just.

COUNT FOUR

**Violation of Civil Rights Pursuant to 42 U.S.C. § 1983
(False Detention and Confinement)**

55. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1-54 of this Complaint, Count One, Count Two, and Count Three as if set forth at length herein.

56. Defendants breached a duty of care owed to Plaintiff KISAAC MARTIN, so as not to deprive him of his personal liberty by intentionally, wrongfully and unlawfully detaining and confining him without probable cause.

57. Plaintiff alleges that such acts directed towards him were malicious and belligerent and the acts were done with a conscious disregard for Plaintiff's right to be free from such tortious behavior such as to constitute oppression and malice behavior.

58. Defendants' acts, omissions, and misconduct created a defacto policy within the respective departments and agencies of ignoring and/or violating the civil rights of Plaintiff's KISAAC MARTIN.

59. As a direct and proximate result of Defendants' concerted unlawful and malicious detention and confinement, Plaintiff KISAAC MARTIN suffered and continues to suffer

physical, psychological and emotional distress, humiliation, embarrassment, loss of freedom, anxiety, inconvenience, and mental and emotional anguish.

WHEREFORE, Plaintiff KISAAC MARTIN demands judgment against Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, individually and in their official capacity, jointly, severally and/or individually for:

- (a) compensatory damages;
- (b) attorney fees under 42 U.S.C. § 1983, filing fees and cost of suit; and
- (c) any further relief which the Court may deem equitable and just.

COUNT FIVE
(Intentional Infliction of Emotional Distress)

60. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1-59 of this Complaint, Count One, Count Two, Count Three, and Count Four as if set forth at length herein.

61. Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, intentionally and deliberately and/or recklessly inflicted emotional distress on Plaintiff KISAAC MARTIN by outrageous and extreme display pattern, practice, and policy of discrimination and/or deliberate indifference and by abusing the lawful process by unlawful purposes by violating Plaintiff's KISAAC MARTIN constitutional rights.

62. Defendants' conduct was extreme and outrageous, beyond all possible bounds of decency.

63. As a direct and proximate result of Defendants' intentional and/or reckless and outrageous and extreme acts Plaintiff KISAAC MARTIN suffered and continues to suffer psychological and emotional distress, humiliation, embarrassment, and mental and emotional trauma.

WHEREFORE, Plaintiff KISAAC MARTIN demands judgment against Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, individually and in their official capacity, jointly, severally and/or individually for:

- (a) compensatory damages;
- (b) attorney fees under 42 U.S.C. § 1983, filing fees and cost of suit; and
- (c) any further relief which the Court may deem equitable and just.

COUNT SIX
(Negligence)

64. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1-63 of this Complaint, Count One, Count Two, Count Three, Count Four, and Count Five as if set forth at length herein.

65. On or about May 13, 2016 and at all relevant times, Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 were negligent in their performance and/or failure to perform duties undertaken in the course of their employment, including but not limited to failure to use due care at or about the times of the aforementioned incident.

66. In committing the aforementioned acts and/or omissions, each Defendant negligently breached said duty to use due care owed to Plaintiff KISAAC MARTIN.

67. As a direct and proximate result of Defendants' negligence, Plaintiff KISAAC MARTIN suffered and continues to suffer physical, psychological and emotional distress, humiliation, embarrassment, discomfort, loss of freedom, anxiety, inconvenience, and mental and emotional anguish.

WHEREFORE, Plaintiff KISAAC MARTIN demands judgment against Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, individually and in their official capacity, jointly, severally and/or individually for:

- (a) compensatory damages;
- (b) attorney fees under 42 U.S.C. § 1983, filing fees and cost of suit; and
- (c) any further relief which the Court may deem equitable and just.

COUNT SEVEN
Conspiracy

68. Plaintiff repeats and reiterates each and every allegation contained in paragraphs 1-67 of this Complaint, Count One, Count Two, Count Three, Count Four, Count Five, and Count Six as if same were set forth at length herein.

69. Since the aforementioned date of assault, the Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, engaged in a

course of conduct designed to delay, obstruct, and hide the illegal and unconstitutional arrest, detention, and prosecution of Plaintiff KISAAC MARTIN by Defendants.

70. As a result of the wrongful acts of the Defendants, CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, the Plaintiff suffered numerous and permanent damages.

71. Defendants' cover-up and concealment of the illegal and unconstitutional arrest, detention, and prosecution of Plaintiff was in violation of Plaintiff's rights under 42 U.S.C. § 1983 et seq. and § 1988.

WHEREFORE, Plaintiff KISAAC MARTIN demands judgment against Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, individually and in their official capacity, jointly, severally and/or individually for:

- (a) compensatory damages;
- (b) attorney fees under 42 U.S.C. § 1983, filing fees and cost of suit; and
- (c) any further relief which the Court may deem equitable and just.

COUNT EIGHT
(Malicious Prosecution)
Violation of Civil Rights Pursuant to 42 U.S.C. § 1983

72. Plaintiff repeats and reiterates each and every allegation contained in paragraphs 1-71 of this Complaint, Count One, Count Two, Count Three, Count Four, Count Five, Count Six, and Count Seven as if same were set forth at length herein.

