

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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RALIEK REDD,

Plaintiffs,

-against-

THE CITY OF ROCHESTER, a municipal entity, POLICE OFFICER ELIUD RODRIGUEZ, Shield # 567, LIEUTENANT MICHAEL PERKOWSKI, Shield # 963, POLICE OFFICER PAUL GRANDE, Shield # 223, POLICE OFFICER LEONARD CAREFLY, Shield # 347, POLICE OFFICER LYONS, POLICE OFFICER “JANE DOE # 1,” Shield # 751, POLICE OFFICER “JANE DOE # 2,” Shield # 198, LIEUTENANT L. TYDINGS, DEPUTY CHIEF CIMINELLI, and POLICE OFFICERS “JOHN DOES 1-10” (names and number of whom are unknown at present), and other unidentified members of the Rochester Police Department, THE COUNTY OF MONROE, a municipal entity, MONROE COUNTY SHERIFF PATRICK M. O’FLYNN, in his individual and official capacity as Monroe County Sheriff, CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and MONROE COUNTY CORRECTIONS OFFICERS “RICHARD ROES 1-10” (names and number of whom are unknown at present), and other unidentified members of the Monroe County Sheriff’s Office,

Defendants.

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**INDEX NO.: 15-CV-6049
(DGL)(JWF)**

ECF CASE

**SECOND AMENDED
COMPLAINT
[JURY TRIAL DEMANDED]**

Plaintiff RALIEK REDD, by his attorney, ELLIOT DOLBY-SHIELDS, complaining of the defendants, respectfully allege as follows:

I. PRELIMINARY STATEMENT

1. Plaintiff RALIEK REDD brings this action for compensatory damages, punitive damages and attorney's fees pursuant to 42 U.S.C. § 1983, 42 U.S.C. § 1985, 42 U.S.C. § 1986, and 42 U.S.C. § 1988 for violation of his civil rights, as said rights are secured by said statutes, the Constitutions of the State of New York and the United States, and the common law and the laws of the State of New York.

2. On November 27, 2013, at approximately 8:40 a.m., Plaintiff MR. REDD, while lawfully standing on the sidewalk in the vicinity of Stone Street and East Main Street, Rochester, New York, was subjected to an unlawful, stop, seizure, detention, search, false arrest, and false imprisonment by the Defendant City of Rochester Police Officers.

3. The location where Plaintiff MR. REDD was standing, in the vicinity of Stone Street and East Main Street, was the bus stop designated by the City of Rochester and the Rochester City School District (RCSD) where all RCSD student athletes were directed to wait for yellow school busses to transport them to sports games and practices.

4. At all times relevant herein, Plaintiff MR. REDD was the captain of the Edison Technical High School Varsity Basketball Team, and was waiting at the designated bus stop for a bus to pick up Plaintiff MR. REDD and his teammates and transport them to a basketball game at Aquinas High School.

5. After Plaintiff MR. REDD was falsely arrested, while at the Monroe County Jail, Plaintiff MR. REDD was subject to an unconstitutional strip search by the Defendant City of Rochester Police Officers and/or the Defendant County of Monroe Corrections Officers.

6. Additionally, the defendant City of Rochester Police Officers initiated a malicious prosecution against Plaintiff MR. REDD by forwarding facts and information they knew to be untrue to the Monroe County District Attorneys' Office.

7. Plaintiff MR. REDD was deprived of his constitutional and common law rights when the individual Defendant Police Officers unlawfully stopped, seized, detained, searched, falsely arrested, falsely imprisoned, and maliciously prosecuted Plaintiff MR. REDD, and when the Defendant POLICE OFFICERS and Defendant CORRECTION OFFICERS unlawfully strip searched Plaintiff MR. REDD, in violation of the First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution.

II. JURISDICTION

8. This action is brought pursuant to 42 U.S.C. §§ 1983, 1985, 1986 and 1988, and the Fourth and Fourteenth Amendments to the United States Constitution. Jurisdiction is conferred upon this court by 28 U.S.C. §§ 1331, 1343(3) and (4) and the aforementioned statutory and constitutional provisions.

9. Plaintiff RALIEK REDD further invokes this Court's supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over any and all State law claims and causes of action which derive from the same nucleus of operative facts and are part of the same case or controversy that gives rise to the federally based claims and causes of action.

III. VENUE

10. Venue is proper for the United States District Court for the Western District of New York, pursuant to 28 U.S.C. § 1391(a), (b) and (c) and § 1402(b) because the claims arose in this district.

IV. JURY DEMAND

11. RALIEK REDD respectfully demands a trial by jury of all issues in this matter pursuant to Fed. R. Civ. P. 38(b).

V. THE PARTIES

12. Plaintiff RALIEK REDD is a citizen of the United States and a resident of the County of Monroe, City of Rochester, State of New York.

