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CITY OF HACKENSACK

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IBN SHARIF,
Plaintiff

V.

SUMMONS IN A CIVIL CASE

CITY OF HACKENSACK, ET AL.,
Defendant

CASE
NUMBER: 2:17-CV-12410-KM-MAH

TO: (Name and address of Defendant):

City of Hackensack
65 Central Avenue
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

Brian Y. Lawrence

(By) DEPUTY CLERK



ISSUED ON 2017-12-06 14:20:01, Clerk
USDC NJD

RETURN OF SERVICE	
Service of the Summons and complaint was made by me()	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 Signature of Server Address of Server

Nathaniel Davis, Esq.
972 Broad Street
8th Floor
Newark, New Jersey 07102
Telephone: (201) 963-9243
Attorney for the Plaintiff,
Ibn Sharif

IBN SHARIF	:	UNITED STATES DISTRICT COURT
	:	FOR THE STATE OF NEW JERSEY
	:	
Plaintiff(s)	:	
	:	
v.	:	Civil Action No:
	:	
CITY OF HACKENSACK, CITY OF	:	COMPLAINT
HACKENSACK POLICE DEPARTMENT,	:	
CAPT. FRANCESCA AQUILA, DET.	:	
ROCCO DUARDO, DET. JOSEPH	:	
GONZALES, DET. LT. SCOTT SYBEL,	:	
ABC CORP. 1-3 (Name hereby fictitious),	:	
JOHN DOES 1-10 (Name being hereby	:	
fictitious),	:	
	:	
Defendant(s)	:	

Plaintiff, Ibn Sharif, by his attorney, Nathaniel Davis, Esq., of the firm Nathaniel M. Davis, Esq., complains of defendants, City of Hackensack, City of Hackensack Police Department, Capt. Francesca Aquila, Det. Rocco Duardo, and Det. Joseph Gonzales, ABC Corp. 1-3, John Doe 1-3, and Richard Roe 1-3 hereinafter referred to as "defendants", and allege as follows:

INTRODUCTION

1. This lawsuit arises out of a false arrest and detention by defendants, City of Hackensack, City of Hackensack Police Department, Capt. Francesca Aquila, Det. Roco Duardo, Det. Joseph Gonzalez, and John Doe 1-10. The Plaintiff was caused to be incarcerated for several days in the Bergen County Jail due to a false arrest and false detention.

2. The lawsuit seeks damages for false arrest and false detention in violation of the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendment to the United States Constitution.

JURISDICTION AND VENUE

3. 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.
4. The jurisdiction of this court is invoked under the provisions of Title 28 of the United States Code, Sections 1331 and 1343.
5. 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.
6. Venue of this action is proper under 28 USC § 1391(b) because it is where the Plaintiff resides.

PARTIES

7. Plaintiff, Ibn Sharif, is and at all times mentioned was a legal resident of the United States of America, and resident of the State of New Jersey.
8. Upon information and belief, and at all times hereinafter mentioned, plaintiff, Ibn Sharif, hereinafter referred to as "Plaintiff".
9. At all times hereinafter mentioned, the defendant, City of Hackensack, is a municipality in the State of New Jersey which employed the defendants, Capt. Francesca Aquila, Det. Rocco Duardo, Det. Joseph Gonzales, and Det. Lt. Scott Sybel, and is the supervising entity of the City of Hackensack Police Department.

10. At all times hereinafter mentioned, the defendant, City of Hackensack Police Department, was the law enforcement department of the defendant, City of Hackensack, and employed the defendants, Capt. Francesca Aquila, Det. Rocco Duardo, Det. Joseph Gonzales, and Det. Lt. Scott Sybel.
11. At all times hereinafter mentioned, the defendant, Captain Francesca Aquila, was employed as a captain in the Hackensack Police Department. Defendant is sued in his individual and official capacity.
12. At all times hereinafter mentioned, the defendant, Det. Rocco Duardo, was employed as a Detective in the Hackensack Police Department. Defendant is sued in his individual and official capacity.
13. At all times hereinafter mentioned, the defendant, Det. Joseph Gonzalez, was employed as a Detective in the Hackensack Police Department. Defendant is sued in his individual and official capacity.
14. At all times hereinafter mentioned, the defendant, Det. Lt. Scott Sybel, was employed as a Detective in the Hackensack Police Department. Defendant is sued in his individual and official capacity.
15. Defendants, ABC Corp. 1-10, are entities owned and/or operated by the City of Hackensack and/or its police department.
16. Defendants, John Doe 1-10, are persons employed by the City of Hackensack and/or, its police department. Defendants, John Doe 1-10, are sued in their individual and official capacities.
17. 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

18. On or about March 15, 2016, at approximately 6:00 p.m., Plaintiff was arrested by the defendants, Det. Rocco Duardo and Det. Lt. Scott Sybel based on three outstanding warrants regarding possession of cocaine and distribution of cocaine.

