

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
CHRISTOPHER MOORE,

Plaintiff,

**COMPLAINT AND JURY
DEMAND**

-against-

ECF CASE
Docket No. 19-cv-542

CITY OF NEW YORK; DET. ERICK M. PARKS; DET. MARCELO LUC; DET. ELENA GONZALEZ-MUNOZ; DET. SALVATORE TRISCRITTI; SGT. JOHN HERBERT; FIRE MARSHAL JOHN ORLANDO; FIRE MARSHAL CONSTANTINE KANELOPOULOS; FIRE MARSHAL ERIC H. HANSEN; and JOHN and JANE DOE 1 through 10, individually and in their official capacities (the names John and Jane Doe being fictitious, as the true names are presently unknown),

Defendants.

-----X
Plaintiff, Christopher Moore, by his attorney, Samuel C. DePaola, Esq., of Sim & DePaola, LLP, for his complaint against the above Defendants, alleges as follows:

PRELIMINARY STATEMENT

1. This is a civil rights action in which Plaintiff seeks relief through 42 U.S.C. §1983 and 42 U.S. §1988 for the violation of his civil rights protected by the Fourth and Fourteenth Amendments, in addition to violations of the Laws of the State of New York.
2. The claim arises from an October 10, 2012 incident in which defendants, acting under color of state law, unlawfully arrested and detained Mr. Moore. Mr. Moore was subsequently prosecuted and charged with two (2) counts of Murder in the Second Degree and one (1) count of Arson in the Fourth Degree. As a result, Mr. Moore was

deprived of his liberty and suffered physical injuries. Mr. Moore was wrongfully incarcerated for over seventy (70) months, until all charges were dismissed and sealed. Mr. Moore's case was dismissed and sealed on, or about, December 20, 2017, following a criminal trial, where Mr. Moore was acquitted of all charges.

3. Plaintiff seeks monetary damages (compensatory and punitive) against Defendants, as well as an award of costs and attorneys' fees, and such other and further relief as the Court deems just and proper.

JURISDICTION

4. This action arises under the Fourth and Fourteenth Amendments to the United States Constitution and under 42 U.S.C. §1983 and §1988 and the Laws of the State of New York.
5. The jurisdiction of this court is predicated upon 28 U.S.C. §§ 1331, 1343(a)(3) and (4), 1367(a) and the doctrine of pendant jurisdiction.

VENUE

6. Venue is laid within the Eastern District of New York in that Defendant City of New York is located within and a substantial part of the events giving rise to the claim occurred within the boundaries of the Eastern District. 28 U.S.C. § 1391 (b) and (c).

PARTIES

7. Plaintiff Christopher Moore ("Mr. Moore") resides in Brooklyn, County of Kings, State of New York.
8. The Defendant City of New York (or "the City") is a municipal corporation organized under the laws of the State of New York.

9. At all times relevant hereto, Defendant City, acting through the New York City Police Department (or “NYPD”) and the Fire Department of the City of New York (or “FDNY”), was responsible for the policy, practice, supervision, implementation, and conduct of all NYPD and FDNY matters and was responsible for the appointment, training, supervision, discipline and retention and conduct of all NYPD and FDNY personnel, including police officers, detectives, fire marshals, firefighters and supervisory officers as well as the individually named Defendants herein.
10. In addition, at all times here relevant, Defendant City was responsible for enforcing the rules of the NYPD and FDNY, and for ensuring that the NYPD and FDNY personnel obey the laws of the United States and the State of New York.
11. Defendant Detective Erick M. Parks (“Parks”) was, at all times here relevant, a police officer employed by the NYPD and as such was acting in the capacity of an agent, servant and employee of the City of New York. Defendant Parks was, at the time relevant herein, a Police Detective under Tax Reg. No. 914909 in the 73rd Precinct, located at 1470 East New York Avenue, Brooklyn, New York 11212. Defendant Parks is sued in his individual and official capacities.
12. Defendant Detective Marcelo Luc (“Luc”) was, at all times here relevant, a police officer employed by the NYPD and as such was acting in the capacity of an agent, servant and employee of the City of New York. Defendant Luc was, at the time relevant herein, a Police Detective under Tax Reg. No. 914588 in the 73rd Precinct, located at 1470 East New York Avenue, Brooklyn, New York 11212. Defendant Luc is sued in his individual and official capacities.

