

ORIGINAL

CV18-0914

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

COGAN, J.

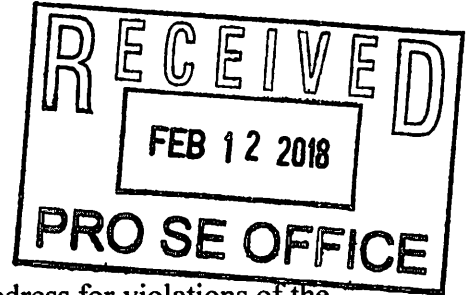
BRIAN LEHMAN,

Plaintiff,

**COMPLAINT
Jury Demand**

-against-

BRIAN TITTERTON, FRANCISCO MARIA, and
UNKNOWNNS 1-5,
Defendants.



-----X

Plaintiff brings this action under 42 U.S.C. § 1983 seeking redress for violations of the

Fourth and Fourteenth Amendment to the United States Constitution and hereby alleges:

1. This is a civil rights action seeking a declaratory judgment and monetary compensation against two officers of the New York Police Department (“NYPD”) assigned to the 108th Precinct, Defendant Brian Titterton (Shield No. 115) and Defendant Francisco Maria (Shield No. 8523) as well as unknown defendants who supervised or instructed the named defendants during the relevant time period.

2. This Court has jurisdiction over Plaintiff’s claim pursuant to 28 U.S.C. § 1331 and pursuant to 28 U.S.C. § 1343(a)(3) and (a)(4). Plaintiff’s claim for declaratory relief is authorized by 28 U.S.C. § 2201 and Rule 57 of the Federal Rules of Civil Procedure.

3. On February 13, 2015, Defendant Titterton and Defendant Maria entered Plaintiff’s apartment ^{without} Plaintiff’s consent and without court order, and detained Plaintiff in his kitchen for approximately two hours.

4. When Plaintiff told Defendants that they could not come into his apartment without his consent and without a warrant, Defendant Titterton replied, “I will come into your apartment whenever I want.”

5. Defendant Titterton responded to Plaintiff's demands that the Defendants leave his apartment by threatening to file a false report against Plaintiff and have Plaintiff detained at Bellevue Hospital in Manhattan unless Plaintiff did as Defendant Titterton told him.

6. After this incident, Plaintiff filed a complaint with the Civilian Complaint Review Board ("CCRB") under case number 201508312.

7. On or about December 21, 2015, the CCRB closed the case finding that Defendant Maria abused his authority by unlawfully entering Plaintiff's apartment.

8. The CCRB made no findings against Defendant Titterton because he resigned after the CCRB charges were filed. The CCRB subsequently informed Plaintiff that they made this decision not to make findings against Defendant Titterton pursuant to §1-33(16) in the CCRB Rules (http://www.nyc.gov/html/ccrb/downloads/pdf/ccrb_rules.pdf), which defines the disposition for any officer no longer employed by the NYPD.

9. On February 2, 2018, Plaintiff received an email from Joshua Weiner, an attorney in the New York City Law Department, stating that Defendant Titterton could be served process at the 108th Precinct.

10. Upon information and belief, Defendant Titterton rejoined the NYPD after the CCRB made no findings against him because he had purportedly resigned pursuant to §1-33(16) of the CCRB Rules.

11. Defendant now brings this complaint against Defendant Titterton, Defendant Maria and an unknown number of supervisors of the 108th Precinct who supervised or gave instructions to the named Defendants to enter Plaintiff's apartment without consent or a court order.

**FIRST CAUSE OF ACTION: VIOLATION OF THE
FOURTH AND FOURTEEN AMENDMENT**

12. Plaintiff repeats, reiterates and realleges the allegations set forth in the paragraphs above as if set forth fully herein and at length.

13. The Fourth Amendment of the U.S. Constitution provides that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated”

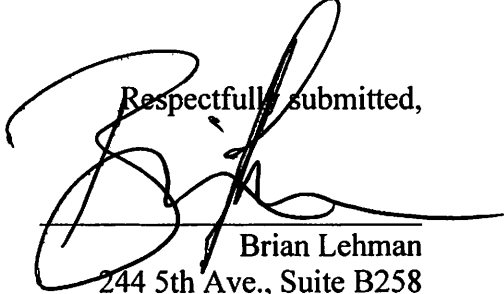
14. The Fourth Amendment applies to the states and state actors through the Due Process clause of the Fourteenth Amendment.

15. Defendant Titterton and Defendant Maria violated Plaintiff’s Fourth Amendment rights by entering his apartment without consent and without a warrant or court order.

Wherefore, Plaintiff Brian Lehman respectfully demands judgment against the named defendants named herein, and such defendants as may be named after discovery, and a trial by jury in this action on each and every one of his claims and further requests that this court issue:

- a. judgment stating that these defendants violated Plaintiff’s constitutional rights;
- b. compensatory damages, where applicable and as to be determined by a jury at trial together with interest, costs and the disbursements of this action;
- c. award such other and further relief as this Court may deem appropriate and equitable, including injunctive and declaratory relief as may be required in the interests of justice and, when applicable, award Plaintiff reasonable attorneys’ fees pursuant to 42 U.S.C. § 1988.

February 12, 2018

Respectfully submitted,

Brian Lehman
244 5th Ave., Suite B258
New York, NY 10001

To Defendants:

Officer Brian Titteron,
Shield No. 115
NYPD
108th Precinct
5-47 50th Avenue
Long Island City, NY 11101

Officer Francisco Maria,
Shield No. 8523
NYPD
108th Precinct
5-47 50th Avenue
Long Island City, NY 11101