19. The Plaintiff claims that the allegations which caused him to be arrested were false and as such the Plaintiff was falsely arrested and detained by the defendants.

20. It was alleged that on March 15, 2016, that the defendants, Det. Gonzalez and Det. Duardo, engaged in an undercover purchase with the Plaintiff in which the Plaintiff is accused of selling cocaine to the defendant, Det. Gonzalez.

21. It was alleged that on April 12, 2016, that the defendants, Det. Gonzalez and Det. Duardo, engaged in an undercover purchase with the Plaintiff is accused of selling cocaine to the defendant, Det. Gonzalez.

22. It was alleged that on May 11, 2016, that the defendants, Det. Gonzalez and Det. Duardo, engaged in an undercover purchase with the Plaintiff is accused of selling cocaine to the defendant, Det. Gonzalez.

23. The Plaintiff was charged with selling cocaine to an undercover officer contrary to the provisions of N.J.S.A. 2C:35-5(a)(1) and N.J.S.A. 2C-5(b)(3), knowingly or purposely possess a controlled dangerous substance in violation of N.J.S.A. 2C:35-10a(1) on the various days the alleged sales took place.

24. Subsequent to the arrest, the Bergen County Prosecutors Office dismissed the charges against the Plaintiff due to serious concerns about the credibility of the defendants, Det. Gonzalez, Det. Duardo, and Det. Lt. Scott Sybel.

25. The defendants, Det. Gonzalez, Det. Duardo, and Det. Lt. Scott Sybel, are accused of engaging in misconduct as police officers in regard to their actions as police officers in regard to another matter in which they allegedly broke into an apartment without a warrant.

26. As a result of the misconduct, the defendant police officers, Det. Gonzalez and Det. Duardo, were placed on administrative leave. The defendant, Det. Lt. Sybel, retired from the police force.

27. Plaintiff alleges that he was wrongfully arrested by the defendants in the herein matter.

COUNT I

FALSE ARREST AND FALSE IMPRISONMENT

28. Plaintiff has a clearly established right under the Fourth and Fourteenth Amendments to the U.S. Constitution to be free from unreasonable seizure of his person, a right that the defendants Det. Gonzalez, Det. Duardo and Det. Lt. Sybel violated by handcuffing Plaintiff and arresting him without probable cause or reasonable belief that Plaintiff was committing a crime.

29. Defendant, City of Hackensack, City of Hackensack Police Department, and Capt. Francesca Aquila, is responsible for the violation of Plaintiff's constitutional rights because defendants, Det. Gonzalez, Det. Duardo and Lt. Det. Sybel, actions resulted from the City's deliberate indifference to a custom, pattern, practice, or policy of allowing officers to retaliate against individuals for their expressive conduct in recording police undertaking their official.

COUNT II

MALICIOUS PROSECUTION

28. Plaintiff has a clearly established right under the Fourth and Fourteenth Amendments to the U.S. Constitution to be free from unreasonable seizure of his person. Defendants, Det. Duardo, Det. Gonzales, and Lt. Det. Sybel violated his rights when the defendants initiated a

criminal proceeding against Plaintiff in the absence of any probable cause to believe that Plaintiff had committed a crime.

29. The charges against Plaintiff were later terminated in his favor.

30. Defendant's, Det. Duardo, Det. Gonzales, and Lt. Det. Sybel, pursued this prosecution of Plaintiff with malice in retaliation for Plaintiff engaging in constitutionally protected activity, and without any probable cause or reasonable basis for believing that Plaintiff violated a criminal statute.

31. Defendant, City of Hackensack, City of Hackensack Police Department, and Capt. Francesca Aquila, is responsible for the violation of Plaintiff's constitutional rights because defendant Det. Duardo, Det. Gonzales, and Lt. Det. Sybel actions resulted from the City's deliberate indifference to a custom, pattern, practice, or policy of allowing officers to arrest and charge individuals.