13. Defendant Detective Elena Gonzalez-Munoz (“Munoz”) was, at all times here relevant, a police officer employed by the NYPD and as such was acting in the capacity of an agent, servant and employee of the City of New York. Defendant Munoz was, at the time relevant herein, a Police Detective under Tax Reg. No. 906360 in the 73rd Precinct, located at 1470 East New York Avenue, Brooklyn, New York 11212. Defendant Munoz is sued in her individual and official capacities.
14. Defendant Detective Salvatore Triscritti (“Triscritti”) was, at all times here relevant, a police officer employed by the NYPD and as such was acting in the capacity of an agent, servant and employee of the City of New York. Defendant Triscritti was, at the time relevant herein, a Police Detective under Tax Reg. No. 927607 in the 73rd Precinct, located at 1470 East New York Avenue, Brooklyn, New York 11212. Defendant Triscritti is sued in his individual and official capacities.
15. Defendant Sergeant John Herbert (“Herbert”) was, at all times here relevant, a police officer employed by the NYPD and as such was acting in the capacity of an agent, servant and employee of the City of New York. Defendant Herbert was, at the time relevant herein, a Police Sergeant under Tax Reg. No. 899349 in the 73rd Precinct, located at 1470 East New York Avenue, Brooklyn, New York 11212. Defendant Herbert is sued in his individual and official capacities.
16. Defendant Fire Marshal John Orlando (“Orlando”) was, at all time here relevant, a fire marshal employed by the FDNY and as such was acting in the capacity of an agent, servant and employee of the City of New York. Defendant Orlando was, at the time relevant herein, a fire marshal under Tax Reg. No. 911647 in the Fire Investigation Bureau of the FDNY, based at City Wide South, 5700 1st Avenue,

Brooklyn, New York 11220. Defendant Orlando is sued in his individual and official capacities.

17. Defendant Fire Marshal Constantine Kanelopoulos (“Kanelopoulos”) was, at all time here relevant, a fire marshal employed by the FDNY and as such was acting in the capacity of an agent, servant and employee of the City of New York. Defendant Kanelopoulos was, at the time relevant herein, a fire marshal under Tax Reg. No. 915774 in the Fire Investigation Bureau of the FDNY, based at City Wide South, 5700 1st Avenue, Brooklyn, New York 11220. Defendant Kanelopoulos is sued in his individual and official capacities.
18. Defendant Fire Marshal Eric H. Hansen (“Hansen”) was, at all time here relevant, a fire marshal employed by the FDNY and as such was acting in the capacity of an agent, servant and employee of the City of New York. Defendant Hansen was, at the time relevant herein, a fire marshal under Tax Reg. No. 909182 in the Fire Investigation Bureau of the FDNY based at City Wide South, 5700 1st Avenue, Brooklyn, New York 11220. Defendant Hansen is sued in his individual and official capacities.
19. At all times relevant Defendants John and Jane Doe 1 through 10 were police officers, detectives, fire marshals, firefighters, supervisors, policy makers and/or officials employed by the NYPD or FDNY. At this time, Plaintiff does not know the true names and/or tax registration numbers of Defendants John and Jane Doe 1 through 10, but is within knowledge of the defendants.
20. At all times relevant herein, Defendants John and Jane Doe 1 through 10 were acting as agents, servants and employees of the City of New York, the NYPD and/or FDNY.

Defendants John and Jane Doe 1 through 10 are sued in their individual and official capacities.

21. At all times here mentioned Defendants were acting under color of state law, to wit, under color of the statutes, ordinances, regulations, policies, customs and usages of the City and State of New York.

22. Within 90 days of accrual dates for these claims, Plaintiff timely filed a written notice of claim with the New York City Office of the Comptroller.

23. Over 30 days have elapsed since the filing of those notices, and this matter has not been settled or otherwise disposed of.

24. Plaintiff has complied with municipal defendant's request for an oral examination pursuant to Section 50-H of the New York General Municipal Law.

