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★ DEC 18 2013 ★

BROOKLYN OFFICE

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

-----X
EARL B.FEELINGS, :
Plaintiff, :

-against-

:"NOTICE OF MOTION: SECOND AMENDED-
COMPLAINT.

CITY OF NEW YORK, P.O.CARL CAPUTO, :
P.O.DANIEL FAHEY, (In the Official/ :
Individual Compacity)Defendant(s). :

Jury Trial Demanded

13.Civ. 6485(C.B.A.)
(C.P.L.)

-----X
TO: Hon. J. Cheryl L. Pollak,
Courtroom #538, for
The Eastern District of N.Y.

#1.) I, PLaintiff, EARL B.FEELINGS, acting within

The scope of a Pro Se Compacity elects to file upon this Court an

Notice of Motion to "AMEND COMPLAINT" against the defendants named

In the above entitled caption, P.O.CARL CAPUTO & P.O.DANIEL FAHEY,

#2.) "JURISDICTION & SUBJECT VENUE MATTER"

This application proffers to inform the administrative

Jurist & Pro Se Clerk Office that said claim is being Amended

To adjust to the recent transitional change of venue into the

Eastern District of New York under Docket#13.Civ.6485 .

Plaintiff moves to present this claim for violation of the his

4th, 8th, and 14th U.S.C.A. rights. The claim is predicated upon

A "False Arrest" & "Unlawful Imprisonment" in which the plaintiff

was unlawfully held at the New York City Detention for 14½ Months.

#3.) Pursuant to Federal Statute Provisions of 28 U.S.C. Section#1331 &

1332 The incident & claim arose under 42 U.S.C. Section#1983, As

Defendants did not have sufficient lawful cause or Probable Cause

To effect the unlawful arrest upon the plaintiff on 11/17/2009.

"PARTIES TO CLAIM"

#4.) Plaintiff, EARL B. FEELINGS, is the principal subject partie to this Claim & matter. at all times remains as a relevant hereto was on NOVember, 17th, 2009 subjected to an unlawful arrest by the defendant Carl Caputo, of the N.Y.P.D. 109th Precint. and P.O. Daniel Foddy.

#5.) Defendant Carl Caputo fail to carefully compose an intelligent and Rationale investigation of the information & details the plaintiff Was explaining to him prior to the unlawful arrest.

Plaintiff EARL B. FEELINGS, arrest is the direct result of the Police Officer illustration of deliberate indifference to carelessly Subject the plaintiff to the unlawful arrest.

6.) Defendant Carl Caputo, had knowingly brought the plaintiff into the custody

Of the administrators of justice by filing an bogus criminal complaint

That had fail to included substantial corroborating evidence that would

Have unequivocable elements of proof.

7.) Defendant Carl Caputo, had constructed the complaint along with the victim/

Complainant and subjected the plaintiff to "False Imprisonment" by informing

The officer that she was a victim of an Bogus "Assault and Theft" which had

In fact never occurred. Defendant Caputo fail to thoroughly investigate the

Plaintiff verbal point of view that was at the moment overwhelmingly proven

With merit. Furthermore, P.O. Carl Caputo, never had contacted any medical Phs.

#8.) Personell Trained medical doctors who would have made an valid assesment

Of the complaintant alleged injuries she claimed to have received from

The PLaintiff,Mr.Feelings, Consequently thereafter ascertaining from

The defendant Carl Caputo,While being cross examined at the plaintiff

Criminal Trial proceedings by the defense counsel,DEfendant Carl Caputo,

Stated he did not make any contact to medical authorities to ensure the

Complaintant medical needs were addressed appropriately.

#9.) Subsequently,Complaintant was questioned at the trial whether she had

Reported her injury to any medical authoritie personell proffession? at

The time she claim to have been assaulted by plaintiff,Mr.Feelings,she

Stated in responce."No I did Not received any medical treatment,Nor did I

File an documented report to an medical agency or hospital.

10.) Defendant DANEIL FAHEY, of the Queens County Robbery Task Unit

Had effected a felony criminal complaint report against the plaintiff

Earl B. Feelings, for Penal Law violation 165.10 "Grand Larceny" in the 4th

On November, 17th, 2009 at the 109th Precinct in Flushing, New York, 11375.

