

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 11/18/2023

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ILYA FELIKSOVICH IOSILEVICH, :
 : Plaintiff, :
 : :
v. :
 : :
WALMART, INC., et al., :
 : Defendants. :
-----X

ORDER
22 CV 4757 (VB)

On June 7, 2022, Plaintiff, proceeding pro se and in forma pauperis, commenced this action under 42 U.S.C. § 1983 alleging violations of his constitutional rights. (Doc. #2.)

On July 6, 2022, the Court entered an amended Order of Service which directed the New York State Police to assist plaintiff in identifying the John and Jane Doe troopers who assisted in his arrest. (Doc. #7).

By letter dated September 2, 2022, the Office of the New York Attorney General (“NYAG”) identified the John Doe defendant as State Trooper Sean Mallinson and the Jane Doe defendant as State Trooper Courtney Ramos. (Doc. #10).

On October 12, 2022, defendant Westchester County filed a motion to dismiss the complaint. (Doc. #12).

On October 20, 2022, the Court ordered counsel for defendant Walmart, Inc., to identify the two Jane Doe Walmart employees and provide such information to the plaintiff and the Court by November 21, 2022. The Court further ordered plaintiff to file an amended complaint naming the two Jane Doe defendants, as well as defendants Mallinson and Ramos, within 30 days of receiving this information from Walmart’s counsel. (Doc. #18).

By letter dated November 17, 2022, Walmart's counsel has now identified defendant "Jane Doe" as Genna Fraulo and defendant "Jane Doe a/k/a Biatriz" as Beatriz Leon Sharma. (Doc. #23).

Accordingly, it is HEREBY ORDERED:

1. **By December 19, 2022, plaintiff shall file an amended complaint.** Plaintiff shall use the amended complaint form attached to this Order.
2. The amended complaint must contain the full names of the John and Jane Doe defendants identified by the NYAG and the Jane Doe defendants identified by Walmart's counsel. The amended complaint shall include all factual allegations regarding all named defendants. The amended complaint shall also address any deficiencies made apparent by the fully briefed arguments in Westchester County's motion to dismiss.
3. **The amended complaint will completely replace, not merely supplement, the existing complaint. Therefore, plaintiff must include in the amended complaint all information necessary for his claims against all defendants.**
4. Once plaintiff has filed the amended complaint, the Court will screen the amended complaint and, if appropriate, issue an order directing the Clerk to issue summonses, complete the USM-285 forms with the service addresses of the newly-named defendants, and deliver to the U.S. Marshals Service all documents necessary to effect service.
5. **Westchester County's motion to dismiss (Doc. #12) is DENIED WITHOUT PREJUDICE,** pending the filing of the amended complaint.
6. All defendants' deadlines to respond to the complaint are stayed pending further Court order. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this

Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purposes of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

Chambers will mail a copy of this Order to the plaintiff at the address on the docket.

Dated: November 18, 2022
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read "Vincent L. Briccetti", written over a horizontal line.

Vincent L. Briccetti
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Write the full name of each plaintiff.

_____ CV _____
(Include case number if one has been assigned)

-against-

AMENDED

COMPLAINT

Do you want a jury trial?

Yes No

Write the full name of each defendant. If you need more space, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section II.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. BASIS FOR JURISDICTION

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation, and the amount in controversy is more than \$75,000, is a diversity case. In a diversity case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal-court jurisdiction in your case?

- Federal Question**
- Diversity of Citizenship**

A. If you checked Federal Question

Which of your federal constitutional or federal statutory rights have been violated?

B. If you checked Diversity of Citizenship

1. Citizenship of the parties

Of what State is each party a citizen?

The plaintiff, _____, is a citizen of the State of
(Plaintiff's name)

(State in which the person resides and intends to remain.)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of

_____.

If more than one plaintiff is named in the complaint, attach additional pages providing information for each additional plaintiff.

If the defendant is an individual:

The defendant, _____, is a citizen of the State of
(Defendant's name)

or, if not lawfully admitted for permanent residence in the United States, a citizen or
subject of the foreign state of

If the defendant is a corporation:

The defendant, _____, is incorporated under the laws of
the State of _____

and has its principal place of business in the State of _____

or is incorporated under the laws of (foreign state) _____

and has its principal place of business in _____.

If more than one defendant is named in the complaint, attach additional pages providing
information for each additional defendant.

II. PARTIES

A. Plaintiff Information

Provide the following information for each plaintiff named in the complaint. Attach additional
pages if needed.

First Name Middle Initial Last Name

Street Address

County, City State Zip Code

Telephone Number Email Address (if available)

B. Defendant Information

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. Attach additional pages if needed.

Defendant 1:

First Name	Last Name	
Current Job Title (or other identifying information)		
Current Work Address (or other address where defendant may be served)		
County, City	State	Zip Code

Defendant 2:

First Name	Last Name	
Current Job Title (or other identifying information)		
Current Work Address (or other address where defendant may be served)		
County, City	State	Zip Code

Defendant 3:

First Name	Last Name	
Current Job Title (or other identifying information)		
Current Work Address (or other address where defendant may be served)		
County, City	State	Zip Code

Defendant 4:

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

County, City

State

Zip Code

III. STATEMENT OF CLAIM

Place(s) of occurrence: _____

Date(s) of occurrence: _____

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and what each defendant personally did or failed to do that harmed you. Attach additional pages if needed.

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

IV. RELIEF

State briefly what money damages or other relief you want the court to order.

V. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

_____		_____	
Dated		Plaintiff's Signature	
_____		_____	
First Name	Middle Initial	Last Name	

Street Address			

County, City		State	Zip Code
_____		_____	
Telephone Number		Email Address (if available)	
_____		_____	

I have read the Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

Yes No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.