25. This action has been commenced within one year and ninety days from the relevant accrual dates.

FACTUAL CHARGES

26. On October 7, 2012, at approximately 12:00 a.m., Mr. Moore left his residence at 295 East 98th Street, Brooklyn, New York.

27. Mr. Moore left residency to enjoy a night out at Studio 10, a nightclub.

28. When Mr. Moore returned to his residence at approximately 4:00 a.m. that same morning, he observed it to be on fire and defendants to be outside of the location.

29. Defendants, specifically defendant Orlando, asked Mr. Moore for a statement, because he was a resident of the building.

30. Mr. Moore informed defendant Orlando that he was not present when the fire began and that he did not know how the fire started.

31. Mr. Moore remained at the scene for a short time after giving his statement.
32. Mr. Moore then left the location and went to stay with his aunt, Lisa Moore.
33. On, or about, October 8, 2012, Mr. Moore visited his mother at Brookdale Hospital, who was an admitted patient being treated for advanced stage lung cancer.
34. While Mr. Moore was visiting with his mother, defendants arrived at the hospital and asked Mr. Moore to come to the 73rd NYPD precinct to answer some questions regarding the fire.
35. Mr. Moore agreed and voluntarily accompanied them to the precinct.
36. Upon their arrival at the precinct, at approximately 8:30 p.m., on October 8, 2012, Mr. Moore informed defendants Parks, Orlando and Munoz that he was not present when the fire began and that he did not know how it started.
37. After giving defendants, including defendants Parks, Orlando and Munoz, his statement at the precinct, Mr. Moore requested to leave the precinct and return to his deathly ill mother.
38. Defendants, including defendants Parks, Orlando and Munoz, denied his request to leave the precinct and proceeded to illegally detain Mr. Moore against his will.
39. Mr. Moore then asked defendants, including defendants Parks, Orlando and Munoz, for an attorney, because he was not permitted to leave the precinct.
40. Defendants, including defendants Parks, Orlando and Munoz, ignored Mr. Moore's request for an attorney and proceeded to illegally detain and interrogate him against his will.
41. At approximately 12:53 a.m., on October 9, 2012, defendants Parks, Orlando and Munoz proceeded to further illegally question Mr. Moore about the fire. Once again,

Mr. Moore told them he was not present when the fire began and that he did not know how it started.

42. Mr. Moore was then told by defendants, including defendants Parks, Orlando and Munoz, that he would not be free to leave the precinct and would never see his mother again, unless he said what defendants, including defendant Parks, Orlando and Munoz, directed him to say. The defendants, including defendants Parks, Orlando and Munoz, stated to Mr. Moore that if he said what they wanted him to say, he would be free to leave.

43. Defendants, including defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, lied to Mr. Moore, falsely telling him that if he told defendants that he started the fire by accident, he would be free to leave and see his mother before she died, because accidental fires are not considered crimes and that they were only holding him because they could not close their case until someone told them how it started. Defendants went so far as to tell Mr. Moore that if he was ever charged, defendants would testify in court to protect him and would ensure that he would never be convicted or go to prison.

44. Defendants Parks, Orlando and Munoz then left the interrogation room and returned at approximately 5:10 a.m. that same morning. Defendants Parks, Orlando and Munoz then proceeded to further illegally question Mr. Moore about the incident, to which Mr. Moore, once again, denied any knowledge regarding the origins of the fire. After approximately one (1) hour of interrogation, defendants left the room.

45. Defendants Parks, Orlando and Munoz, also at approximately 5:10 a.m. to 6:10 a.m. that morning, and while inside of the interrogation room with Mr. Moore, proceeded

to place a call on speaker to his deathly ill mother to further coerce Mr. Moore into falsely admitting to a crime that defendants knew he did not commit. Despite this extremely despicable, underhanded and coercive tactic, Mr. Moore told the truth about what he knew about the incident, which was the same truth he had already told defendants multiple times --- that he was not present when the fire began and had no idea how it started.

