

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WAYNE

-----X
JANET E. ENOCH, STEVE O. HINDI, AND
MICHAEL KOBLISKA,

Plaintiff(s),

- against -

THE WAYNE COUNTY SHERIFF'S OFFICE,
T. D'AMATO, LARRY LINDER, JAMES DUNLAP,
GEORGE LORENZ, A. KNAPP, P.O. JOHN
DOE nos. 1-10,

Defendant(s).

-----X
To the above named Defendant(s):

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, of if the complaint is not served with this summons, to serve a notice of appearance on the plaintiff's attorney(s) within twenty days after the services of this summons exclusive of the day of service, where service is made by delivery upon you personally within the state, or within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Nassau County, New York
June 1, 2017

Yours, etc.,

Nora Constance Marino, Esq.
175 East Shore Road, Suite 230
Great Neck, New York 11023
516.829.8399
File No.: 1582

Service to:

Index No.:
Date Purchased:

Summons

Plaintiff designates Wayne
County as place of trial.

The basis of venue is:
Defendant's residence.

Plaintiff(s) reside(s) at:
Wayne County

WAYNE COUNTY SHERIFF'S OFFICE
7376 Route 31
Lyons, NY 14489

Police Officers/detectives/sergeants/deputies/sheriffs/other:

T. D'Amato
WAYNE COUNTY SHERIFF'S OFFICE
7376 Route 31
Lyons, NY 14489

Larry Linder
WAYNE COUNTY SHERIFF'S OFFICE
7376 Route 31
Lyons, NY 14489

James Dunlap
WAYNE COUNTY SHERIFF'S OFFICE
7376 Route 31
Lyons, NY 14489

George Lorenz
WAYNE COUNTY SHERIFF'S OFFICE
7376 Route 31
Lyons, NY 14489

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WAYNE

-----X
JANET E. ENOCH, STEVE O. HINDI, and MICHAEL
KOBLSKA,

Plaintiffs,

VERIFIED COMPLAINT

-against-

Index No.:

THE WAYNE COUNTY SHERIFF’S OFFICE, T.
D’AMATO, LARRY LINDER, JAMES DUNLAP,
GEORGE LORENZ, A. KNAPP, P.O. JOHN DOE nos.
1-10,

Defendants,

-----X

Plaintiffs, by their attorney, NORA CONSTANCE MARINO, ESQ.
complaining of the defendants herein, respectfully show this Court, and allege
as follows:

PRELIMINARY STATEMENT

1. That at all times hereinafter mentioned, the plaintiff JANET E.
ENOCH (“ENOCH ”) was and still is a resident of the County of Kane, State of
Illinois.

2. That at all times hereinafter mentioned, the plaintiff STEVE O.
HINDI (“HINDI”) was and still is a resident of the County of Kane, State of Illinois.

3. That at all times hereinafter mentioned, the plaintiff MICHAEL
KOBLSKA (“KOBLSKA”) was and still is a resident of the County of Grundy,
State of Illinois.

4. That at all times hereinafter mentioned, defendant, THE WAYNE

COUNTY SHERIFF'S OFFICE ("SHERIFF'S OFFICE") was and still is a Municipal Corporation, duly organized and existing under and by virtue of the law of the State of New York.

5. That at all times hereinafter mentioned, defendant SHERIFF'S OFFICE, owned, operated, maintained, managed, inspected, supervised and controlled a Department also known as the Wayne County Police Department.

6. That at all times hereinafter mentioned, the defendant T. D'AMATO ("D'AMATO") was an agent, servant, and/or employee of defendant SHERIFF'S OFFICE.

7. That at all times hereinafter mentioned, the defendant LARRY LINDER ("LINDER") was an agent, servant, and/or employee of defendant SHERIFF'S OFFICE.

8. That at all times hereinafter mentioned, the defendant JAMES DUNLAP ("DUNLAP") was an agent, servant, and/or employee of defendant SHERIFF'S OFFICE.