73. The actions of Defendants as described in this Complaint constitute a deprivation of Plaintiff's constitutional rights, including but not limited to Plaintiff's right pursuant to the Fourth, Fifth and Fourteenth Amendments of the Constitution of the United States to be free from malicious prosecution, malicious abuse of process, and unlawful seizure and incarceration.

74. The Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 arrested the Plaintiff without probable cause and commenced and continued prosecution with malice

75. The Defendants caused there to be prosecution of the Plaintiff KISAAC MARTIN when Defendants knew or should have known that there was no probable cause or reasonable suspicion of such a crime and that Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 conspired and falsified reports and documents as well as perjured themselves before a judge and grand jury that offenses occurred when they did not.

76. Defendants' de facto policy and pattern of violating constitutional and civil rights within the departments and individually was systemic with violations occurring across departments and ranks.

77. As a result, the Plaintiff KISAAC MARTIN was incarcerated and forced to appear in court. The case against him was dismissed.

78. As a direct and proximate result of the acts of the Defendants as described in this complaint, Plaintiff has suffered permanent physical injuries, severe emotional distress, humiliation, embarrassment, and the loss of his freedom, and other benefits. Plaintiff has also incurred attorneys' fees and court costs.

WHEREFORE, Plaintiff KISAAC MARTIN demands judgment against Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, individually and in their official capacity, jointly, severally and/or individually for:

- (d) compensatory damages;
- (e) attorney fees under 42 U.S.C. § 1983, filing fees and cost of suit; and
- (f) any further relief which the Court may deem equitable and just.

COUNT NINE
(Negligent Supervision)
Violation of Civil Rights Pursuant to 42 U.S.C. § 1983

79. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1-78 of this Complaint, Count One, Count Two, Count Three, Count Four, Count Five, Count Six, Count Seven, and Count Eight, as if set forth at length herein.

80. On or about May 13, 2016 and at all times thereafter, Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 through its agents, servants and/or employees were negligent and otherwise reckless in that they failed to adequately train, supervise and properly control the Defendants HACKENSACK

POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, and did negligently hire the Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, creating an atmosphere of lawlessness within which officers perpetuated a violation of civil rights, unlawful arrest, detention and confinement, discrimination, deprivation of liberty, and prejudice against the Plaintiff KISAAC MARTIN. Plaintiff KISAAC MARTIN was detained and unlawfully arrested, inflicting physical injuries, psychological trauma, fear, and humiliation, all of which were done in the belief that such acts were justified by the Defendants' authority as police officers and otherwise under the color of the law.

81. Defendants CITY OF HACKENSACK and HACKENSACK POLICE DEPARTMENT had a duty to hire and retain individuals who were qualified and competent to uphold and enforce the laws of this State and to implement police department policies and objectives and to ensure safety and supervision of their citizens.

82. Defendants CITY OF HACKENSACK and HACKENSACK POLICE DEPARTMENT failed to properly instruct and supervise their subordinate police officers and prevent the negligent acts of their subordinates when they knew or reasonably should have known of such acts and had the authority and responsibility to prevent these acts.

83. These acts by the Defendants CITY OF HACKENSACK and HACKENSACK POLICE DEPARTMENT of failing to properly instruct and supervise their subordinate officers created a defacto policy within the respective departments and agencies of ignoring the Plaintiff's KISAAC MARTIN'S civil rights.

84. Acting under the color of the law, Defendants CITY OF HACKENSACK and HACKENSACK POLICE DEPARTMENT negligently failed to instruct, supervise, control, and discipline on a continuing basis the Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 as to their duty to refrain from: (a) unlawfully and maliciously harassing a citizen and/or deliberate indifference to the civil rights of its citizens; (b) unlawfully and maliciously arresting, detaining and confining, and prosecuting a citizen; (c) and otherwise depriving Plaintiff KISAAC MARTIN of his constitutional and statutory rights, privileges, and immunities.

85. Defendants CITY OF HACKENSACK and HACKENSACK POLICE DEPARTMENT, directly and indirectly under the color of the law, approved or ratified the unlawful deliberate, reckless, and wanton conduct of the Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10.

86. As a direct and proximate result of the negligent supervision and intentional acts of Defendants CITY OF HACKENSACK and HACKENSACK POLICE DEPARTMENT, approved or ratified the unlawful deliberate, reckless, and wanton conduct of the Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10

87. As a direct and proximate result of the acts and omissions of Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ,

HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10,, Plaintiff KISAAC MARTIN suffered and continues to suffer physical, psychological and emotional distress, humiliation, embarrassment, discomfort, loss of freedom, anxiety, inconvenience, and mental and emotional anguish.

WHEREFORE, Plaintiff KISAAC MARTIN demands judgment against Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, individually and in their official capacity, jointly, severally and/or individually for:

- (a) compensatory damages;
- (b) attorney fees under 42 U.S.C. § 1983, filing fees and cost of suit; and
- (c) any further relief which the Court may deem equitable and just.

