

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JOSEPH BAHGAT,
Plaintiff

V.

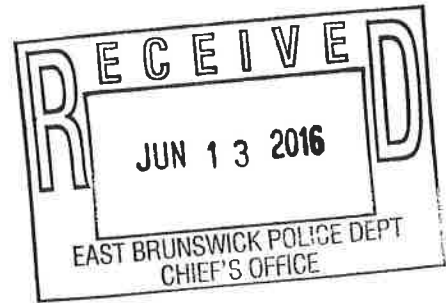
SUMMONS IN A CIVIL CASE

TOWNSHIP OF EAST BRUNSWICK, ET
AL.,
Defendant

CASE
NUMBER: **3:16-CV-01827-PGS-LHG**

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

Township of East Brunswick Police Department
c/o Chief James Conroy
East Brunswick Municipal Building
1 Jean Walling Civic Center Drive
East Brunswick, NJ 08816



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

Kim Stillman
(By) DEPUTY CLERK



ISSUED ON 2016-04-01 11:17:10, Clerk
USDC NJD

RETURN OF SERVICE		
Service of the Summons and complaint was made by me(I)	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 _____		

BAHGAT & BAHGAT LLC
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New Brunswick NJ 08901-1269
732 733 2385
joe@hubcitylawgroup.com
Counsel for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
NEWARK VICINAGE

JOSEPH BAHGAT,

Plaintiff;

vs.

**TOWNSHIP OF EAST BRUNSWICK,
EAST BRUNSWICK POLICE
DEPARTMENT, ACTING CHIEF
WILLIAM KRAUSS JR., LIEUTENANT
ALAN QUERCIA, LIEUTENANT KEVIN
F. ZEBRO, PATROLMAN MICHAEL
TOTA, DOES 1-25** (unidentified police
officers and employees of East
Brunswick Township), **STATE OF
NEW JERSEY MOTOR VEHICLE
COMMISSION, RAYMOND P.
MARTINEZ, DIRECTOR, DOES 1-25**
(unidentified employees of New Jersey
Motor Vehicle Commission), and
LAWRENCE B. SACHS,

Defendants.

COMPLAINT

with Jury Demand

Plaintiff, Joseph Bahgat complains against the within defendants saying that:

1. This is an action against the Township of East Brunswick, New Jersey, for compensatory and punitive damages for violations of plaintiff's constitutional and civil rights, for wrongful arrest, malicious prosecution, and failure to train and supervise, constituting a deliberate indifference to plaintiff's constitutional rights and leading directly to the aforesaid violations, and against the New Jersey Motor Vehicle Commission, for negligence, gross negligence, and/or recklessness resulting in plaintiff's aforesaid wrongful arrest.

2. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 because this matter is brought pursuant to 42 U.S.C. § 1983. This Court has supplemental jurisdiction over plaintiff's state law claims pursuant to 28 U.S.C. § 1367(a).

3. Venue is proper in this judicial district is because, upon information and belief, all defendants either reside in or are located in the district, and all events took place in the district.

4. Plaintiff complied with the provisions of the New Jersey Tort Claims Act, N.J.S.A. § 59:1-1 *et seq.*, by filing a timely Notice of Claim on June 30, 2014.

THE PARTIES

5. Plaintiff is a citizen of the United States, and the state of New Jersey, residing in Middlesex County.

6. Defendant Township of East Brunswick is a municipality in Middlesex County, New Jersey, having its principal offices and police headquarters at 1 Jean Walling Civic Center Drive, East Brunswick, New Jersey 08816. The motto of the East Brunswick Police Department is "Serving the community with integrity, pride and professionalism."

7. At all times relevant, William Krause Jr. was employed by the township as its acting chief of police and public safety director.

8. At all times relevant, Lieutenant Alan Quercia was employed by the Township of East Brunswick Police Department as a day shift/desk supervisor.

9. At all times relevant, Lieutenant Kevin F. Zebro was employed by the Township of East Brunswick Police Department as an officer charged with directing its internal affairs office.

10. At all times relevant, defendant Michael Tota was employed by the Township of East Brunswick Police Department as a patrol officer; upon information and belief, Tota is a resident of Middlesex County, New Jersey, residing at 235 Matchaponix Avenue, Monroe Township, New Jersey. Tota is sued individually and in his official capacity.

11. Defendant State of New Jersey Motor Vehicle Commission is a state agency charged with regulating licensure of drivers and vehicles in New Jersey in accordance with N.J.S.A. Title 39 (New Jersey Motor Vehicle Code). MVC's headquarters is in Trenton, New Jersey.