9. That at all times hereinafter mentioned, the defendant GEORGE LORENZ ("LORENZ") was an agent, servant, and/or employee of defendant SHERIFF'S OFFICE.

10. That at all times hereinafter mentioned, the defendant A. KNAPP ("KNAPP") was an agent, servant, and/or employee of defendant SHERIFF'S OFFICE.

11. That at all times hereinafter mentioned, the Defendant Police Officer "JOHN DOES nos. 1-10", names being fictitious as names are unknown at this

time, were and still are members of the SHERIFF'S OFFICE, and were employees of SHERIFF'S OFFICE and its police department, and were acting for, upon, and in course of and in furtherance of the business of their employers and within the scope of their employment for defendants SHERIFF'S OFFICE.

12. That all times hereinafter mentioned, SHERIFF'S OFFICE employed police officers and jailors and others hereafter mentioned in this complaint.

13. That at all times hereinafter mentioned, the defendant SHERIFF'S OFFICE owned, maintained, supervised, managed, operated, inspected and controlled the various jails, police, facilities, police stations, police precincts, police equipment, police vehicles, all hereinafter mentioned in the complaint.

14. That at all times hereinafter mentioned, all of the actions of the officers allege herein was done within the scope and course of their employment with SHERIFF'S OFFICE and under color of the state law.

FACTS COMMON TO ALL CAUSES OF ACTION

15. That on or about the 13th day of November 2016, plaintiffs ENOCH, HINDI, AND KOBLISKA were lawfully in and about the general vicinity of southbound on Highway 414, traveling in a motor vehicle at or near (south of) the intersection of Sodus Street, Town of Clyde, County of Wayne, State of New York.

16. That on or about the 13th day of November 2016, Plaintiffs ENOCH, HINDI, and KOBLISKA were lawfully driving at the aforementioned location, when the defendants SHERIFF'S OFFICE, D'AMATO, LINDER, DUNLAP,

LORENZ, KNAPP and Police Officers JOHN DOES Nos. 1-10, (all defendants collectively referred to herein as “DEFENDANTS”), wrongly and illegally pulled over, detained, arrested, frisked, searched and/or touched the plaintiffs, without justification, authorization, provocation or cause.

17. That none of the plaintiffs violated any law, rule, or regulation, or acted in any way that would justify said actions, detention.

18. That DEFENDANTS arrested plaintiffs ENOCH AND HINDI.

19. That the wrongful, unjust, and unlawful apprehension, arrest and detention were carried out without a probable cause.

20. That the wrongful, unjust, and unlawful apprehension, arrest and detention were carried out without reasonable suspicion.

21. That the wrongful, unjust, and unlawful apprehension, arrest and detention were carried out without cause of any sort.

22. That the wrongful, unjust, and unlawful apprehension and detention were carried out without any justifiable reason whatsoever.

23. That at all relevant times, defendants acted forcibly in detaining plaintiffs.

24. That thereafter, after the unlawful detention, plaintiffs ENOCH and HINDI were removed from the scene of the wrongful detention and were unlawfully arrested by DEFENDANTS, and were taken to a police precinct or some other type of holding area.

25. That throughout this period of time, plaintiffs were wrongfully unlawfully and unjustifiably held under arrest, deprived of their liberty.

26. That said arrest constituted a false arrest and false imprisonment and deprived plaintiffs of their personal freedom and civil rights, as plaintiffs never committed any crime or violation to warrant such action.

27. That defendants, their officers, agents, servants and/or employees were responsible for plaintiffs' arrest, assaults and detention during this period of time.

28. That at all times mentioned the unlawful, wrongful and false arrest of plaintiffs were without right and without probable or reasonable cause.

29. That the defendants acted with a knowing, willful, wanton, malicious, grossly, reckless, unlawful, unreasonable and flagrant disregard of plaintiff's rights, privileges, welfare and well-being and were guilty of egregious and gross misconduct towards them.

