

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JUAN GARCIA,

Plaintiff,

- against -

COMPLAINT AND
JURY TRIAL DEMAND

DETECTIVE JOHN GRIDLEY, Shield No. 4665
and THE CITY OF NEW YORK,

Defendants.
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Plaintiff, JUAN GARCIA, by his attorney, ALAN D. LEVINE, ESQ., complaining of the defendants herein, respectfully alleges as follows:

JURISDICTION

1. This is a civil action, seeking compensatory damages, punitive damages and attorney's fees.
2. This action is brought pursuant to 42 U.S.C. §§1983 and 1988 and the fourth and fourteenth amendments to the Constitution of the United States.
3. Jurisdiction is founded upon 28 U.S.C. §§1331, 1343 and 1367.
4. Plaintiff, invoking the supplemental jurisdiction of this Court, also seeks compensatory and punitive damages for malicious prosecution.

VENUE

5. Venue is properly alleged in the Eastern District of New York in that the acts complained of herein occurred within this District.

JURY TRIAL DEMAND

6. Plaintiff hereby demands a trial by jury of all issues in this action that are so triable.

PARTIES

7. At all times relevant hereto, plaintiff, JUAN GARCIA, was and is a natural person, resident in the County of Queens, City and State of New York.

8. At all times relevant hereto, defendant DETECTIVE JOHN GRIDLEY, Shield No. 4665 (hereinafter "GRIDLEY") was and is a natural person employed as a detective by the Police Department of defendant CITY OF NEW YORK.

9. At all times relevant hereto, defendant CITY OF NEW YORK was and is a municipal corporation, organized and existing pursuant to the laws of the State of New York.

10. On or about November 19, 2015, this date being within ninety (90) days after the claims herein sued upon accrued, plaintiff served upon the Comptroller of the City of New York a verified written notice of claim setting forth the time, place, nature and manner in which said claims arose.

11. More than thirty (30) days have elapsed since the aforementioned verified notice of claim was served and the Comptroller has neglected and refused to make payment of said claim.

12. This action is commenced within one year and ninety days from the date the supplemental claims herein accrued.

13. The individual defendant is sued in his individual capacity.

**AS AND FOR A FIRST CAUSE OF ACTION
AGAINST DEFENDANT GRIDLEY
(42 U.S.C. §1983)**

14. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "13" hereinabove as if more fully set forth at length herein.

15. During the afternoon of August 23, 2015, plaintiff was lawfully present on the sidewalk of Liberty Avenue near its intersection with 122nd Street in the County of Queens, City and State of New York.

16. At the aforementioned time and place, a New York City Police Department motor vehicle pulled up and two uniformed police officers exited the vehicle.

17. There was a third person, upon information and belief not a police officer, seated in the rear seat of the aforementioned motor vehicle.

18. One of the aforementioned police officers approached plaintiff and demanded to know what plaintiff had been doing on the previous day.

19. Plaintiff answered that he had been at home all day on the previous day.

20. Plaintiff was placed under arrest and transported, in a different New York City Police Department motor vehicle, to the stationhouse of the 106th Precinct.

21. After being held in the stationhouse for approximately three hours, plaintiff was taken upstairs and placed into a lineup.

22. Plaintiff was assigned Number 3 as he stood in the lineup.

23. The witness at the lineup identified not plaintiff, but the filler designated as Number 2 in the lineup.

24. Despite the fact that another person in the lineup had been identified as a perpetrator of a crime, plaintiff was falsely and maliciously charged by defendant GRIDLEY with robbery in the first degree, a B felony, and menacing in the second degree, an A misdemeanor.

25. Plaintiff was transported to Queens Central Booking and then appeared before a judge of the Criminal Court of the City of New York, County of Queens.

26. Plaintiff was informed by his attorney that he was being accused of having committed an armed robbery of a sixty-six year-old man the day the before he was arrested.

27. Bail of \$50,000.00 was set on plaintiff.

28. Unable to pay his bail, plaintiff was placed in the custody of the New York City Department of Correction.

29. Plaintiff appeared before the Queens County Grand Jury on September 21, 2015.

30. The grand jury voted not to indict plaintiff.

31. Plaintiff was released from custody.

32. As a result of the aforementioned false and malicious charges made against him by defendant GRIDLEY, plaintiff was held in custody a total of thirty-one days.