COUNT TEN
(Negligent Hiring and Retention)
Violation of Civil Rights Pursuant to 42 U.S.C. § 1983

88. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1-87 of this Complaint, Count One, Count Two, Count Three, Count Four, Count Five, Count Six, Count Seven, Count Eight, and Count Nine as if set forth at length herein.

89. Defendants CITY OF HACKENSACK and HACKENSACK POLICE DEPARTMENT, selected, hired, and retained Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 to perform work under the color of the law.

90. Defendants CITY OF HACKENSACK and HACKENSACK POLICE DEPARTMENT failed to exercise reasonable care and were negligent in selecting, hiring and retaining Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 to perform work.

91. At the time, Defendants CITY OF HACKENSACK and HACKENSACK POLICE DEPARTMENT selected, hired or retained Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 and at all other relevant times, Defendants knew or reasonably should have known that Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 would violate Plaintiff KISAAC MARTIN'S civil and constitutional rights and that as a direct and proximate result of those violations, Plaintiff would suffer damages alleged herein. Defendants' CITY OF HACKENSACK and HACKENSACK POLICE DEPARTMENT conduct constitutes negligence per se and is actionable under the laws of the State of New Jersey and the laws of the United States.

92. These acts by the Defendants CITY OF HACKENSACK and HACKENSACK POLICE DEPARTMENT of failing to exercise reasonable care in selecting, hiring and retaining their subordinate officers created a defacto policy within the respective departments and/or agencies of ignoring the Plaintiff's KISAAC MARTIN civil rights.

93. As a direct and proximate result of Defendants CITY OF HACKENSACK and HACKENSACK POLICE DEPARTMENT negligent selection, hiring and retention, Plaintiff

KISAAC MARTIN suffered and continues to suffer physical, psychological and emotional distress, humiliation, embarrassment, discomfort, loss of freedom, anxiety, inconvenience, and mental and emotional anguish.

WHEREFORE, Plaintiff KISAAC MARTIN demands judgment against Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, individually and in their official capacity, jointly, severally and/or individually for:

- (a) compensatory damages;
- (b) attorney fees under 42 U.S.C. § 1983, filing fees and cost of suit; and
- (c) any further relief which the Court may deem equitable and just.

COUNT ELEVEN
(Respondeat Superior)

94. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1-93 of this Complaint, Count One, Count Two, Count Three, Count Four, Count Five, Count Six, Count Seven, Count Eight, Count Nine, and Count Ten, as if set forth at length herein.

95. Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 , were at all times herein acting within the scope of their employment, as employees of the CITY OF HACKENSACK and HACKENSACK POLICE DEPARTMENT.

96. While acting within the scope of their employment Defendants HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10 ,

individually and in their official capacity, were negligent in their performance and/or failure to perform their duties.

97. Under Respondent Superior, the Defendants CITY OF HACKENSACK and HACKENSACK POLICE DEPARTMENT are liable for the acts of, and injury caused by said officers.

WHEREFORE, Plaintiff KISAAC MARTIN demands judgment against Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, individually and in their official capacity, jointly, severally and/or individually for:

- (a) compensatory damages;
- (b) attorney fees under 42 U.S.C. § 1983, filing fees and cost of suit; and
- (c) any further relief which the Court may deem equitable and just.

JURY DEMAND

Plaintiff KISAAC MARTIN hereby demands trial by jury on all issues against Defendants CITY OF HACKENSACK, HACKENSACK POLICE DEPARTMENT, HACKENSACK POLICE OFFICER ROCCO DUARDO, HACKENSACK POLICE OFFICER JOSEPH GONZALEZ, HACKENSACK POLICE OFFICER SCOTT SYBEL, and/or JOHN AND JANE DOES 1-10, individually and in their official capacity.

LAW OFFICES OF NANCY E. LUCIANNA, P.C.

BY: 

NANCY E. LUCIANNA, ESQ.

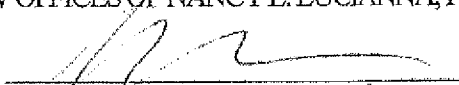
Attorney for Plaintiff, KISAAC MARTIN

Dated: 4/16/18

DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of Rule 4:25-4, the Court is advised that NANCY E. LUCIANNA, ESQ. of THE LAW OFFICES OF NANCY E. LUCIANNA, P.C. is hereby designated as trial counsel on behalf of the Plaintiff.

LAW OFFICES OF NANCY E. LUCIANNA, P.C.

BY: 

NANCY E. LUCIANNA, ESQ.

Attorney for Plaintiff, KISAAC MARTIN

Dated: 4/16/18

CERTIFICATION PURSUANT TO R.4:5-1

I hereby certify that the matter in controversy is not the subject of any other action, pending in any court or of a pending arbitration proceeding, nor is any such action or arbitration proceeding presently contemplated.

LAW OFFICES OF NANCY E. LUCIANNA, P.C.

BY: 

NANCY E. LUCIANNA, ESQ.

Attorney for Plaintiff, Kisaac Martin

Dated: 4/16/18