30. That all of the foregoing occurred without any fault or provocation of the part of the plaintiffs.

31. That by reason of the foregoing, plaintiffs suffered damages.

32. None of the plaintiffs were charged with any crime or violation.

FIRST CAUSE OF ACTION

DEPRIVATION OF PLAINTIFFS' RIGHTS UNDER THE FOURTH, FIFTH, AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION, AND NEW YORK STATE LAW AND THE NEW YORK STATE CONSTITUTION

33. Plaintiffs repeat, reiterate, and reallege all of the allegations set forth above.

34. Defendants used excessive force, handcuffed, deprived plaintiffs of

their liberty, freedom, and constitutional rights, despite the fact that plaintiffs had not committed a crime or violation.

35. Defendants detained all plaintiffs and arrested plaintiffs ENOCH AND HINDI with the express intent of preventing plaintiffs from further expressing their First, Fourth, and Fourteenth Amendment rights under the United States Constitution and Article I, § 6, 8, 12 rights to free speech and liberty under the New York State Constitution and detained and took plaintiffs into custody against their will.

36. That despite the fact that defendants knew that there was no probable cause to believe that plaintiffs committed any crime, one or more than one of the defendants authorized and approved the formal arrest of plaintiffs.

37. That the defendant officers arrested plaintiffs despite the fact that they knew that the no crimes or violations were committed and that there was no probable cause or justification for such an arrest and/or detention.

38. That at all times, the officers acted within the scope of their employment of defendants SHERIFF'S OFFICE and under the authority of color of state law as police officers.

39. The aforescribed constitutional violations are all actionable under and pursuant to 42 U.S.C. §§ 1981, 1983, 1985, 1986 and New York State Law and the New York State Constitution.

40. Although the defendants knew that detaining and arresting plaintiffs when they had no right to do so, in violation of plaintiffs' constitutional rights, the defendants processed the plaintiffs, generating

misleading and false accusatory instruments in order to lay charges against plaintiffs, even though defendants knew or had reason to know that they were making an illegal arrest.

41. The direct and proximate results of the defendants' acts are that plaintiffs suffered severe and permanent injuries of a physical and psychological nature.

SECOND CAUSE OF ACTION

NEGLIGENT HIRING, TRAINING, SUPERVISION, AND RETENTION

UNDER NEW YORK STATE LAW

42. Plaintiffs repeat, reiterate and reallege all of the allegations set forth above.

43. Defendant SHERIFF'S OFFICE negligently hired, trained, supervised, and retained the defendant officers; defendant SHERIFF'S OFFICE was careless and reckless in the hiring, training, supervision, overseeing, and retention of defendant officers.

44. As a result of this negligent hiring, training, supervision, overseeing, and retention, plaintiffs have suffered and continues to suffer damages, constitutional violations, as well as other damages.

THIRD CAUSE OF ACTION AGAINST DEFENDANT SHERIFF'S OFFICE

MONELL CLAIM PURSUANT TO 42 U.S.C § 1981, 1983, 1985, 1986

AND RESPONDEAT SUPERIOR

45. Plaintiffs repeat, reiterate and reallege each and every allegation contained herein as if fully set forth at length herein.

46. All of the acts and omissions by the individual defendants, described above were carried out pursuant to overlapping policies and practices of the SHERIFF'S OFFICE which were in existence at the time of the conduct alleged herein and were engaged in with the full knowledge, consent and cooperation and under the supervisory authority of defendant SHERIFF'S OFFICE.

47. Defendant SHERIFF'S OFFICE, by their policy-making agents, servants and employees, authorized sanctioned and/or ratified the individual Defendants' wrongful acts and/or failed to prevent or stop those acts and/or allowed those acts to continue.

48. Defendants detained, arrested, assaulted, battered, and victimized plaintiffs in the absence of any evidence of probable cause or reasonableness to do so, notwithstanding their knowledge that said assault and battery would jeopardize plaintiffs' liberty, well-being, safety and constitutional rights.

