

INTRODUCTION

1. This action for declaratory, injunctive, monetary and other appropriate relief is brought by Plaintiff to redress the intentional violations by Defendants of the rights secured by him by the laws of the United States of America and State of New Jersey.

JURISDICTION

2. This action is brought pursuant to 42 U.S.C. § 1983 and the Fourth Amendment to the United States Constitution. Jurisdiction is founded on 28 U.S.C. §§ 1331 and 1343(3) and the aforementioned statutory and constitution provision.

3. Jurisdiction lies over state and law claims based on the principals of supplemental jurisdiction, as codified at 28 U.S.C. § 1367.

4. The amount of controversy exclusive of interest and costs exceeds the sum of One Hundred Thousand Dollars (\$100,000.00).

VENUE

5. All the claims herein arose within the jurisdiction of the United States District Court of New Jersey and involve Defendants who reside within the jurisdictional limits. Venue is accordingly invoked pursuant to the dictates of 28 U.S.C. § 1391(b) and (c).

PARTIES

6. Plaintiff, Zachary A. Rohan, is an adult individual citizen of the State of New Jersey and resides at the above address. (Hereinafter referred to as "Plaintiff").

7. Defendant Borough of Harvey Cedar is a municipality, organized by and through the State of New Jersey. ("Borough").

8. Defendant Police Officer Brian Smith ("Defendant Smith") is a Borough police officer employed by and the agent of the Borough. Defendant Smith is sued in his individual and official capacities.

9. Defendant John Doe(s) are municipal and individual Defendants unidentified at this time. Specifically, Officer Smith and/or one John Doe, or the named Defendants, jointly or separately, are responsible for the injuries to Plaintiff. (Defendants Smith and John Doe(s) may collectively be referred to as (the "individual Defendants").

FACTS

10. On or about July 20, 2011, Plaintiff was lawfully at a concert in Defendant Borough.

11. While at the concert, Plaintiff was picked up and tossed about by a number of concert goers.

12. The carrying of Plaintiff resulted in disorientation.

13. As a result of his disorientation, Plaintiff came under the custody and control of the Defendant Borough police department and the individual Defendants.

14. As Borough police, including Defendants Smith and Officers John Does(s) attempted to handcuff Plaintiff, one or more of the individual Defendants, struck Plaintiff across the left arm with either an object or a body part with such force as to fracture and/or shatter his arm.

15. The actions of the individual Defendants and Defendant Borough's police officers were unlawful, in violation of the United States Constitution, the New Jersey Constitution and State law.

16. The actions of Defendant officers were excessive use of force under the circumstances.

17. As a result of the wrongful excessive force of Defendants, Plaintiff has suffered a fractured arm and other injuries.

COUNT I

42 U.S.C. § 1983 – EXCESSIVE FORCE

(Plaintiff v. Defendant Police Officer Smith and Officers John Doe(s))

18. Plaintiff adopts and incorporates Paragraphs 1 through 8 herein as if set forth at length.

19. Defendant Police Officer Smith and John Doe used excessive force thereby violating Plaintiff's rights under the laws of the Constitution of the United States, in particular the 4th and 14th Amendments and his rights under the Constitution laws of New Jersey.

20. Without any justification or provocation, Defendant Smith and John Doe(s) willfully and maliciously caused Plaintiff to suffer injuries which resulted in a fractured arm and other injuries.

21. The actions committed by Defendant officers constitute intentional misconduct, excessive use of force and deliberate indifference to Plaintiff which caused previously described injuries, in violation of his constitutional rights as previously set forth in the above paragraphs.

WHEREFORE, Plaintiff demands judgment against Defendant Police Officer Smith and Officers John Doe in an amount in excess of \$100,000.00, plus interest, costs, attorney's fees and punitive damages.

COUNT II
BATTERY

(Plaintiff v. Defendant Police Officer Smith and Officers John Doe(s))

22. Plaintiff adopts and incorporates Paragraphs 1 through 12 herein as if set forth at length.

23. Defendant Officers, without provocation, justification, permission or cause, did commit battery upon the person of Plaintiff.

24. As a direct result of Defendants' battery, Plaintiff suffered the injuries aforesaid.

WHEREFORE, Plaintiff demands judgment against Defendant Police Officer Smith and Officers John Doe in an amount in excess of \$100,000.00 plus interest, costs, attorney's fees and punitive damages.

COUNT III
ASSAULT

(Plaintiff v. Defendant Police Officer Smith and Officers John Doe(s))

25. Plaintiff adopts and incorporates Paragraphs 1 through 16 herein as if set forth at length.

26. Defendant, without provocation, justification, permission or cause, did commit assault upon the person of Plaintiff as aforesaid.

27. As a direct result of Defendants' assault, Plaintiff suffered the injuries aforesaid.

WHEREFORE, Plaintiff demands judgment against Defendant Police Officer Smith and Officers John Doe in an amount in excess of \$100,000.00 plus interest, costs, attorney's fees and punitive damages.

COUNT IV
VIOLATIONS OF 42 U.S.C. § 1983 FAILURE TO TRAIN
(Plaintiff v. Defendant Borough)

28. Plaintiff adopts and incorporates Paragraphs 1 through 19 as set forth herein at length.

29. Defendant Borough failed to properly train and supervise Defendant Officer Smith and Officers John Doe.

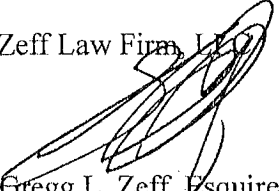
30. As such Defendants were grossly negligent, deliberately indifferent and reckless with respect to the potential violations of constitutional rights.

31. Defendant Borough and Defendant's police chief were the moving force behind the actions of Defendant Police Officer Smith and John Doe(s) resulting in the injuries to Plaintiff.

32. Defendants' policies, practices and/or customs, caused Defendants Police Officer Smith and Officers John Doe to believe that they could violate the constitutional rights of Plaintiff with impunity and with tacit approval of Defendant borough. Defendant borough's policies, customs and/or practices were a direct proximate cause of the injuries suffered by Plaintiff.

WHEREFORE, Plaintiff demands judgment against Defendant Police Officer Smith and Officers John Doe in an amount in excess of \$100,000.00 plus interest, costs, attorney's fees and punitive damages.

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