12. MVC's mission statement is: "To promote motor vehicle safety for our citizens by delivering secure, effective and professional motor vehicle services, and to achieve public trust and confidence in the quality and integrity of those services," which it pledges to achieve using its stated "core values" of professionalism, integrity, respect, creativity, and accountability. Indeed, MVC claims: "We are accountable for what we say and do. We say what we mean and do what we say."

13. At all times relevant, defendant Raymond P. Martinez was the chief administrator of MVC. Martinez is sued in his official and individual capacities.

14. At all times relevant, Lawrence B. Sachs was an attorney-at-law of the state of New Jersey, and serving as municipal prosecutor for the Township of East Brunswick by special appointment; upon information and belief, Sachs has a private law office located at 516 State Highway 33, Suite 103, Millstone Township, New Jersey 08535.

15. The true names and/or capacities of East Brunswick Township employees and police officers Does 1-25 are presently unknown to the plaintiff; those individuals are therefore sued by fictitious names. When the true names and/or capacities of these defendants are ascertained, plaintiff will seek leave of court to amend the complaint accordingly.

16. Upon information and belief, plaintiff alleges that each Doe Defendant was in some way responsible, negligently, or in some other actionable manner, for the events and happenings described herein, which proximately caused the damages to the plaintiff, either through the defendants' own negligence, policies, practices, procedures, etc., or through their conduct as agents, servants, employees, or representatives of the other named and unnamed defendants.

17. At all relevant times, each defendant acted under color of law and pursuant to the statutes, ordinances, regulations, policies, and customs of the Township of East Brunswick, and the State of New Jersey.

FACTUAL BACKGROUND

18. Plaintiff earned his bachelor's and master's degrees from Rutgers, The State University of New Jersey in 2001 and 2004 respectively. After graduating from Rutgers with honors in June 2004, plaintiff moved to Columbus, Ohio to study law at The Ohio State University College of Law. Plaintiff finished his legal studies early after being offered, and accepting a judicial clerkship at the Ohio

Court of Appeals, which began on Feb. 9, 2007. Plaintiff was later awarded a juris doctor with honors, and then took and passed the July 2007 Ohio Bar examination.

19. In February 2008, plaintiff took and passed the New Jersey Bar examination.

20. At the conclusion of plaintiff's appellate clerkship term in January 2009, he was offered a permanent position as a staff attorney. During his tenure as an appellate clerk and staff attorney, plaintiff drafted more than four dozen judicial opinions, including a nationally publicized employment appeal of a \$2.5M verdict against The Ohio State University, collateral review of a capital case, and several multimillion-dollar construction delay cases. Plaintiff also chaired the court's committee for environmental responsibility, and served as the agency's liaison to the county task force created to evaluate local government consumption of energy, and natural and man-made resources, and develop and implement policy designed to reduce environmental impact.

21. Plaintiff ultimately wanted to move back to New Jersey, and build a law practice there, which he started in 2010, when he moved to East Brunswick.

22. Soon after moving to New Jersey, plaintiff established himself in the emerging field of Internet law, which includes counseling small businesses and creative professionals in the areas of intellectual property protection & licensing, identity branding, and, of course, Internet disputes.

23. Plaintiff also got involved with several public interest projects, including service on the board of trustees to the New Brunswick Jazz Project, as a volunteer firefighter in East Brunswick, and as deputy public defender in the Borough of Jamesburg Municipal Court

24. Plaintiff was already familiar with New Jersey's motor vehicle laws, but gained an even greater knowledge working as a public defender. Public defenders are typically not appointed for routine traffic violations, only for the more serious violations, which carry a possible consequence of magnitude; as a result, plaintiff was extremely well versed with New Jersey's drivers' license suspension statute (N.J.S.A. § 39:3-40), which was routinely at issue for his public defender clients.

THE APRIL 1, 2014 INCIDENT

25. On the afternoon of April 1, 2014, plaintiff was driving home from the Somerset County Courthouse, where he'd been most of the day to argue a motion in criminal court.

26. While plaintiff was stopped at a red light at the corner of Ryders Lane and Dunhams Corner Road, he observed a marked police cruiser in his rear view mirror, which stopped behind him. When the light turned green, plaintiff proceeded to turn left onto Dunhams Corner Road, which is when the police cruiser's lights were activated. Plaintiff thought the cruiser needed to pass him, so he moved over to the shoulder as quickly as possible, but he was surprised when the cruiser parked behind his vehicle, instead of passing.

