

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

3007, 12 11 11704
2019 OCT -8 AM 10:25

Robert Derek Lorch Jr.

19 CV 11253

Write the full name of each plaintiff.

CV

(Include case number if one has been assigned)

-against-

Amended

COMPLAINT

-See Defendant List-

Do you want a jury trial?

☒ Yes ☐ No

Write the full name of each defendant. If you need more space, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section II.

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NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

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DOCS
DATE FILED *3-2-20*

I. BASIS FOR JURISDICTION

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation, and the amount in controversy is more than \$75,000, is a diversity case. In a diversity case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal-court jurisdiction in your case?

☒ Federal Question

☐ Diversity of Citizenship

A. If you checked Federal Question

Which of your federal constitutional or federal statutory rights have been violated?

My Fourth and Fourteenth amendments

B. If you checked Diversity of Citizenship

1. Citizenship of the parties

Of what State is each party a citizen?

The plaintiff, _____, is a citizen of the State of _____
(Plaintiff's name)

(State in which the person resides and intends to remain.)

or, if not lawfully admitted for permanent residence in the United States, a citizen or subject of the foreign state of _____

If more than one plaintiff is named in the complaint, attach additional pages providing information for each additional plaintiff.

If the defendant is an individual:

The defendant, _____, is a citizen of the State of
(Defendant's name)

or, if not lawfully admitted for permanent residence in the United States, a citizen or
subject of the foreign state of _____

If the defendant is a corporation:

The defendant, _____, is incorporated under the laws of
the State of _____

and has its principal place of business in the State of _____

or is incorporated under the laws of (foreign state) _____

and has its principal place of business in _____

If more than one defendant is named in the complaint, attach additional pages providing
information for each additional defendant.

II. PARTIES

A. Plaintiff Information

Provide the following information for each plaintiff named in the complaint. Attach additional
pages if needed.

Robert	D	Lurch
First Name	Middle Initial	Last Name
PO BOX 540807		
Street Address		
BRONX	NY	10454
County, City	State	Zip Code
Telephone Number		Email Address (if available)

B. Defendant Information

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. Attach additional pages if needed.

Defendant 1:

First Name

Last Name

- See Defendant list -

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

County, City

State

Zip Code

Defendant 2:

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

County, City

State

Zip Code

Defendant 3:

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

County, City

State

Zip Code

Defendant list

(1). The city of New York

(2.) Two officers from the Oct.13,2019 incident

(3.) Two officers from the nov.30,2019 incident

(4.) Kimpton muse hotel

(5.) Hotel staff member(s) that called law enforcement or 911 on plaintiff on both incidents

Defendant 4:

First Name

Last Name

Current Job Title (or other identifying information)

Current Work Address (or other address where defendant may be served)

County, City

State

Zip Code

III. STATEMENT OF CLAIM

Place(s) of occurrence: K: mpton muse hotel

Date(s) of occurrence: 1st Incident - Oct. 13, 2019, 2nd Incident - Nov. 30, 2019

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and what each defendant personally did or failed to do that harmed you. Attach additional pages if needed.

-see attached-

Facts of the incident

On Oct.13,2019 in between the hours of 7am and 8:30am, I entered the "Kimpton muse hotel's" lobby area waiting on a tourist that I had met that was a guest at the hotel.

I felt the urge to use the bathroom while I waited for this person so I asked the staff where the restrooms where located. They pointed in the direction of the bathroom and I proceeded to enter one of the bathroom's individual units.

While I was still defecating I heard a knock on the door. I inquired who it was and I heard a hotel staff member ask me what I was doing in the bathroom. When I responded with the obvious response, the staff member left.

Minutes later, I heard another knock at the door.

Yet, again I inquired who it was. The police responded saying get out or were coming in. I told them I didn't even wipe myself but they said that "your lying you're not using the bathroom were coming in".

Subsequently, I opened the door and asked what is going on? They told me "you're not a guest leave the hotel". I inquired as to how they would even know that without knowing my name (or something in that context) but they drew their taser guns.

I then told them that it is a public restroom and I was given permission to use it anyway. The officer's that had their tasers drawn, did not like my response (I guess) and started forcing me out the hotel backing me down with their taser guns.