46. Defendants Parks, Orlando and Munoz then left Mr. Moore trapped in the interrogation room and, presumably, went home to sleep.
47. About six (6) hours later, at approximately 11:00 a.m., two new detectives, defendants Luc and Triscritti, entered the interrogation room, where Mr. Moore was being illegally detained and questioned without his requested attorney. At approximately 12:10 p.m., defendants Luc and Triscritti obtained, through undue duress and coercion, false verbal and written statements from Mr. Moore, statements that defendants knew to be untrue and that that they knew to be procured via illegal means.
48. Later that day, at approximately 3:44 p.m., defendants Luc and Orlando were present while Mr. Moore, while under extreme duress, was further coerced into giving a videotaped statement that defendants knew to be false and obtained in contravention of the laws of the United States and the State of New York.
49. Defendants Kanelopoulos and Hansen, at approximately 6:30 p.m., continued to illegally interrogate Mr. Moore without his requested attorney present. Through their use of illegal methods, defendants coerced Mr. Moore into giving yet another false

written statement that they knew to be untrue and to be the product of their extrajudicial, bordering on torturous, tactics.

50. Defendants Orlando and Kanelopoulos, at approximately 11:00 p.m. that same day, conducted yet another unlawful interrogation of Mr. Moore. Defendants, once again, obtained a false confession from a person they knew to be innocent and who only wanted to go see his mother before she passed.

51. Defendants, including defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, coerced Mr. Moore into falsely admitting that he accidentally started the fire and into writing and signing similarly false statements.

52. Defendants, including defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, subjected Mr. Moore to sleep deprivation, lies, phone calls from his dying mother, manipulation from various detectives and fire marshals who repeatedly lied, telling Mr. Moore that if he tells them he started the fire by accident, he will go free and see his mother before she passes. All of which amount to a serious and gross deviation from proper police conduct and procedure.

53. Instead of going free, Mr. Moore was taken to Kings County Central Booking, where he awaited arraignment on criminal charges for crimes that he did not commit.

54. Mr. Moore's mother, unfortunately, passed away the next week without ever see her son again, but with the knowledge that her son was a confessed murderer, who was probably going away for a long time.

55. Defendants, including defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, intentionally provided Mr. Moore's false confession to the Kings County District Attorney's Office, knowing that it contained false statements

and that it was procured via illegal means and methods, in gross violations of Mr. Moore's rights.

56. Defendant Herbert was the supervisor of defendants Parks, Munoz, Luc, and Triscitti, and knew, or should have known that defendants were acting in gross deviation from proper police procedure, in bad faith, and in direct violation of Mr. Moore's rights.
57. Defendant Parks was Mr. Moore's arresting officer and signed his criminal court complaint, knowingly and falsely accusing Mr. Moore of Murder in the Second Degree and other related charges.
58. Mr. Moore was arraigned and formally charged with two (2) counts of Murder in the Second Degree and one (1) count of Arson in the Fourth Degree.
59. Mr. Moore was unable to meet his bail conditions and was sent to Rikers Island, where he would remain until he was acquitted of all charges after trial on December 20, 2017.
60. Defendants, including defendants Orlando and Kanelopoulos, testified before a grand jury convened to investigate the charges against Mr. Moore and offered false, fraudulent and misleading testimony to ensure that he was indicted.
61. Defendants, including defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, procured Mr. Moore's indictment via fraud, perjury, the suppression of evidence and other conduct undertaken in bad faith, including, but not limited to, the use of Mr. Moore's coerced and false confession.
62. Defendants, including defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, failed to disclose, misrepresented and provided false

material details, regarding the presence of probable cause and Mr. Moore's false confession, to the District Attorney's Office.

63. At no point did the Defendants, including defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, ever observe Mr. Moore commit any crime or offense.

64. At no point were the defendants, including defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, ever told by any witnesses that Mr. Moore committed any crime or violation of the law.

65. The defendants, including defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, had no probable cause or reasonable suspicion to arrest, detain or stop Mr. Moore.

66. Mr. Moore did not violate any law or local ordinance.

67. Defendants, including defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, never possessed probable cause to believe a prosecution would succeed or that Plaintiff was guilty of any crime.