49. At all times mentioned herein, said police officers were acting under color of law, to wit: the statutes, ordinances, regulations, policies and customs and usage of the State of New York and/or County of Wayne, and/or City of Clyde.

50. Defendant SHERIFF'S OFFICE has grossly failed to train and adequately supervise its police officers in the fundamental law of use of reasonable detention and/or arrest.

51. The direct and proximate results of the defendants' acts are that plaintiffs suffered severe and permanent injuries of a physical and psychological nature.

FOURTH CAUSE OF ACTION AGAINST DEFENDANT SHERIFF'S OFFICE

MUNICIPAL AND/OR GOVERNMENTAL LIABILITY

52. Plaintiffs repeat, reiterate, and reallege all of the allegations set forth above.

53. That defendant SHERIFF'S OFFICE, its employees, agents and/or servants, failed to take any necessary steps to prevent this occurrence; failed to properly train its employees, agents and/or servants in arrest procedures; failed to control and supervise its employees, agents and/or servants; failed to prevent the aforesaid detention, incarceration, violation of constitutional rights, and permanent psychological injuries to the plaintiffs; and were otherwise reckless, careless, and negligent.

54. That as a result of the above referenced negligence; plaintiffs were caused to sustain damages and their constitutional rights were violated.

55. That as a result of the above, the plaintiffs demand judgment against the defendants SHERIFF'S OFFICE in the amount which exceeds the

jurisdiction of all lower courts.

FIFTH CAUSE OF ACTION

EXCESSIVE FORCE

56. Plaintiffs repeat, reiterate, and reallege all of the allegations set forth above.

57. Plaintiffs did not resist the orders during the above described incident and did not take any actions necessitating the use of excessive physical force by defendants.

58. As a direct and proximate result of the unlawful excessive force used against plaintiff by defendants deprived plaintiffs of their Constitutional rights in violation of the Fourth, Eighth and Fourteenth Amendments of the Constitution and are liable to plaintiff pursuant to 42 U.S.C. § 1983.

59. Defendant officers used excessive force against plaintiffs with knowledge that plaintiff did not commit a crime and that the arrest and force used to effectuate the arrest was excessive, unnecessary and without cause or grounds therefore.

60. That as a result of the foregoing, plaintiff demands judgment against the defendants in the amount which exceeds the jurisdiction of all lower courts.

SIXTH CAUSE OF ACTION

MALICIOUS PROSECUTION

61. Plaintiffs repeat, reiterate and realleges all of the allegations set forth above.

62. That on or about November 13, 2016, defendant officers were employees, agents and/or servants of SHERIFF'S OFFICE.

63. That on or about November 13, 2016, one of or more than one of the defendant officers prepared formal accusatory instruments, with the knowledge that no crime or violation had occurred.

64. That one of or more than one of the defendant officers prepared and filed these charges against plaintiff with malice and the intent of depriving plaintiffs of their liberty and right to not have their person seized knowing they had no cause or grounds to do so.

65. That one of or more than one of the defendant officers prepared and filed these charges against plaintiffs with the intent to deprive plaintiff of his right to free speech and other constitutional freedoms, with malice as they were aware that plaintiffs had said constitutional rights.

66. That defendant SHERIFF'S OFFICE, its employees, agents and/or servants, failed to take any necessary steps to prevent this occurrence; failed to properly train its employees, agents and/or servants in arrest procedures; failed to control and supervise its employees, agents and/or servants; failed to prevent the aforesaid pain and suffering, defamation, incarceration and permanent psychological injuries to the plaintiffs; and were otherwise reckless,

careless and negligent.

SEVENTH CAUSE OF ACTION

ABUSE OF PROCESS

67. Plaintiffs repeat, reiterate, and reallege all of the allegations set forth above.

68. Without plaintiff's consent, one of ore more than one of the defendant officers harmfully and offensively touched plaintiffs by grabbing them, restraining them, handcuffing them, and unlawfully and unconstitutionally deprived the plaintiffs of their liberty and freedom.

