

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Reginald Ware,

Plaintiff,

- against -

Steven Herzog and Sean McCarren,

Defendants.

— CV — ( ) ( )

Complaint and Jury Demand

Plaintiff, by his attorney, Michael G. O'Neill, states for his complaint against defendants as follows:

1. This is an action alleging violation of plaintiff's civil and constitutional rights to be free of unreasonable search and seizure.

2. This Court has jurisdiction over the subject matter of this lawsuit under 28 U.S.C. §1331 and 42 U.S.C. §1983.

3. Venue is proper in the Southern District because one or more defendants are residents of the Southern District.

4. Plaintiff is an individual and resides in the State of New York.

5. Defendant Steven Herzog was, during all relevant times, employed by the City of New York as a Police Officer, with a shield number of 14780.

6. Defendant Sean McCarren was, during all relevant times, employed by the City of New York as a Police Sergeant, with a shield number of 4311.

7. On April 30, 2016, at about 2:15 a.m., plaintiff was on a public street in the City of New York in the company of his girlfriend and her sister.

8. The defendants, who were in a police car, pulled up and informed plaintiff that they were responding to a radio call about a fight in progress.

9. Plaintiff informed the defendants that he was not involved in a fight, and walked away.

10. A short time later, one of the defendants grabbed plaintiff by the arm.

11. Plaintiff pulled his arm away and asked why he was being stopped.

12. Instead of telling plaintiff why defendants wanted him to stop, the defendant who had grabbed plaintiff by the arm pulled up plaintiff's shirt and fired a taser into plaintiff's side, causing plaintiff great shock and suffering.

13. The taser cords had penetrated plaintiff's skin and were stuck to his body by small fish hook like barbs at the end of the cord.

14. Plaintiff reacted to the taser by attempting to remove the taser cords from his body.

15. Plaintiff was then struck in his face with a flashlight by the other defendant.

16. Plaintiff was then placed under arrest.

17. Plaintiff remained in police custody until later that day when he was arraigned and released on bail.

18. At all times, the defendants were employed by the City of New York as Police Officers and acting under color of state law.

### **Claim One.**

19. Defendants, acting under color of state law, violated plaintiff's right,

guaranteed to him under the 4<sup>th</sup> Amendment of the United States Constitution, to be free of unreasonable search and seizure by arresting plaintiff without a warrant, without probable cause and without any other constitutionally permissible reason for doing so.

20. Defendants are liable to plaintiff for his damages under 42 U.S.C. §1983.

### **Claim Two.**

21. Defendants, acting under color of state law, violated plaintiff's right, guaranteed to him under the 4<sup>th</sup> Amendment of the United States Constitution, to be free of unreasonable search and seizure by using excessive force in arresting plaintiff, causing him to suffer painful and permanent injuries.

22. Defendants are liable to plaintiff for his damages under 42 U.S.C. §1983.

WHEREFORE, plaintiff demands judgment for all relief permitted by law, including but not limited to awarding plaintiff a money judgment for his damages, awarding plaintiff punitive damages, awarding pre-verdict, post-verdict and prejudgment interest and costs, awarding to plaintiff a statutory attorneys' fee and granting such further and additional relief as the Court deems just and appropriate under the circumstances.

Dated: New York, New York  
April 29, 2019

MICHAEL G. O'NEILL



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Attorney for Plaintiff  
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(212) 581-099

## Jury Demand

Plaintiff demands trial by jury on all issues.

Dated: New York, New York  
April 29, 2019

MICHAEL G. O'NEILL



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