27. Eventually, plaintiff was approached by Patrolman Michael Tota, who immediately began to interrogate plaintiff about where he had been, and where he was going. Plaintiff was dressed professionally, in a two-piece, blue suit, with a crisply-pressed white dress shirt, and a tie. Throughout this interrogation, Tota never asked about plaintiff's driver's license, insurance, or vehicle registration, but eventually he told plaintiff that he pulled him over because his driver's license was suspended.

28. Plaintiff knew that his license was *not* suspended, but was aware of the possibility of a records error at MVC, which related to an old parking ticket that had been dismissed. Just to be sure there were no misunderstandings, plaintiff had documentation from New Brunswick Municipal Court proving that the ticket had been dismissed, and that his license was not suspended pursuant to the ticket. But Tota refused to look at plaintiff's documents. After returning from his cruiser, Tota instructed plaintiff to exit his vehicle, because it was being impounded. At that point plaintiff had been on the phone with the New Brunswick Municipal Court and police, both of which confirmed that plaintiff's license was valid, and had faxed copies of the disposition to East Brunswick Police headquarters, and to MVC, with a copy to plaintiff.

29. Plaintiff pleaded with Tota to check the documentation, and to call headquarters to confirm that a fax was received proving that plaintiff's license was not suspended. Tota refused, and instead called for additional police personnel to assist him with plaintiff's arrest and seizure. When using his police radio, Tota made a derogatory remark about plaintiff being an attorney, and said he needed backup to assist him.

30. Tota charged plaintiff with violation of N.J.S.A. § 39:3-40 for driving during a period of suspension imposed for purportedly failing to appear in New Brunswick Municipal Court to answer to a parking ticket, which had been dismissed a few months earlier. Plaintiff pointed out to Tota that even if his license was suspended, the officer was exceeding his authority and discretion because Subsection (i) of the statute carves out an exception for any license suspension that is the result of a parking ticket (as opposed to a moving violation such as DWI), and makes the maximum penalty a \$100 fine, that no arrest or seizure was

lawful under the present circumstances, even if they were as the officer said they were (which they were not).

31. Plaintiff's neighbor, New Brunswick Police Lieutenant Michael Yurkovic came to East Brunswick Police Headquarters to get plaintiff and a release for plaintiff's vehicle, and also hand-delivered a copy of the order from the New Brunswick Municipal Court proving that plaintiff's license was never suspended. East Brunswick refused to dismiss the charges against plaintiff, and refused to release his vehicle without bond. After finally releasing plaintiff's vehicle to Lt. Yurkovic's custody, the Lt. Alan Quercia warned plaintiff that he would be arrested if seen driving the vehicle again.

32. A few weeks later plaintiff appeared in East Brunswick Municipal Court for arraignment, during which he made a motion to dismiss. Instead of ruling on plaintiff's motion, however, the court transferred the case to South River Borough.

33. Lawrence Sachs was the municipal prosecutor assigned to prosecute the charges against plaintiff in the Borough of South River Municipal Court. Plaintiff presented Sachs with documentation proving that the charges against him could not be sustained as a matter of law. Sachs offered to dismiss the charges against plaintiff on the condition that plaintiff agree not to bring a civil action against the defendants. Plaintiff refused Sachs' blackmail attempt, and instead re-filed his motion to dismiss with the municipal court administrator in South River Borough.

34. Sachs never filed any opposition to plaintiff's motion, but instead made several attempts to prevent the motion from being heard (and granted). Ultimately, however, the motion to dismiss had good grounds, and the municipal court dismissed all charges against plaintiff, after finding that there was insufficient

evidence to prosecute. The charges against plaintiff were finally dismissed on or about Sept. 23, 2014.

FIRST COUNT
WRONGFUL ARREST & SEIZURE, AND MALICIOUS
PROSECUTION
(Against East Brunswick, Tota, Sachs)

35. Plaintiff restates and incorporates by reference the allegations and facts set forth above as if fully re-written herein.

36. On April 1, 2014, defendants unlawfully stopped plaintiff's vehicle, and made complaints falsely accusing the plaintiff of driving while suspended, in violation of N.J.S.A. § 39:3-40.

37. These charges were brought, and plaintiff's arrest/detainment, seizure and subsequent prosecution were commenced and instituted by defendants maliciously, and without basis or probable cause, with the deliberate intent to harm the plaintiff.

38. Said charges against plaintiff were dismissed for lack of probable cause and/or lack of evidence.

39. As a result of plaintiff's wrongful arrest and malicious prosecution by the defendants, plaintiff suffered both monetary and non-monetary damages, was injured in body and mind, prevented from following his customary pursuit and occupation, has suffered greatly in his character and reputation, and was required to obtain counsel in his defense.