11.) Charging the plaintiff with possession of stolen Credit Cards and using

Them to allegedly benefit himself. Defendant Fahey, brought plaintiff

Into the investigation upon suggestive profiling speculation that was

Predicated from usage of the N.Y.P.D. On-Line Photo array system data

Bank equivocably making an false nexuses of the plaintiff involvement of

The ongoing investigation without conducting an soundful and intelligent

Skillful inquiry investigation of proven facts in graphic details.

12.) Also Noted in the complaintant testimony at the Plaintiff trial was the Admission by the complaintant that she had returned back to work within The same Hour of time she had reported the false complaint to defendant Carl Caputo, after observing the plaintiff being placed under arrest for "Assault" and "Theft".

13.) Furhtermore, the principal complaintant Mr. Richard Gutteriez, for the Felony complaint offense of "Grand Larceny" fail to appear at the trial. Nor did Mr. Richard Gutteriez, personally identify plaintiff as the person Who stole property from him, in open Court or any time throughout the Peoples investigation.

14.) Plaintiff, Mr. Feelings was in fact brought into the Police investigation As a result of Defendant Detective Daneil Fahey, profiling the N.Y.P.D. Photo array data bank system computer and selecting Mr. Feelings suggestivel; Placed plaintiff into the investigation.

"COUNT ONE: 1"

"FAILURE TO COMPLY TO N.Y.P.D. STANDARD ARREST PROCEDURE" Defendant

CARL CAPUTO, and Defendant DANIEL FAHEY, nonetheless demonstrated elements

Of intentional "Deliberate Indifferences", against the Plaintiff, Earl B.

Feelings in practical sequence Order, by failing to follow the New York

State statutory legislative requirement Guideline Protocol for exercising

Standard conduct to effect an arrest.

The procedure is an standard customary practice upon an public citizen

Or suspect that is being "Stop, Questioned and Frisk Searched" by an N.Y.

Police Officer of Law, that may be in violation of it Public Penal Law

Provision or Statute.

Logical instructions of protocol conduct under said circumstances would consist of the following customary precautions to secure a lawful arrest.

(#1.) To detain the individual in a secured proximity, inspect His/

Her personal belongings, conduct a Warranted Frisk Search for any

Illegal items deemed to be contraband or precisely Weapons.

(#2.) To make a valid assessment report of the complainant's allegation

of those circumstances, to determine the probative value in nature &

the weight towards the evidence's credibility. That will be deemed to be in

favor of either the complainant or the suspect being questioned.

(#3.) The character of the witness, and the version of the incident

in question before the court, via person video, or audio corrob-

oration.

"COUNT TWO: 2"

FAILURE TO ADMINISTER, Due diligence of Due Process by carefully make
Out an assessment. the alibi and credibility of merit of the plaintiff
Who was explaining to the officer his innocence in graphic details.

"COUNT THREE: 3"

FAILURE TO THOROUGHLY, INVETSIGATE, the nature and severity of the injury
The complaintant was alleging by contacting medical authorities to make
An fair assesment of the facts and circumstances that was being alleged.

"PREVIOUS LAWSUIT BY PLAINTIFF"

Plaintiff has filed no other lawsuits regarding the current enlisted
Facts and Nature of this claim 13.Civ.03833.

"STATEMENT OF CLAIM"

#1.) Defendant CARL CAPUTO, exercised an show of deliberate indifference
To plaintiff right to be free from "Illegal Search & Seizure" by
Failing to fully investigate the details of proof of facts the
Plaintiff was vigorously demonstrating with merit to avoid the un-
Reasonable detention.

#2.) Plaintiff, EARL B. FEELINGS, had request that officer Carl Caputo,
Conduct a body frisk search for any of the complaintant personal
Property items that was to have been unlawfully in his possession
At the time of his arrest. Officer, Carl Caputo, had conducted an
Open corner street frisk upon the personal body of the plaintiff

"Continuation"

EARL B.FEELINGS, and thereafter ascertaining that No personal property Belonging to the complaintant was in plaintiff possession.

#3.) Defendant CARL CAPUTO, further demonstrated deliberate indifferences to Plaintiff EARL B.FEELINGS, by callously refusing to take into soundful Consideration the quantum of merits that was being demonstrated clear & Unequivocable evidence of his innocence. P.O.CARL CAPUTO, stated to his Colleagues that he wanted the "Callor" regardless of the merit to the Evidence he wanted the overtime for upcoming holidays.