68. While Plaintiff was in central booking, Defendants, including defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, acting with malice, conveyed false, misleading and incomplete information to prosecutors in order to have Plaintiff prosecuted for Murder in the Second Degree and other related charges.

69. Defendants, including defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, suppressed evidence and engaged in conduct undertaken in bad faith.

70. After his arraignment, Mr. Moore was incarcerated on Rikers Island.

71. During Mr. Moore's incarceration on Rikers Island he was forcibly subjected to over One Hundred (100) strip searches with cavity inspections.
72. Mr. Moore was also subjected to abuse, harassment and physical attacks by other inmates.
73. Mr. Moore's incarceration exacerbated his symptoms associated with his asthma condition, which required him to be prescribed with a more potent dose of albuterol.
74. Plaintiff was incarcerated for approximately seventy (70) months until his acquittal of all charges after trial.
75. On, or about, December 20, 2017, Mr. Moore's case was dismissed and sealed after his acquitted of all charges after trial.
76. During all of the events described, the defendants, including defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, acted maliciously and with intent to injure Plaintiff.
77. At all times relevant hereto, defendants, including defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, were involved in the decision to arrest Plaintiff without probable cause or failed to intervene when they observed others arresting Plaintiff without probable cause.
78. At all times relevant hereto, defendants, including defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, engaged in fraud, perjury, the suppression of evidence and other actions conducted in bad faith, or failed to intervene when defendants observed others doing so, all in furtherance of Plaintiff's criminal prosecution.

79. As a direct and proximate result of the acts of defendants Parks, Orlando, Munoz, Luc, Triscitti, Kanelopoulos and Hansen, Plaintiff suffered the following injuries and damages: violations of his rights pursuant to the Fourth and Fourteenth Amendment of the United States Constitution, violations of New York State law, physical injury, physical pain and suffering, emotional trauma and suffering, including fear, embarrassment, humiliation, emotional distress, frustration, extreme inconvenience, anxiety, loss of liberty and harm to reputation.

FIRST CAUSE OF ACTION

False Arrest and False Imprisonment Under
New York State Law

80. The above paragraphs are here incorporated by reference as though fully set forth.

81. Defendants subjected Plaintiff to false arrest, false imprisonment, and deprivation of liberty without probable cause.

82. Plaintiff was conscious of his confinement.

83. Plaintiff did not consent to his confinement.

84. Plaintiff's arrest and false imprisonment was not otherwise privileged.

85. Defendant City, as employer of the individual Defendants, is responsible for their wrongdoing under the doctrine of *respondeat superior*.

86. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

SECOND CAUSE OF ACTION

False Arrest and False Imprisonment Under
42 U.S.C. § 1983 Against Individual Defendants

87. The above paragraphs are here incorporated by reference as though fully set forth.

88. The Defendants violated the Fourth and Fourteenth Amendments to the U.S. Constitution by wrongfully and illegally arresting, detaining and imprisoning Plaintiff.
89. The wrongful, unjustifiable, and unlawful apprehension, arrest, detention, and imprisonment of Plaintiff was carried out without a valid warrant, without Plaintiff's consent, and without probable cause or reasonable suspicion.
90. At all relevant times, Defendants acted forcibly in apprehending, arresting, and imprisoning Plaintiff.
91. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

THIRD CAUSE OF ACTION

Assault and Battery Under
New York State Law

92. The above paragraphs are here incorporated by reference as though fully set forth.
93. Defendants made plaintiff fear for his physical well-being and safety and placed him in apprehension of immediate harmful and/or offensive touching.
94. Defendants engaged in and subjected plaintiff to immediate harmful and/or offensive touching and battered him without his consent.
95. Defendant City, as employer of the individual Defendants, is responsible for their wrongdoing under the doctrine of *respondeat superior*.
96. As a direct and proximate result of this breach, Plaintiff sustained the damages hereinbefore alleged.