One point during the encounter, a lady in the hotel's lobby, little daughter had got in between me and the officers and they aggressively informed her to immediately move her daughter from out the way just in case they have to tase me. Shortly after that, I was able to make it out the hotel door safely. Even though the officers acted gung-ho during the entire time and had their fingers on the triggers of their taser guns while it was aimed at me during the whole encounter.

Second incident

On Nov.30 2019, at around 5pm, I entered the "Kimpton muse hotel" and sat in the lobby and

proceeded to eat my food I just bought from McDonald's.

After I finished eating my meal, I went to use the hotel's lobby bathroom that does not require a room key to enter. While I used the bathroom a hotel employee knocked on the door and said hurry up, you been in there for a minute.

Even though I just got in the bathroom, I complied and finished up using the bathroom. As I was about to exit the individual bathroom unit, I heard another knock.

When I inquired who was knocking, the police responded. I opened the door and asked them what is the issue? The hotel staff member that called them I guess, said your using the bathroom and you're not a guest you have to leave.

I inquired how does he know I'm not a guess and he gave the foolish response that he knew i wasn't a guess because I was eating outside food that wasn't bought from the hotel in the hotel lobby (McDonalds food).

So, I asked him sarcastically, if that is how the hotel determines if someone is a guest or not? He gave me an evasive answer trying to get around the question.

Then I told him if you weren't able to determine if I was a guest or not, why would you knock on the door while I was using the bathroom if I could have potentially been a guest? He yet again couldn't provide a rational answer.

The police watched as I questioned the staff member as to what grounds did he have to call the authorities on me and request that I be removed from the property. He couldn't give me a reasonable answer and the police by a show of authority forced me to leave once they seen he didn't have a valid ground for his request that he could provide me with.

Note: Both incidents should have been recorded by the officers involved body cameras.

Excessive Force claim

The Nypd officers that encountered me on Oct.13,2019 unlawfully seized me for the purposes of unlawfully removing me from the hotel property by drawing their police issued tasers on me.

A standard stun gun or cattle prod can only be used at close range; Tasers can shoot someone from 20 feet away. Once the electrodes hit their target, the Taser sends a pulse with about 50,000 volts and a few milliamps.

A man just died during a police-citizen encounter in Albany, Oregon, this year; just like many others, when they were involved in an altercation with the police that involved a taser.

On Oct.13,2019 the officers that knocked on the bathroom's door that I occupied, drew their taser as soon as I opened the door.

During the whole seizure even though it was unlawful, I faced the threat of imminent death. All the way up until I exited the hotel. A lady was even instructed by police to immediately move her daughter from out way just in case I stopped following their instructions and they have to tase me.

The police on the day of the incident had no authority based on the circumstances of the incident to use any force even a show of authority. So by drawing a taser and threatening the plaintiff with physical harm, if he doesn't listen to their instructions that by law they didn't have a authority at that time to give; the level of force they chose to use was excessive and could of resulted in the plaintiff's death.

Parties liable: (1.) The city of New York and (2.) the 2 officers from the Oct.13,2019 encounter

Unlawful seizure claim

At no time during the Oct.13,2019 incident or the Nov.30,2019 incident did Nypd have the authority to seize the plaintiff for any reason including forcibly removing him from the Kimpton Muse Hotel by show of authority or using the threat of tasing the plaintiff with their tasers drawn if the plaintiff doesn't follow their instruction.

When Nypd started to instruct the plaintiff on which way he can go during the encounter by a show of authority the plaintiff was seized at that moment and that seizure was unlawful.

Parties liable (1.) The city of New York and (2.)4
Unknown Nypd officers

Failure to protect Claim

The Nypd allowed the employees of the Kimpton Muse hotel to discriminate against the plaintiff without reason on two different occasions and helped them to violate the plaintiff's constitutional rights not to be seized without cause.

On the first and second occasion the police knew that the plaintiff was not committing any crime and was lawfully using the hotel's public restroom. There were no illegal substance odors emitting from the bathroom unit while the plaintiff was in it nor were there any strange noises coming from the bathroom that would have made any concerned citizen wonder if the person in the unit was okay which would of prompted them to call the authorities.