#4.) The defendant was accurately aware the potential mental pyschological Effect of arresting and processing the criminal complaint would sure

#4.) Imposed upon the Plaintiff by falsely restricting him of his Natural Right and due liberty, Will and Freedom he was rightfully entitled to, Enjoy while he was in free society. Defendant Carl Caputo, had Continued to Mock the plaintiff while processing him unlawfully into The New York City Judicial system upon the insufficient charges, by Telling the plaintiff he'll get his justice for violating the asian Complainant. And that he needed Money for the upcoming holiday's.

#5.) The defendant made careless efforts to investigate the point of proof Plaintiff was conveying to profess his innocence. P.O. Carl Caputo, Was consciencely aware of the severe and grave endanigermment he was Subjecting the plaintiff to on November, 17th, 2009 as a result of his Deliberate indifference to the plaintiff right to Due Process and Equal Protection to the Law.

#6.) Defendant Carl Caputo subjected the plaintiff to severe mental anguish
ment along with emotional suffering of anxiety, frightening episode
Of personality mood swings, distrust of uniform personnel, while he was
An inmate/Prisoner at Riker's Island notorious hostile environment.

#7.) Defendant Detective Daniel Fahey, subjected the plaintiff to an further
Lengthly extension of "False Imprisonment" by filing an subsequent arrest
Report of a Felony statute for "Grand Larceny". Both defendant was well
Aware of the potential harm and effort they were forcing the plaintiff
Into the evidence of both offense were practically inchoated, and was
Not done in the spirit of good faith, judging from the weight of the case.

"EXHAUSTION OF ADMINISTERED REMEDIES"

Plaintiff pursued complaint of this incident to the New York City
Comptroller Office, which in return is to be the equivalent to an
Formal grievant or grievance. The office received the Notice of
Intent, and was investigated, within the statute of limitations.

"STATEMENT OF THE FACTS"

("ANNEX - PAGE")

"STATEMENT OF FACTS"

- #1.) ON NOVEMBER, 17th, 2009 WHILE IN THE COUNTY OF FLUSHING-QUEENS, NEW YORK AT APPROXIMATELY 7:34 p.m. I THE PLAINTIFF, EARL FEELINGS, WAS APPROACHED ON THE BOULEVARD/STREET OF KISSENA BLVD BY (3) POLICE OFFICER'S FROM THE 109th PRECINCT WHO HAD LEFT THEIR UNMARKED N.Y.P.D. VEHICLE TO EFFECT THE ARREST. P.O. CARL CAPUTO, APPROACH ME AND LEAD THE INVESTIGATION UNIT BY EFFECTING THE UNLAWFUL ARREST.
- #2.) I WAS TOLD BY THESE OFFICERS THAT AN FEMALE ASIAN WOMAN HAD FILED AN REPORT OR, COMPLAINT THAT I HAD ASSAULTED HER & ATTEMPTED TO STEAL SOME OF HER ITEMS OF PERSONAL PROPERTY FROM HER PUBLIC VENDOR CONCESSION STAND. AT THAT POINT I WAS HELD UNTIL THE COMPLAINTIVE HAD ARRIVED WITH THE ESCORTING N.Y.P.D. OFFICERS TO CONFIRM A POSITIVE IDENTIFICATION, AS SHE ARRIVED IN THE N.Y.P.D. VEHICLE VAN, SHE HAD SUPPOSEDLY IDENTIFIED ME AS THE ALLEGED SUSPECT OR PERSON THAT WAS RESPONSIBLE FOR THE ALLEGED ASSAULT & THEFT.
- #3.) AS AN RESULT OF THAT ENCOUNTER I WAS PLACED UNDER ARREST, HANDCUFFED & TAKEN TO THE 109th AREA PRECINCT FOR PROCESSING & BOOKING TO APPEAR BEFORE THE COUNTY CRIMINAL COURT OF QUEENS FOR THE CHARGES OF PETTY LARCENY & ASSAULT.