33. As a result of his arrest and resulting incarceration, plaintiff was unable to attend to his employment and, thus, was fired from his job.

34. Defendant GRIDLEY violated plaintiff's right to be arrested and prosecuted only with probable cause, guaranteed to him by the fourth and fourteenth amendments to the Constitution of the United States, in that, acting under color of state law, he, without any cause or provocation whatsoever, maliciously prosecuted him by filing charges falsely and maliciously accusing him of committing an armed robbery.

35. Because of the aforementioned acts committed by defendant GRIDLEY, plaintiff suffered a deprivation of his liberty and a deprivation of his rights to be arrested, imprisoned, and prosecuted only with probable cause and, as a result, suffered and

continues to suffer serious and permanent emotional injuries, lost his employment and was compelled to pay for the services of a criminal defense attorney.

36. By reason of the unconstitutional and illegal actions taken against him by defendant GRIDLEY, plaintiff has been damaged in an amount sufficient to compensate him for his injuries as enumerated hereinabove and, in addition, seeks punitive damages against defendant GRIDLEY.

**AS AND FOR A SECOND CAUSE OF ACTION
AGAINST DEFENDANT GRIDLEY
and THE CITY OF NEW YORK
(Malicious Prosecution)**

37. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "36" hereinabove as if more fully set forth at length herein.

38. On or about August 23, 2015, defendant GRIDLEY maliciously caused a criminal prosecution to be commenced against plaintiff by his act of falsely and maliciously charging him with having committed the crimes of armed robbery and menacing.

39. Defendant GRIDLEY was without probable cause to charge plaintiff with having committed the aforementioned crime.

40. On or about September 21, 2015, the Queens County grand jury voted not to indict plaintiff.

41. At the time that defendant GRIDLEY falsely and maliciously caused the aforementioned prosecution to be commenced against plaintiff, he was acting within the scope of his employment by defendant CITY OF NEW YORK.

42. By reason of the prosecution maliciously commenced against him by defendant GRIDLEY, while he was acting within the scope of his employment by defendant CITY OF NEW YORK, plaintiff was deprived of his liberty; was incarcerated by the New York City Department of Correction for thirty-one days; was forced to defend himself in a criminal proceeding; was unable to attend his employment, resulting in the loss of his job and the income therefrom; and incurred expenses for legal representation.

43. By reason of the prosecution maliciously commenced against him by defendant GRIDLEY, while he was acting within the scope of his employment by defendant CITY OF NEW YORK, plaintiff has been damaged in an amount sufficient to compensate him for his injuries and damages and also demands an award of punitive damages against defendant GRIDLEY.

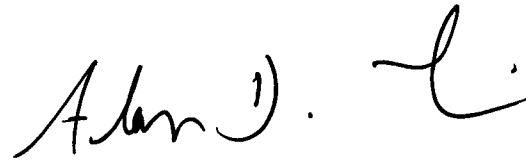
WHEREFORE, plaintiff, JUAN GARCIA, demands judgment against defendants DETECTIVE JOHN GRIDLEY, Shield No. 4665 and THE CITY OF NEW YORK, as follows:

FIRST CAUSE OF ACTION: An amount sufficient to compensate him for his injuries enumerated hereinabove and, in addition, seeks an award of punitive damages against defendant GRIDLEY; and

SECOND CAUSE OF ACTION: An amount sufficient to compensate him for his injuries as enumerated hereinabove and, in addition, seeks punitive damages against defendant GRIDLEY.

In addition, plaintiff demands the costs and disbursements of this action, including his attorney's fees, pursuant to 42 U.S.C. §1988.

Dated: Kew Gardens, New York
November 7, 2016

A handwritten signature in black ink, appearing to read "Alan D. Levine". The signature is written in a cursive style with a large initial "A" and a distinct "L".

ALAN D. LEVINE, ESQ.
Attorney for Plaintiff
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