However, the plaintiff was still told on the days of both incidents by Nypd that the hotel has a right to refuse service or the use of their facilities to anyone without reason as they were unlawfully seizing me for the purposes of removing me from the hotel property.

Now this opinion by these officers on the law is unfounded. The constitution does not substantiate their argument nor does the policies of the hotel.

The officers did not ask the hotel staff, anytime during the encounter, If the restroom in the lobby was a public one or if they confirmed if the plaintiff is a guess or not? Instead they forced me out by A show of authority(nov.30,2019) and with tasers (Oct.13,2019) without seeing if they had the right to forcibly remove me because I was violating some crime or ask me to leave because I was violating some policy of the business.

However, neither was determine, I was just removed from the hotel for no reason being treated like a citizen that has no rights.

Furthermore, it wasn't even determined if the plaintiff had a reservation or was a guest at the hotel when he was unlawfully seized and removed (they didn't even know my name). So, these defendant's actions were not justified no matter what way you analyze it.

The Nypd officers that arrived on the two different occasions failed to protect the plaintiff rights under the equal protection clause from getting violated by

allowing a business that has to follow the state and federal laws to operate within the confines of New York to violate the plaintiff rights by being bias.

Parties liable: (1.) The city of New York and (2.) Unknown officers (4 in total {two responded every call})

Equal protection claim

A phrase in the fourteenth amendment to the united states constitution requires that states guarantee the same rights, privileges, and protections to all citizens.

In addition, the fourteenth amendment contains the equal protection clause. This mandates that no state shall... “deny to any person within its jurisdiction the equal protections of the law. “This clause has proved to be central in ending and preventing of government discrimination based on race and gender.

Which also goes for any business that the state allows to operate within its confines. The Kimpton Muse hotel operates within “The city of New York” and has a public restroom in their lobby.

The plaintiff was informed by staff that the restroom in the hotel lobby is public and this was corroborated by the hotel staff later to the plaintiff when he called to make reservations. This section of the hotel also doesn't require a hotel key and it appears to be designed for all to use.

So, when the plaintiff was targeted on Oct.13,2019 and Nov.30,2019 for other reason than be a young black male I knew the defendants were being bias violating my equal protection rights and the hotel staff that called on the plaintiff was not doing so pursuant to any policy they did it rather based on their stereotypical views of the plaintiff.

During the time the plaintiff was forcefully removed nobody else entering the hotel lobby public restroom was interrupted in using the hotel facilities except for him. Nobody was asked if they were guest before they entered or after they exited the lobby bathroom, except for the plaintiff. No other citizen had their bathroom unit knocked on to ask if they were a guest except for the plaintiff.

In the United States, the main law that addresses the refusal to serve a customer is the Civil Rights Act of 1964, which covers discrimination against protected classes, such as race, gender, disability, religion, etc. ... If a business refuses to serve a customer on discriminatory grounds, it is illegal.

So, the plaintiff rights under the equal protection clause was violated when the hotel staff called 911 on the plaintiff for no legitimate reason other than the plaintiff

being black and requested that nypd remove the plaintiff from the premise solely because of their stereotypical view of the plaintiff and not pursuant to any policy.

The employees then conspired with the Nypd to violate the plaintiff's fourth (unlawful seizure) and fourteenth (Equal protection) amendment rights. The officers not only encouraged their actions but took part in carrying out the unlawful seizure for purposes of removal.

Parties liable: (1.) Kimpton Muse hotel (or the suable entity) (Liability comes from lack of supervision of their employees) and (2.) the hotel staff member that called the police on the plaintiff.

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

constitutional injuries, mental trauma, and embarrassment
as a person the way the situation was handled.

IV. RELIEF

State briefly what money damages or other relief you want the court to order.

in suing each entity for 5 million dollars in compensatory
damages and in suing each individual defendant for 5
million dollars in punitive and compensatory damages.

V. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

Dated 3/3/2020
 Plaintiff's Signature [Signature]
 First Name Robert Middle Initial D Last Name Lurch
 Street Address PO BOX 540807
 County, City Bronx State NY Zip Code 10451
 Telephone Number _____ Email Address (if available) _____

I have read the Pro Se (Nonprisoner) Consent to Receive Documents Electronically:
☒ Yes ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.