FOURTH CAUSE OF ACTION

Malicious Prosecution Under
New York State Law

97. The above paragraphs are here incorporated by reference as though fully set forth.

98. Defendants initiated the prosecution against Plaintiff.

99. Defendants lacked probable cause to believe Plaintiff was guilty or that a prosecution would succeed.

100. Defendants acted with malice.

101. The prosecution was terminated in Plaintiff's favor, when he was acquitted of all criminal charges after trial.

102. Defendant City, as employer of the individual Defendants, is responsible for their wrongdoing under the doctrine of *respondeat superior*.

103. As a direct and proximate result of this breach, Plaintiff sustained the damages hereinbefore alleged.

FIFTH CAUSE OF ACTION

Malicious Prosecution Under
42 U.S.C. § 1983 Against Individual Defendants

104. The above paragraphs are here incorporated by reference as though fully set forth.

105. Defendants initiated the prosecution against Plaintiff.

106. Defendants lacked probable cause to believe Plaintiff was guilty or that a prosecution would succeed.

107. Defendants acted with malice.

108. The prosecution was terminated in Plaintiff's favor when he was acquitted of all criminal charges after trial.

109. Defendants violated Plaintiff's Fourth Amendment rights by causing Plaintiff to remain incarcerated against his will after his arraignment.

110. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

SIXTH CAUSE OF ACTION

Failure to Intervene Under
New York State Law

111. The above paragraphs are here incorporated by reference as though fully set forth.

112. Those Defendants that were present but did not actively participate in the aforementioned unlawful conduct, observed such conduct, had an opportunity to prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

113. Defendant City, as employer of the individual Defendants, is responsible for their wrongdoing under the doctrine of *respondeat superior*.

114. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

SEVENTH CAUSE OF ACTION

Failure to Intervene Under
42 U.S.C. § 1983 Against Individual Defendants

115. The above paragraphs are here incorporated by reference as though fully set forth.

116. Those Defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity to prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

117. Accordingly, the Defendants who failed to intervene violated the Fourth and Fourteenth Amendments.

118. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

EIGHTH CAUSE OF ACTION
Malicious Abuse of Process Under
New York State Law

119. The above paragraphs are here incorporated by reference as though fully set forth.

120. Defendants arrested, detained, coerced, subjected to undue duress and denied Plaintiff his Constitutional right to be represented by an attorney during interrogation to procure a false confession and to persuade the District Attorney's Office to initiate a criminal prosecution.

121. Defendants had no excuse or justification to forcibly detain and question Plaintiff, especially without his attorney present and with the absence of any cognizable probable cause.

122. Defendants intended to inflict substantial harm upon Plaintiff.

123. Defendants' unlawful actions were in furtherance of their attempt to initiate a criminal prosecution and obtain a criminal conviction, so that they would receive all of the attendant benefits of closing an open murder case in such an ostensibly expedient and efficient manner.

124. Defendant City, as employer of the individual Defendants, is responsible for their wrongdoing under the doctrine of *respondeat superior*.

125. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

NINTH CAUSE OF ACTION
Malicious Abuse of Process Under
42 U.S.C. § 1983 Against Individual Defendants

126. The above paragraphs are here incorporated by reference as though fully set forth.

127. Defendants arrested, detained, coerced, subjected to undue duress and denied Plaintiff his Constitutional right to be represented by an attorney during an interrogation to procure a false confession and to persuade the District Attorney's Office to initiate a criminal prosecution.

128. Defendants had no excuse or justification to further detain and question Plaintiff, especially without his attorney present and with the absence of any cognizable probable cause.

129. Defendants intended to inflict substantial harm upon Plaintiff.

130. Defendants' unlawful actions were in furtherance of their attempt to initiate a criminal prosecution and obtain a criminal conviction, so that they would receive all of the attendant benefits of closing an open murder case in such an ostensibly expedient and efficient manner.

131. Defendants' actions deprived Plaintiff of his right to free from illegal searches and seizure, as well as his right not to be deprived of his liberty without due process of law.

132. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

TENTH CAUSE OF ACTION

Negligent Hiring, Retention and Supervision Under
New York State Law

133. The above paragraphs are here incorporated by reference as though fully set forth.

134. Defendant City owed a duty of care to Plaintiff to adequately hire, retain and supervise its employee defendants.

135. Defendant City breached that duty of care.

136. Defendant City placed defendants in a position where they could inflict foreseeable harm.

137. Defendant City knew or should have known of its employee defendants' propensity for violating the individual rights granted under the United States Constitution and the laws of the State of New York, prior to the injuries incurred by Plaintiff.

