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UNITED STATES DISTRICT COURT EASTERN*__DISTICT_OF_NEW_YORK_____X

DWAYNE HARVEY, Plaintiff

-

-against-

THE CITY OF NEW YORK, et. al., and; THE NEW YORK CITY POLICE DEPATMENT, (QUEENS COUNTY DIVISION); POLICE OFFICER, "MUNRO, SHIELD #13600,"113th In His Official Capacity; and, POLICE OFFICER, "KESSLER, SHIELD # 27043, In His Official Capacity.

-----X

Defendant(s).

1. LEGAL BASIS FOR CLAIM: VIOLATION OF MY CONSTITUTIONAL RIGHTS.

- 2. PLAINTIFF INFORMATION: DWAYNE HARVEY (B & C # 441-15-06467) RNDC FACILITY 11-11 HAZEN STREET, EAST ELMHURST, NY 11370; rikers island complex*
- 3. PRISONER STATUS: PRETRIAL DETAINEE.
- 4. DEFENDANT'S INFORMATION: Defendant # 1. The City of New York is located at, DEPT OF LAW : CORPORATION COUNSEL, 100 CHURCH STREET, NEW YORK, NY 10007. Defendant # 2. New York City Police Department is located at, One Police Plaza, Ny Ny 10037, Defendant # 3. P/O Munro Shield # 13600 is at the 113Th Pct, Queensm Division, 167-02 Balsley Blvd, and Defendant # 4. P/O Kessler, Shield # 27043, is located at same Pct & Address as P/O Munro.
- 5. AMENDED STATEMENT OF CLAIM: On August 4th, 2015, at about 11:05 P.M., At The Intersection of 111 Avenue and 146th Street, County of Queens, State of New York. The Plaintiff was Arrested For Drunk Driving, Inter-Alia, After failing a Series of field sobriety test, and was takened to the 112th and 112th Pct(s). . . These were taken by, P.O. Kessler, at either Pct? Soon thereafter, P.O. Munro arrested the Plaintiff. The Plaintiff is physically disabled and could not take the walking test, also, could not properly blow, due to the illness of, (C.O.P.D.). Only one test result was listed, after (2 to 3) trys. It was claimed that a result of.O82 of one percentum or more by weight of Alcohol was found in my blood. P.O. Kessler used a Machine known as an (INTOXILYZER 5000EN)("INTOXILYZER")(SEE: EXHIBIT (A): FELONY-

FILED IN CLERK'S OFFICE US DISTRICT COURT E.D.N.Y.

* JUL 0 8 2016 *

BROOKLYN OFFICE *AMENDED COMPLAINT.* 16 CV 00901-RRM-LB

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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK PAGE TWO: AMENDED COMPLAINT.

> -COMPLAINT AND NUMEROUS CHARGES LISTED THEREIN. ALSO SEE: EXHIBIT (B): 113TH INTOXILYZER/ALCOHOL ANALYZER-MODEL 5000EN (I.D.T.U. TEST # 15Q1439.

EXHIBIT (C): ARRESTING OFFICERS REPORT (I.D.T.U.) EXHIBIT (D): TECT-NICIAN TEST REPORT. EXHIBIT (E): INTOXICATED EXAMINATION (2ND SHEET Instruction), AND EXHIBIT (F): INTOXICATION DRIVER EXAMINATION (2ND) AND, EXHIBIT (G): CRIMINAL TEST ANALYSIS.

