

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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*B.H.*  
*S.F.*  
**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ DEC 15 2008 ★  
BROOKLYN OFFICE

KASEIM TRIPP,

Plaintiffs,

-against-

VERIFIED  
COMPLAINT AND  
DEMAND FOR  
A JURY TRIAL

THE CITY OF NEW YORK,  
N.Y.C. POLICE OFFICER  
SAMUEL DORISME, SHIELD #15609,  
AND N.Y.C. POLICE OFFICER  
"JOHN DOE", EACH SUED  
INDIVIDUALLY AND IN  
THEIR OFFICIAL CAPACITY,

**CV 08-5049**

**VITALIANO, J.**

Defendants.

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**POHORELSKY, M.J.**

1. This is an action for compensatory and punitive damages for violation of Plaintiff's rights under the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States, and violation of New York State law for false arrest and malicious prosecution, abuse of process and intentional infliction of emotional distress.

JURISDICTION

2. This action is brought pursuant to 42 U.S.C. § 1983. Jurisdiction is founded upon 28 U.S.C. § 1343. Plaintiff further invokes the pendent jurisdiction of this Court to hear and decide claims arising under state law pursuant to 28 U.S.C. § 1367. Venue is proper under 28 U.S.C. § 1391(b) in that all claims arose in this district.

## PARTIES

3. Plaintiff is a resident of Kings County, State of New York.

4. At all times hereinafter mentioned, the Defendant Police Officers were employees of the New York City Police Department (HEREINAFTER REFERRED TO AS "N.Y.P.D.") acting within the scope and authority of their employment. They are each sued individually and in their official capacity as New York City Police Officers.

5. The Defendant CITY OF NEW YORK, (HEREINAFTER REFERRED TO AS "City"), was a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York, and as such maintained the New York City Police Department and employed the individual Defendants sued herein.

6. That upon information and belief the City was responsible for the training of its police officers.

7. That at all times herein the defendant, City, was negligent in the hiring, training, supervision, discipline, retention and promotion of the agents, servants and/or employees of the N.Y.P.D.

8. That at all times mentioned herein the Defendant, City, knew or should have known of the discriminatory nature, bad judgment, and unlawful propensities of the officers involved in the violation of civil rights of the Plaintiff.

## FACTS

9. On or about January 2, 2008, at approximately 10:00 P.M., plaintiff was walking down the hallway of his apartment building carrying a bag of garbage to deposit it down the chute at the end of the hallway.

10. Plaintiff was wearing only his long johns and a t-shirt. He had on no shoes.

11. On his way to the room with the garbage chute, plaintiff passed by several individuals who were smoking marijuana.

12. Seconds after depositing the garbage down the chute, plaintiff was on his way back to his apartment when the elevator door opened and several New York City police officers exited.

13. One of the individuals who had been smoking ran down the hallway. An officer chased after that individual.

14. The other individuals were detained. Plaintiff, who was not with the other individuals, was told by the officers to remain where he was standing.

15. The other individuals were searched.

16. At one point, plaintiff's mother came out to see what all the commotion was about. She was told to mind her own business and go back inside.

17. Although the officers had no good faith basis to believe that plaintiff was smoking with the other individuals, he was arrested and charged with possession of marijuana.

18. Plaintiff spent approximately 8 hours in custody before being given a desk appearance ticket.

19. He was made to walk home about 30 city blocks without shoes or a jacket in the bitter cold at approximately 6:00 A.M.

20. In the Criminal Court Complaint and supporting documents, Officer Dorisme falsely claimed that he had seen plaintiff smoking the marijuana and hand it to another individual.

21. Plaintiff made numerous court appearances and repeatedly rejected a "marijuana ACD".

22. Plaintiff elected to go to trial.

23. A bench trial was held on August 6<sup>th</sup> and 7<sup>th</sup>, 2008. At trial, Officer Dorsime stated he had made these observations through the glass of the stairway door. Officer Dorisme also claimed the arrest was made on the 14<sup>th</sup> Floor, after walking down from the higher floors.

24. In fact, this arrest took place on the 16<sup>th</sup> floor, the top floor of the building, the floor on which plaintiff resides. Also, plaintiff testified that the officers came off of the elevator, not from the stairway.

25. Most significantly, at trial proof was offered by way of photographs and video footage that the location where the individuals were supposedly observed smoking marijuana was around the corner from the stairway, and not viewable from the stairway.

26. Plaintiff was acquitted by the trial judge.

27. Plaintiffs suffered emotional pain and economic injury as a result of this arrest and prosecution, including being delayed from entering the military.

FIRST CAUSE OF ACTION  
FOR VIOLATION OF CIVIL RIGHTS

28. Plaintiff reiterates and realleges the facts stated above as if stated fully herein.

29. As a result of their actions, Defendants, acting under "color of law", deprived Plaintiff of his right to freedom from deprivation of liberty and privacy without due process of law in violation of the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. § 1983.

30. Defendants subjected Plaintiff to these deprivations of her rights either maliciously or by acting with a reckless disregard for whether Plaintiffs' rights would be violated by their actions.