#3.) WHILE BEING PROCESSED AT THE 109th PRECINCT. I WAS LATER INFORMED BY AN
SUBSEQUENT POLICE OFFICER THAT I WAS WANTED FOR AN ADDITIONAL PENAL LAW
FELONY OFFENSE OF "GRAND LARCENY" FOR POSSESSION OF STOLEN PROPERTY IN THE
4th DEGREE, CLASSIFIED AS A "E-FELONY". P.O. DANIEL FAHEY, PRESENTED THE
ADDITIONAL FELONY COMPLAINT AGAINST PLAINTIFF ON 11/17th, /2009.

#4.) I WAS ALSO, CHARGED FOR THAT OFFENSE AS WELL AS THE INITIAL CRIMINAL CHARGE
OF PETTY LARCENY ALL ON THE SAME DATE OF ARREST, NOVEMBER, 17th, 2009. I WAS
SENT BEFORE A JUDGE AT THE ARRAIGNMENT IN QUEENS CRIMINAL COURT UPON ALL
THE ALLEGATIONS LISTED HEREIN, A BAIL WAS SET IN THE AMOUNT OF \$,35,000,00
(THIRTY FIVE THOUSAND) U.S. DOLLARS. I WAS CONSEQUENTLY HELD AT THE NEW YORK
CITY DEPARTMENT OF CORRECTIONS, RIKER'S ISLAND FOR AN EXTENSIVE PERIOD OF
14½ LONG MONTHS FIGHTING THE CHARGES.

#5.) ON JANUARY, 14th, 2011 THE TRIAL WAS COMMENCED & WAS CONCLUDED ON JANUARY,
20th, 2011 IN PART: K-9, BEFORE HON. JUDGE, JOHN B. LAPELLA, IN QUEENS SUPREME
COURT. IN WHICH THERE WAS AN PARTIAL VERDICT, BOTH IN FAVOR OF THE DEFENDAN
EARL FEELINGS.

#6.)

THE CASE WAS DECIDED UPON THE GROUNDS OF A PARTIAL VERDICT IN WHICH THE PRESIDING JUSTICE, LATELLA, AFTER CLOSING ARGUMENTS ELECTED TO DISMISS THE PRINCIPAL TOP FELONY OFFENSE FOR "GRAND LARCENY" E-FELONY. AND, HAD SUSTAIN THE REMAINING CHARGES OF "MISDEMEANOR ASSAULT & PETTY LARCENY" TO BE LEFT FOR THE TRIAL JURY TO DETERMINE & DECIDE. AFTER THE TRIAL JURORS HAD RETURN BACK TO THE COURTROOM FROM DELIBERATING AFTER 2½ HOURS THEY HAD DECIDED A VERDICT OF "NOT GUILTY".

#7.)

THE CASE DISPOSITION RESTS UPON AN SUBSTANTIAL PRIME FACIE "DISMISSAL" AS WELL AS THE OPINION OF THE TRIAL JURY WHICH RULE "NOT GUILTY". ALL ON THE DATE OF JANUARY, 20th, 2011 IN THE COUNTY OF QUEENS SUPREME CRIMINAL COURTHOUSE OF PART: K-9 BEFORE HON. JUSTICE, JOHN B. LATELLA. THAT WAS THE FINAL RESULTS & DETERMINATION OF THE COMPILATION OF CRIMINAL OFFENSES THE DEFENDANT WAS SUBJECTED TO FROM THE DATE OF NOVEMBER, 17th, 2009.