[SEE: KIMBERLY McCain v. District of Columbia, et al., 2014 U.S. DIST. LEXIS 141734, CIVIL ACTION ND.: 13-1589(GK)).*

6. INJURIES:

The Defendant has now been vendicated from the charges, (SEE: EXHIBIT (H): DESIGNATION OF AGENT FOR ACCESS TO SEALED RECORDS PURSUANT TO NYCPL 160.50 AND 160.55, sent to the Plaintiff by the Corporation Counsel. Therefore, The Plaintiff is claiming, inter-alia, False Imprisonment and False Arrest, Including all resulting injuries thereto. As The Plaintiff was violated by his contract and program in Manhattan Criminal Court and had to remain incarcerated as a result and ending. The defendant is collectively claiming, Negligence, Gross Negligence, Negligent Supervision, also Infliction of Emotional Distress, and for numerous Constitutional Violations and Causes of Actions Request Damages in the amount of: \$500.000.00 Dollars, Including Punitive and Compensatory Damages that this Court Deems sufficient, also Attorney';s Fees (PLRA) & Costs Expenses at 150% Interest for Pro-se Work.

7. No Other Relief has been requested other than whats repeated and Amended.

I, Dwayne Harvey, declare under Penalty of perjury that the foregoing is true and correct.

Jane 1,900 Signature

I Declare Under Penalty of Perjury that on this _____ day of June, 2016, I delivered this complaint/Amended to prison authorities to be mailed to the Pro-se Office of the U.S. District Court, Eastern District of New York. 225 Cadman Plaza East, Brooklyn, Ny 11201. EXECUTED THIS 30 DAY OF JUNE, 2016 [28 USC § 1746]

DESIGNATION OF AGENT FOR ACCESS TO SEALED RECORDS PURSUANT TO NYCPL 160.50 AND 160.55

I, Dwayne Harvey, Date of Birth $\underline{\partial}_{1}/\underline{\partial}_{3}$ SS#<u>644'56 4400</u> pursuant to CPL §§ 160.50 and 160.55, hereby designate ZACHARY W. CARTER, Corporation Counsel of the City of New York, or his authorized representative, as my agent to whom records of the criminal action terminated in my favor entitled <u>People of the State of New York v.</u> <u>Dwayne Harvey</u>, Docket No. or Indictment No.<u>2050N035#57 Origins</u> fourt, County of <u>Queens</u>, State of New York, relating to my arrest on or about August 4; 2015, may be made available.

I understand that until now the aforesaid records have been sealed pursuant to CPL §§ 160.50 and 160.55, which permits those records to be made available only (1) to persons designated by me, or (2) to certain other parties specifically designated in that statute.

I further understand that the person designated by me above as a person to whom the records may be made available is not bound by the statutory sealing requirements of CPL \S 160.50 and 160.55.

The records to be made available to the person designated above comprise all records and papers relating to my arrest and prosecution in the criminal action identified herein on file with any court, police agency, prosecutor's office or state or local agency that were ordered to be sealed under the provisions of CPL §§ 160.50 and 160.55.

Dwayne Harvey

STATE OF NEW YORK,) : SS: COUNTY OF BRONDO

On this 1543 day of $\overline{)}$, 2016, before me personally came Dwayne Harvey, to me known and known to me to be the individual described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same.

NOTARY PUBLIC-STATE OF NEW YORK Qualified in Queens County NOTARY PUBLIC My Commission Expires October 24, 20

Docket # 2015 (DIN 038857

CERTIFICATE OF SERVICE

STATE OF NEW YORK))SS.: COUNTY OF BRONX)

I, Dwayne Harvey, declare under penalty of perjury that the foregoing is true and correct.

 I am the Plaintiff Pro-se and i'm located at, 11-11 Hazen Street, East Elmhurst, Ny 11370, On Rikers Esland. I have Placed the Following: AMENDED COMPLAINT With Exhibits On The Below Listed Parties: By Placing Same Inside of A Facility Mail Box.

U.S. DISTRICT COURT CLERKS OFFICE Eastern District of New York 225 Cadman Plaza East Brooklyn, Ny 11201

New York City Corporation Counsel Department of Law 100 Church Street New York, Ny 10007 Zachary W. Carter, Esq.

DATED: JUNE 30 , 2016

Signature

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I, Dwayne Harvey, declare under the penalty of perjury that the foregoing is true and correct. [28 USC 1746] EXECUTED THIS 30^{CL}DAY OF JUNE, 2016

Signature bance voene