31. As a direct and proximate result of the acts of Defendants, Plaintiff suffered psychological and economic injuries, endured great pain and mental suffering, was deprived of his physical liberty.

AS FOR A SECOND CAUSE OF  
ACTION FOR VIOLATION OF CIVIL RIGHTS

32. Plaintiff reiterates and realleges the facts stated above as if stated fully herein.

33. Defendant City and Defendant N.Y.P.D., through the N.Y.C. Police Commissioner, as a municipal policymaker, in the hiring, training and supervision of the Defendants, have pursued a policy and custom of deliberate indifference to the rights of persons in their domain, and Plaintiff, violating Plaintiff's right to freedom from the use of excessive and unreasonable force and freedom from deprivation of liberty without due process of law in violation of the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States and 42 U.S.C. sec. 1983 and 42 U.S.C. sec. 1985.

34. As a direct and proximate result of the aforementioned policy and custom of deliberate indifference of Defendants City and N.Y.P.D., Defendants committed the unlawful acts referred to above and thus, Defendant City is liable for Plaintiff's injuries.

AS AND FOR A THIRD CAUSE OF ACTION  
FOR FALSE ARREST AND FALSE IMPRISONMENT

35. Plaintiff reiterates and realleges the facts stated above as if stated fully herein.

36. Plaintiff while lawfully in Brooklyn, New York, was arrested without just cause, provocation, probable cause, or any valid reason, by agents, servants and/or employees. This Defendant was employed by the Defendants City and N.Y.P.D., and was acting within the scope of his employment, "under color of law", and on behalf of his employers, Defendants City and N.Y.P.D.

37. As a result of the aforesaid occurrence, Plaintiff was caused to and did suffer the damages and injuries aforesaid. All Defendants are liable for said damage and injuries.

38. Plaintiff was falsely held and imprisoned for approximately 8 hours as a result of his false arrest.

39. This false imprisonment was perpetrated against Plaintiff by agents, servants and/or employees of the City and N.Y.P.D., and acting within the scope of their employment, "under color of law", and on behalf of their employer, City and N.Y.P.D.

40. As a result of the aforesaid occurrence, Plaintiff was caused to and did suffer the above damages and injuries. All Defendants are liable for said damages and injuries.

AS AND FOR A FOURTH CAUSE OF ACTION FOR  
ABUSE OF PROCESS AND MALICIOUS PROSECUTION

41. Plaintiff reiterates and realleges the facts stated above as if stated fully herein.

42. In instigating, ordering, validating, procuring and assisting in the arrest of Plaintiff, Defendant officer, acting within the scope of his employment, "under color of law", and on behalf of his employer, maliciously prosecuted Plaintiff without reasonable or probable cause and with full knowledge that the charges were false.

43. As a result of said abuse of process and malicious prosecution, plaintiff was compelled to come to court.

44. As a result of the aforesaid occurrence, Plaintiff was caused to and did suffer the damages and injuries aforesaid. All Defendants are liable for said damages.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays that this Court:

1. Enter a judgment that Defendants, by their actions, violated Plaintiff's rights under state law, and under the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States; and,

2. Enter a judgment, jointly and severally, against the Defendant officers and The City of New York for compensatory damages in the amount of One Million

(\$1,000,000.00) Dollars; and,

3. Enter a judgment, jointly and severally against each of the Defendant officers for punitive damages in the amount of Two Million (\$2,000,000.00) Dollars; and,

4. Enter an Order:

a) Awarding plaintiff's reasonable attorney's fees and litigation expenses pursuant to 42 U.S.C. § 1988;

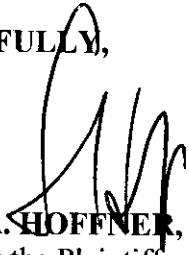
b) Granting such other and further relief which to the Court seems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury.

Dated: New York, New York  
November 28, 2008

**RESPECTFULLY,**



**STEVEN A. HOFFNER, ESQ.**  
Attorney for the Plaintiff  
325 Broadway, Suite 505  
New York, New York 10007  
(212) 941-8330  
(SH-0585)

VERIFICATION

**STEVEN A. HOFFNER**, an attorney admitted to practice in the Courts of the State of New York states:

That the affirmant is the attorney of record for the plaintiff in the within action.

That the affirmant has read the foregoing Complaint and knows the contents thereof.

That the same is true as to affirmant's knowledge, except as to matters therein alleged to be on information and belief, and as to those matters affirmant believes them to be true.

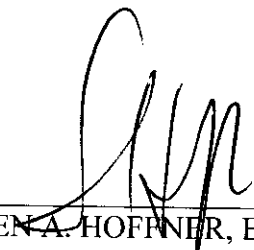
That the reason this verification is made by affirmant is because the plaintiff does not reside in the county wherein affirmant maintains his office.

That the grounds of my belief as to all matters not stated upon my own knowledge are as follows:

investigation, client conferences, and review of the file.

The undersigned affirms that the following statements are true, under the penalties of perjury.

Dated: New York, New York  
November 28, 2008

  
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STEVEN A. HOFFNER, Esq.  
(SH-0585)