69. The defendants abused their authority and abused their position; defendants abused and violated the public trust and in particular the trust of plaintiff. Defendants had no right under the laws of the land to detain, arrest, harass, incarcerate, or prosecute the plaintiff, yet they chose to regardless. The defendant officers who did not detain, arrest, harass, incarcerate, or prosecute the plaintiffs, should there be any, are liable to plaintiff for their failure to protect and intervene, and a violation of their duty to intervene, safeguard, and protect the plaintiff.

EIGHTH CAUSE OF ACTION

INFLECTION OF EMOTIONAL DISTRESS

70. Plaintiffs repeat, reiterate, and reallege all of the allegations set forth above.

71. Defendants intentionally and deliberately inflicted emotional distress upon plaintiffs by maliciously detaining them, grabbing them, restraining them, handcuffing them, falsely arresting them, and depriving the plaintiffs of their liberty and freedom, and in abusing plaintiff.

NINTH CAUSE OF ACTION

NEGLIGENCE

72. Plaintiffs repeat, reiterate, and reallege all of the allegations set forth above.

73. That the aforesaid defendants, without cause or provocation, negligently, carelessly, negligently, and recklessly detained and arrested the plaintiffs despite knowing that no laws, rules, or regulations were violated, without grounds, and without cause.

TENTH CAUSE OF ACTION

DISSEMINATION OF PERSONAL AND INTIMATE INFORMATION

74. Plaintiffs repeat, reiterate, and reallege all of the allegations set forth above.

75. That the aforesaid defendants, without permission or consent, disseminated the personal and intimate information of the plaintiffs herein, to third party individuals, specifically, members, agents, employees, or others connected to Marshall Farms.

76. Said information was disseminated in an unauthorized manner.

ELEVENTH CAUSE OF ACTION

PUNITIVE DAMAGES

77. Plaintiffs repeat, reiterate, and reallege all of the allegations set forth above.

78. The acts, conduct and behavior of the defendants warrant punitive damages.

79. The direct and proximate results of the defendants' acts as they are set forth above in the facts and in each cause of action set forth above, are that plaintiffs suffered severe and permanent injuries of a physical, psychological, and economic nature.

WHEREFORE, plaintiffs demand judgment against defendants, and each of them, on all of the foregoing causes of action, in the form of compensatory damages for their pain and suffering, loss of enjoyment of life, economic loss, and other losses and damages, in an amount that exceeds the jurisdictional limits of all lower courts that otherwise would have jurisdiction in

the matter, and plaintiff further demands punitive damages on all causes of action, in an amount to be determined by the trier of fact, together with attorney's fees, costs, and disbursements.

Dated: June 1, 2017
Nassau County, NY

Yours, etc.,
LAW OFFICES OF NORA CONSTANCE MARINO

BY: NORA CONSTANCE MARINO, ESQ.
Attorneys for Plaintiffs
175 East Shore Road, Suite 230
Great Neck, NY 11023
516-829-8399
nora@marinojustice.com

ATTORNEY VERIFICATION

STATE OF NEW YORK)
)
) ss.:
COUNTY OF NASSAU)

NORA CONSTANCE MARINO, an attorney duly licensed to practice law, affirms under penalties of perjury, that I am the attorney of record for the JANET ENOCH, STEVE O. HINDI, AND MICHAEL KOBLISKA in the within action; that I have read the foregoing **COMPLAINT** and know the contents thereof; that the same is true to my own knowledge, except as to the matters therein alleged to be on information and belief, and as to those matters, I believe it to be true. The reason this verification is made by me and not by plaintiffs named herein, is that the plaintiffs resides in a different county then your deponent maintains her office in.

DATED: June 1, 2017
Nassau County, NY

AFFIRMED:

NORA CONSTANCE MARINO