SECOND COUNT
MONELL CLAIM FOR UNCONSTITUTIONAL OFFICIAL
POLICY UNDER 42 U.S.C. § 1983
(Against Motor Vehicle Commission and East Brunswick)

40. Plaintiff restates and incorporates by reference the allegations and facts set forth above as if fully re-written herein.

41. The defendants, by and through its policy makers, failed to ensure through custom, policy, and/or practice that its officers and employees were trained in fundamental law enforcement procedures and protocol relative to arrest, search and seizure and principles of liability, justification, consent, and *de minimis* infractions as set forth in the New Jersey Code of Criminal Justice, N.J.S.A. § 2C:1-1 *et seq.*

42. The failure to address the foregoing issues through training and supervision and to reasonably anticipate the foreseeable events of April 1, 2014, constituted deliberate indifference to the constitutional rights of all citizens, including plaintiff, who was simply driving home from work, before being ambushed by the impulsive and indiscriminate actions by its officers, who then deliberately misapplied the applicable law as set forth herein.

43. The aforementioned lack of training and supervision represents a systematic failure, and a custom and policy of the New Jersey Motor Vehicle Commission, Township of East Brunswick, and East Brunswick Police Department, which led directly to the wrongful arrest, seizure, and malicious prosecution of plaintiff, in violation of his constitutional rights.

THIRD COUNT
SUPERVISORY LIABILITY UNDER 42 U.S.C. § 1983
(Against Motor Vehicle Commission, East Brunswick,
Acting Chief Krause, Lt. Quercia)

44. Plaintiff restates and incorporates by reference the allegations and facts set forth above as if fully re-written herein.

45. The defendants, state actors, acting deliberately, recklessly, and under color of law were, at all relevant times, supervisors in the police department and MVC, with oversight responsibility for training, hiring, screening, instruction, supervision, and discipline of its officers including patrolman Michael Tota, and the unidentified officers and agents or state employees who acted in concert to deprive plaintiff of his constitutional rights.

46. Defendants negligently failed to train its officers, agents, and employees in fundamental law enforcement procedures and protocol relative to arrest, search and seizure, accurate record keeping, preservation of evidence, verification of records, and the principles of liability, justification, consent, and *de minimis* infractions under the New Jersey Code of Criminal Justice, N.J.S.A. § 2C:1-1 *et seq.*

46. The failure of the defendants to address the foregoing issues through training, supervision, and/or discipline, and to anticipate the reasonably foreseeable events of April 1, 2014, led directly to plaintiff's wrongful arrest and prosecution.

FOURTH COUNT

NEGLIGENCE

(Against Motor Vehicle Commission)

47. Plaintiff restates and incorporates by reference the allegations and facts set forth above as if fully re-written herein.

48. Defendant New Jersey Motor Vehicle Commission owed plaintiff a duty of care to keep accurate records, and to not falsely report information that could lead a law enforcement agency to wrongfully detain, arrest, and/or seize plaintiff or his vehicle.

49. Defendant breached the duty of care owed to plaintiff by keeping inaccurate records erroneously stating that his driver's license was suspended, and by providing false information about plaintiff's driving history and/or status to East Brunswick Police Department Patrolman Tota in April 1, 2014.

50. Defendant further breached the duty of care it owed to plaintiff by failing to update its records in a timely manner, after receiving written notification from plaintiff and New Brunswick Municipal Court that its data was erroneous.

51. As a direct and proximate result of defendant's breach(es) of duty, suffered both monetary and non-monetary damages as a result of being wrongfully stopped by police just a few blocks from his home, causing him public humiliation and embarrassment, and causing him to be unlawfully detained and have his property unlawfully seized by police.

FIFTH COUNT
NEGLIGENT MISREPRESENTATION
(Against Motor Vehicle Commission)

52. Plaintiff restates and incorporates by reference the allegations and facts set forth above as if fully re-written herein.

53. On April 1, 2014, unidentified agents or employees of defendant Motor Vehicle Commission voluntarily provided to East Brunswick Police false and inaccurate information about plaintiff's driving history/status.

54. At all relevant times, said agents or employees of defendant were acting within the scope of their employment when they provided such false or inaccurate information about plaintiff.

55. The unlawful actions of East Brunswick Police, which directly led to plaintiff's seizure and damages, were solely attributed to and based upon the false and inaccurate information provided to them by the agents of defendant Motor Vehicle Commission.

56. As a direct and proximate result of defendant's misrepresentation(s), plaintiff suffered both monetary and non-monetary damages, was injured in body and mind, prevented from following his customary pursuit and occupation, has suffered greatly in his character and reputation, and was required to obtain counsel in his defense.