Rankin v. Evans, 133 F.3d 1425, 1435 (11th Cir. 1998).
Tillman v. Coley, 886 F.2d 317, 321 (11th Cir. 1989) - These two have this quote: "Where it would appear to a 'cautious man' that further investigation is justified before instituting a proceeding, liability may attach for failure to do so, especially where the information is readily obtainable, or where the accused points out the sources of the information."
***Kingsland v. City of Miami, 382 F.3d 1220 (11th Cir. 2004)
Grider v. City of Auburn, 618 F. 3d 1240 (11th Cir. 2010)
Gray v. City of Roswell, 486 Fed.Appx. 798 (11th Cir. 8-13-2012)
Jones v. City of Chicago, 856 F.2d 985 (7th Cir. 1988) -- This is a totally outrageous case that Flint Taylor litigated
Mistretta v. Prokesch, 5 F. Supp. 2d 128, 133 (E.D.N.Y. 1998)
Singer v. Fulton County Sheriff, 63 F.3d 110, 119 (2d Cir. 1995);
Bullard v. City of New York, No. 01 Civ. 11613, 2003 WL 168444, at *4 (S.D.N.Y. Jan. 20, 2003)
Jovanovic v. City of New York, No. 04 Civ. 8437, 2006 U.S. Dist. LEXIS 59165 (S.D.N.Y. Aug. 17, 2006)
"[T]he failure to make a further inquiry when a reasonable person would have done so may be evidence of a lack of probable cause." Lowth v. Town of Cheektowaga, 82 F. 3d 563, 571 (2nd Cir. 1996) cause." See also Bullard v. City of New York, No. 01 Civ. 11613, 2003 WL 168444, at *4 (S.D.N.Y. Jan 20, 2003). (denying a motion to dismiss where the facts as alleged by the plaintiff in his complaint established that the victim was not a reliable source of probable cause, and yet "the defendants did nothing to investigate the allegations, corroborate them, or pursue [the plaintiff's] claims that he was innocent.")
***Wilson v. Russo, 212 F. 3d 781 (3rd cir. 2000), citing Kuehl v. Burtis, 173 F. 3d 646 (8th Cir. 1999)
Panetta v. Crowley, 460 F. 3d 388 (2nd cir. 2006)
Gregory v. Louisville, 444 F.3d 726 (6th cir 2006)
Radvansky v. Olmsted Falls, 395 F. 3d 291 (6th Cir. 2005)
Kerman v. New York, 261 f3d 229 (2d cir 2001)

UNITED STATES DISTRICT COURT

"STATEMENT OF INJURIES"

#1.) AS A RESULT OF THIS INCIDENT. I HAVE NATURALLY EXPERIENCED & SUFFERED EXTREME MENTAL ANGUISH, ANXIETY ATTACKS, NIGHTMARES REOCCURRING, LOSS OF SLEEP, SEVERE DEPRESSION BOUTS, PARANIOHA WHENEVER ENCOUNTERING UNIFORM, OFFICERS, HOPELESSNESS TO RECOVER FROM THE PYSCHOLOGICAL PAIN & SUFFERING, AGONY FROM THE CIRCUMSTANCES ORDEAL, POST TRAUMATIC STRESS & HYPERTENSION ACTIVE CHARACTERISTICS, WHICH I HAD CONTEMPLATED SUICIDAL THOUGHTS WHILE BEING SUBJECTED TO THE ARREST & PAINFUL DETENTION.

"MEDICAL TREATMENT"

#2.) I WAS SUBJECTED TO MENTALHEALTH SUPERVISION AFTER ATTEMPTING TO ACTUALLY COMMIT SUICIDE IN DECEMBER OF 2009, I WAS PLACED ON ANTI-DEPRESSION & SLEEPING MEDICATIONS, , & CONSISTENT EVALUATION SUPERVISION BY PYSCHIATRIC SPECIALIST & CORRECTION STAFF TO MONITOR MY BEHAVIOR. THE PRESCRIBED MEDICINE REFERED WAS "REMROD" & "ZOLOFT".

"RELIEF SOUGHT"

Plaintiff seeks Monetary Damages for said injuries in the sum of

\$ 2.5 Million United States Dollars (~~Two~~ and Half Million Dollars)

As well as Punitive Damages, for the defendant deliberate intent,

The remedy sought herein is to compensate the plaintiff fairly to

A reasonable judgment for the unjust for which he was wrongly been

Subjected to on the 17th day of November, 2009 by the defendant, P.O.

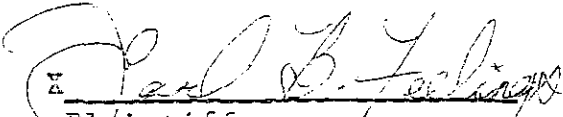
Carl Caputo, of the 109th Precinct in Flushing, New York, And P.O.

Daniel Fahey, of the 109th Precinct as well.

I declare under the penalty of Perjury that the fore going is true

And Correct.

Signed this 5th, Day of december, 2013


Plaintiff,
EARL B. FEELINGS, #441-12-11028
A.M.K.C. C-95
18-18 Hazen Street
E. Elmhurst, New York, 11370