138. Defendant City failed to take reasonable measures in hiring, retaining and supervising its employee defendants that would have prevented the aforesaid injuries to Plaintiff.

139. As a direct and proximate result of this unlawful conduct, Plaintiff sustained the damages hereinbefore alleged.

WHEREFORE, Plaintiff respectfully requests judgment against Defendants, jointly and severally, as follows:

- a) In favor of Plaintiff in an amount to be determined by a jury for each of Plaintiff's causes of action;
- b) Awarding Plaintiff punitive damages in an amount to be determined by a jury;
- c) Awarding Plaintiff compensatory damages in an amount to be determined by a jury;
- d) Awarding Plaintiff reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and
- e) Granting such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated: January 28, 2019

Respectfully submitted,



Samuel C. DePaola, Esq.

Bar Number: SD3243

Attorney for Mr. Moore

Sim & DePaola, LLP

4240 Bell Blvd., Suite 500

Bayside, NY 11361

T: (718) 281-0400

F: (718) 281-4030

sdepaola@simdepaola.com

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Christopher Moore

(b) County of Residence of First Listed Plaintiff Kings County (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Sim & DePaola, LLP 4240 Bell Blvd, Ste. 500 Bayside, NY 11361 (718) 281-0400

DEFENDANTS

City of New York, et al.

County of Residence of First Listed Defendant Kings County (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) Corporation Counsel, City of New York 100 Church St New York, NY 10007

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship and incorporation status: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C. § 1983

Brief description of cause: False Arrest, Malicious Prosecution

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE January 28, 2019 SIGNATURE OF ATTORNEY OF RECORD [Signature]

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, Samuel DePaola, counsel for Christopher Moore, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? Yes No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: Sam DePaola

**UNITED STATES DISTRICT COURT
for the
Eastern District of New York**

CHRISTOPHER MOORE,

Plaintiff,

v.

CITY OF NEW YORK; DET. ERICK M. PARKS; DET. MARCELO LUC; DET. ELENA GONZALEZ-MUNOZ; DET. SALVATORE TRISCRITTI; SGT. JOHN HERBERT; FIRE MARSHAL JOHN ORLANDO; FIRE MARSHAL CONSTANTINE KANELOPOULOS; FIRE MARSHAL ERIC H. HANSEN; and JOHN and JANE DOE 1 through 10, individually and in their official capacities (the names John and Jane Doe being fictitious, as the true names are presently unknown),

Defendants.

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* CITY OF NEW YORK
100 Church Street
New York, NY 10007

DET. ERICK M. PARKS, TAX REG: 914909
1470 East New York Avenue
Brooklyn, NY 11212

DET. MARCELO LUC, TAX REG: 914588
1470 East New York Avenue
Brooklyn, NY 11212

DET. ELENA GONZALEZ-MUNOZ, TAX REG: 906360
1470 East New York Avenue
Brooklyn, NY 11212

DET. SALVATORE TRISCRITTI, TAX REG: 927607
1470 East New York Avenue
Brooklyn, NY 11212

SGT. JOHN HERBERT, TAX REG: 899349
65 6th Avenue
Brooklyn, NY 11217

FIRE MARSHAL JOHN ORLANDO, TAX REG: 911647
City Wide South
5700 1st Avenue
Brooklyn, NY 11220

FIRE MARSHAL CONSTANTINE KANELOPOULOS,
TAX REG: 915774
City Wide South
5700 1st Avenue
Brooklyn, NY 11220

FIRE MARSHAL ERIC H. HANSEN, TAX REG: 909182
City Wide South
5700 1st Avenue
Brooklyn, NY 11220

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) – or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) – you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Sim & DePaola, LLP
42-40 Bell Blvd., Suite 500
Bayside, NY 11361
(718) 281-0400

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You must also file your answer or motion with the court.

CLERK OF THE COURT

Date: _____

Signature of Clerk or Deputy Clerk