COUNT III

MONNELL CLAIM PURSUANT TO 42 U.S.C 1983 IN REGARD TO FAILURE TO SUPERVISE AND TRAIN, AND HIRE

32. Plaintiffs incorporate fully all of the foregoing as if set forth herein

33. At the time of the conduct complained of the defendant, City of Hackensack, City of Hackensack Police Department, and Capt. Francesca Aquila as policymakers had in force and effect a policy, practice and custom of coercing witnesses and conducting unsanctioned investigations with confidential informants; failing to investigate crimes adequately, and fabricating evidence in investigations.

34. The final policymakers of the City of Hackensack, City of Hackensack Police Department, and Capt. Francesca Aquila as the policy makers had actual or constructive

knowledge of these unconstitutional practices yet failed to take any reasonable or adequate steps to remedy them.

35. These policies, customs, and practices led City of Hackensack police officers, including the individual defendants, to believe that misconduct would be tolerated and that allegations of abuse of constitutional rights would not be investigated.

36. This pattern made it foreseeable that officers would violate people's constitutional rights in precisely the manner the defendants, Ibn Sharif, rights were violated, and the City, through its final policymakers were deliberately indifferent to this risk.

37. These policies, customs, and practices of the City of Hackensack Police Department as described in this complaint, were the moving force behind Plaintiff's false arrest.

38. As a result, Plaintiff suffered the injuries set forth below.

COUNT IV

Monell Claim Against Defendant City for Unconstitutional Discipline, Training and Supervision of Police Officers

39. Plaintiffs incorporate fully all of the foregoing as if set forth herein and further allege

40. At the time of the complained of incident, defendant, City of Hackensack, City of Hackensack Police Department had a policy, custom, or practice of failing to properly discipline, supervise, and train City of Hackensack police officers including the individual Defendants in this case in the proper way to conduct investigations and utilize confidential informants.

41. The City of Hackensack, City of Hackensack Police Department, and Capt. Francesca Aquila, failed to ensure that its police officers would conduct constitutionally adequate investigations; obtain probable cause to ensure that suspects would not be falsely arrested and maliciously prosecuted; and never fabricate inculpatory evidence.

42. The final policymakers of the City of Hackensack, City of Hackensack Police Department, and Capt. Francesca Aquila had actual or constructive knowledge of these unconstitutional practices yet failed to take any reasonable or adequate steps to remedy them.

43. These policies, customs, and practices led City of Hackensack police officers including the Defendant police officers to believe that misconduct would be tolerated and that allegations of abuse of constitutional rights would not be investigated. This pattern made it foreseeable that officers would violate people's constitutional rights, in precisely the manner Ibn Shariff's rights were violated, and the City of Hackensack, City of Hackensack Police Department, and Capt. Francesca Aquila through its final policymakers, was deliberately indifferent to this risk.

44. These policies, customs, and practices of the City of Hackensack Police Department as described in this complaint, were the moving force behind Ibn Shariff's false arrest and malicious prosecution.

45. As a result, Plaintiff suffered the injuries set forth below

COUNT V

VIOLATION OF NEW JERSEY CONSTITUTION

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

47. By the aforementioned acts of defendants, City of Hackensack, City of Hackensack Police Department, and Capt. Francesca Aquila and the individual police officers 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.

48. The defendants, City of Hackensack, City of Hackensack Police Department, and Capt. Francesca Aquila, knew or should have known about the lack of training and supervision of corrections 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.

49. At all relevant times, the Plaintiff was in the care, custody and/or control of all Defendants, all of whom had a duty to safeguard Plaintiff's civil rights.

50. At all times relevant hereto, all Defendants were acting under color of state law and with deliberate and/or reckless indifference to the reasonably foreseeable and/or known.

ALLEGATIONS

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

52. By reason of the above premises plaintiff, Ibn Shariff, is entitled to damages.

53. Plaintiff, Ibn Shariff, has incurred attorneys' fees and other expenses in defending himself against defendant's malicious and unreasonable conduct.

54. Defendant acted maliciously and with the intent to injure Plaintiff.

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

56. 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, Ibn Shariff, requests that this Court:

- (1) Accept jurisdiction over the parties;
- (2) Empanel and charge a jury with respect to this action;
- (3) Award to plaintiff, Ibn Sharif, 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, Ibn Sharif, any other relief deemed necessary, just and proper.

Dated: December 4, 2017

Respectfully submitted,

/s/ Nathaniel Davis

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