SIXTH COUNT
NEGLIGENT HIRING

(Against New Jersey Motor Vehicle Commission & East Brunswick)

57. Plaintiff restates and incorporates by reference the allegations and facts set forth above as if fully re-written herein.

58. At no time, either prior to employment of patrolman Tota, or to assignment of duties whereby it was foreseeable that he would be required to interact with members of the public and patrolling the public streets and highways, did defendants take reasonable steps to ascertain whether the officer(s) and employees were emotionally capable of performing such duties, and did not have a propensity towards inappropriate conduct and/or aggressive behavior towards public citizenry, including attorneys, whom they were likely to encounter in that setting.

59. As a direct and proximate result of the negligent employment and/or hiring by the defendants, plaintiff was subject to wrongful arrest and malicious prosecution and suffered severe and permanent injury in body and mind, preventing him from following his customary pursuit and occupation, and has suffered greatly in his credit and reputation and incurred a substantial deprivation of civil and constitutional rights.

SEVENTH COUNT

42 U.S.C. § 1983

(Against All Defendants)

60. Plaintiff restates and incorporates by reference the allegations and facts set forth above as if fully re-written herein.

61. Defendants, acting under color of state law, willfully, intentionally, knowingly, and concertedly deprived plaintiff of his rights, privileges and immunities secured by the United States Constitution, including the Fourth and Fourteenth Amendments by:

- a. Failing to keep accurate records of plaintiff's driving history and/or status, and falsely reporting that defendant's driver's license was suspended;
- b. Needlessly, wrongfully, and unreasonably subjecting plaintiff to a wrongful motor vehicle stop, and to be detained/arrested without probable cause;
- c. Unlawfully seizing and impounding plaintiff's vehicle;
- d. Falsely, maliciously, and without probable cause prosecuting plaintiff;
- e. Combining and conspiring to deprive plaintiff of his constitutionally protected rights;
- f. Denying plaintiff due process of law; and
- g. Implementing, maintaining, and tolerating policies, practices, and customs that resulted in the illegal actions proximately causing plaintiff's injuries as alleged.

62. These aforesaid actions are in violation of 42 U. S.C. § 1983, and the Constitution of the United States.

EIGHTH COUNT
VIOLATION OF NEW JERSEY CIVIL RIGHTS ACT
(Against All Defendants)

63. Plaintiff restates and incorporates by reference the allegations and facts set forth above as if fully re-written herein.

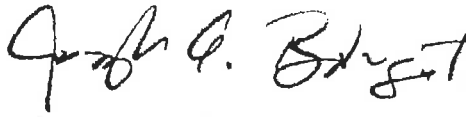
64. Defendants are liable under the New Jersey Civil Rights Act, N.J.S.A. § 10:6-2 *et seq.* for damages caused by their subjection of the plaintiff to the deprivation of rights and privileges secured by the Constitution of the United States, as well as substantive rights, privileges, or immunities secured by the New Jersey State Constitution, which directly and proximately resulted in plaintiff's wrongful stop, arrest/detainment, and seizure on April 1, 2014, and the subsequent malicious prosecution.

PRAYER FOR RELIEF

WHEREFORE plaintiff respectfully demands judgment against each defendant as follows:

- (a) for compensatory damages against all defendants, each of them jointly and severally, in an amount to be determined at trial;
- (b) where applicable, for punitive damages and exemplary damages against all defendants, each of them jointly and severally, in an amount to be determined at trial, sufficient to deter similar proscribed conduct by defendants in the future;
- (c) for reasonable attorney's fees, interest, and the costs of this action, pursuant to 42 U.S.C. § 1988;
- (d) and for any further relief that the Court deems appropriate.

Respectfully submitted,

By: 

Dated: 31-Mar-2016

Joseph A. Bahgat (006502008)

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all issues so triable.

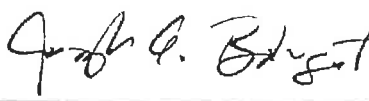
By: 

Dated: 31-Mar-2016

Joseph A. Bahgat (006502008)

CERTIFICATION PURSUANT TO LOCAL RULE 11.2

I certify that to the best of my knowledge, information, and belief, the within matter in controversy is not the subject of any other cause of action pending in any other court or arbitration proceeding, nor is any other cause of action or arbitration proceeding contemplated at this time. I further certify that there are no other parties about whom I am presently aware who should be joined in this action. In the event that during the pendency of this case, I become aware of any change as to any facts stated herein, I will file an amendment to this certification and serve a copy on all other parties or their attorneys who have appeared in said cause of action.

By: 

Dated: 31-Mar-2016

Joseph A. Bahgat (006502008)