

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DOMINIQUE WALKER,

Plaintiff,

-against-

**FIRST AMENDED
COMPLAINT AND
JURY DEMAND**

THE CITY OF NEW YORK; POLICE OFFICER
CHRISTOPHER DALESSANDRO, SHIELD NO. 21293;
POLICE OFFICER JASON JANSKY SHIELD NO.
31469;

Docket No.
15CV3929(RMO)(JO)

Defendants.

ECF CASE
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PRELIMINARY STATEMENT

1. This is a civil rights action in which plaintiff seeks relief for the violation of her rights secured by 42 USC §1983 and the Fourth and Fourteenth Amendments to the United States Constitution, and the laws and Constitution of the State of New York.

2. The claim arises from an April 5, 2013 incident in which Officers of the New York City Police Department ("NYPD"), acting under color of state law, intentionally and willfully subjected plaintiffs to, among other things, false arrest, excessive force, and false imprisonment.

3. Plaintiff seeks monetary damages (special, compensatory, and punitive) against defendants, as well as an award of costs and attorneys' fees, and such other and further relief as the Court deems just and proper.

JURISDICTION

4. This action is brought pursuant to 28 USC §1331, 42 USC §1983, and the First,

Fourth and Fourteenth Amendments to the United States Constitution.

5. Venue is laid within the United States District Court for the Eastern District of New York in that Defendant City of New York is located within and a substantial part of the events giving rise to the claim occurred within the boundaries of the Eastern District of New York.

PARTIES

6. Plaintiff is a citizen of the United States and at all times here relevant resided in New York County, City and State of New York.

8. The City of New York is a municipal corporation organized under the laws of the State of New York.

9. All others individual defendants (“the officers”) are employees of the NYPD, and are sued in their individual and official capacities.

10. At all times here mentioned defendants were acting under color of state law, to wit, under color of the statutes, ordinances, regulations, policies, customs and usages of the City and State of New York.

FACTUAL ALLEGATIONS

11. At approximately 9:08 PM on April 5, 2013, plaintiff was a passenger in a car when, in the vicinity of Beach 49th Street and Beach Channel Drive, Far Rockaway, Queens, NY, the car was forcibly pulled over by police officers in a car without cause or suspicion to believe any crime or moving violation was being committed.

12. Plaintiff was ordered out of the car, detained and arrested without reasonable suspicion or probable cause that she had committed any crime or violation.

13. Defendant Police Officer Dalessandro wrote her a summons for Disorderly

Conduct. Plaintiff denies that she committed any crime or violation.

14. All charges against plaintiff were dismissed.

15. At all times during the events described above, the defendant police officers were engaged in a joint venture. The individual officers assisted each other in performing the various actions described and lent their physical presence and support and the authority of their office to each other during said events. They failed to intervene in the obviously illegal actions of their fellow officers against plaintiff.

16. During all of the events above described, defendants acted maliciously and with intent to injure plaintiff.

17. As a direct and proximate result of the acts of defendants, plaintiff suffered the following injuries and damages:

a. Violation of her rights pursuant to the Fourth and Fourteenth Amendments to the United States Constitution to be free from an unreasonable search and seizure of her person;

b. Violation of her right to Due Process of Law under the Fourteenth Amendment to the United States Constitution;

c. Physical pain and suffering;

d. Emotional trauma and suffering, including fear, embarrassment, humiliation, emotional distress, frustration, extreme inconvenience, anxiety;

e. Loss of liberty;

FIRST CAUSE OF ACTION

(42 USC § 1983 – Unreasonable Search and Seizure)

18. Paragraphs one through nineteen are here incorporated by reference.

19. Defendants have deprived plaintiff of her civil, constitutional and statutory rights

under color of law and have conspired to deprive him of such rights and are liable to plaintiff under 42 USC § 1983.

20. Defendants' conduct deprived plaintiff of her right to be free of unreasonable searches and seizures by stopping the car she was a passenger in without reasonable suspicion or probable cause and subjecting her to a stop and detention, and then maliciously prosecuting her by filing a false accusatory instrument, to wit, summons #433776093-3, pursuant to the Fourth and Fourteenth Amendments to the United States Constitution. Defendants' conduct also deprived plaintiff of her right to due process of law, pursuant to the Fourteenth Amendment of the United States Constitution.

21. Plaintiff has been damaged as a result of defendants' wrongful acts.

A. In favor of plaintiff in an amount to be determined by a jury for each of plaintiff's causes of action;

B. Awarding plaintiff punitive damages in an amount to be determined by a jury;

C. Awarding plaintiff reasonable attorneys' fees, costs and disbursements of this action; and

D. Granting such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

DATED: Brooklyn, New York
December 8, 2015

TO: New York City
Corporation Counsel Office
100 Church Street, 4th floor
New York, NY 10007

Police Officer Christopher Dalessandro
Shield No. 21293
101st Precinct
1612 Mott Avenue
Far Rockaway, NY 11691

Police Officer Jason Jansky
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101st Precinct
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Yours, etc.,



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