13. Defendant CITY OF ROCHESTER was and is a municipal entity created and authorized under the laws of the State of New York.

14. Defendant CITY OF ROCHESTER maintains the City of Rochester Police Department (“RPD”), a duly authorized public authority and/or police department, authorized to perform all functions of a police department as per the applicable sections of the New York State Criminal Procedure Law, acting under the direction and supervision of the aforementioned municipal corporation, City of Rochester.

15. That at all times hereinafter mentioned, Defendant ELIUD RODRIGUEZ, Shield # 567, was a duly sworn police officer of the RPD and was acting under the supervision of said department and according to his official duties.

16. Rochester Police Officer ELIUD RODRIGUEZ, Shield # 567, is being sued in his individual capacity and official capacity.

17. That at all times hereinafter mentioned, Defendant LIEUTENANT MICHAEL PERKOWSKI, Shield # 963, was a duly sworn police officer of the RPD and was acting under the supervision of said department and according to his official duties.

18. Rochester Police LIEUTENANT MICHAEL PERKOWSKI, Shield # 963, is being sued in his individual capacity and official capacity.

19. That at all times hereinafter mentioned, Defendant POLICE OFFICER PAUL GRANDE, Shield # 223, was a duly sworn police officer of the RPD and was acting under the supervision of said department and according to his official duties.

20. Rochester Police Officer PAUL GRANDE, Shield # 223, is being sued in his individual capacity and official capacity.

21. That at all times hereinafter mentioned, Defendant POLICE OFFICER LEONARD CAREFLY, Shield # 347, was a duly sworn police officer of the RPD and was acting under the supervision of said department and according to his official duties.

22. Rochester Police Officer LEONARD CAREFLY, Shield # 347, is being sued in his individual capacity and official capacity.

23. That at all times hereinafter mentioned, Defendant POLICE OFFICER DAVID A. LYONS, Shield # 751, was a duly sworn police officer of the RPD and was acting under the supervision of said department and according to his official duties.

24. Rochester Police Officer DAVID A. LYONS, Shield # 751, is being sued in his individual capacity and official capacity.

25. That at all times hereinafter mentioned, Defendant POLICE OFFICER "JANE DOE #1," Shield # 751, was a duly sworn police officer of the RPD and was acting under the supervision of said department and according to his official duties.

26. Rochester Police Officer "JANE DOE #1," Shield # 751, is being sued in his individual capacity and official capacity.

27. That at all times hereinafter mentioned, Defendant POLICE OFFICER "JANE DOE #2," Shield # 198, was a duly sworn police officer of the RPD and was acting under the supervision of said department and according to his official duties.

28. Rochester Police Officer “JANE DOE #2,” Shield # 198, is being sued in his individual capacity and official capacity.

29. That at all times hereinafter mentioned, Defendant LIEUTENANT L. TYDINGS was a duly sworn police officer of the RPD and was acting under the supervision of said department and according to his official duties.

30. LIEUTENANT L. TYDINGS is being sued in his individual capacity and official capacity.

31. That at all times hereinafter mentioned, Defendant DEPUTY CHIEF CIMINELLI was a duly sworn police officer of the RPD and was acting under the supervision of said department and according to his official duties.

32. DEPUTY CHIEF CIMINELLI is being sued in his individual capacity and official capacity.

33. Defendant POLICE OFFICERS “JOHN DOES” 1-10 (individually, “Defendant OFFICER JOHN DOE __”), were duly sworn police officers of said department and were acting under the supervision of said department and according to their official duties.

34. Rochester POLICE OFFICERS “JOHN DOES” 1-10 are being sued in their individual capacities and official capacities.

35. At all times relevant herein, the Defendant POLICE OFFICERS either personally or through their employees, were acting under color of state law and/or in compliance with the official rules, regulations, laws, statutes, customs, usages and/or practices of the State of New York or City of Rochester, New York.

36. Each and all of the acts of the Defendant POLICE OFFICERS alleged herein were done by said defendants while acting within the course and scope of their duties and functions as agents, servants, employees and officers of the Defendant CITY OF ROCHESTER.

37. Defendant COUNTY OF MONROE (“County”) was and is a municipal entity created and authorized under the laws of the State of New York. At all times relevant hereto, defendant County, acting through the Monroe County Sheriff’s Office (“MCSO”), was responsible for the policy, practice, supervision, implementation, and conduct of all MCSO matters and was responsible for the appointment, training, supervision, and conduct of all MCSO personnel. In addition, at all relevant times, defendant County was responsible for enforcing the rules of the MCSO, and for ensuring that MCSO personnel obeyed the Constitution and the laws of the United States.

38. At all times relevant herein, Defendant PATRICK O’FLYNN (“Sheriff O’FLYNN”) is and was the duly sworn Monroe County Sheriff, and as such, was a policy-maker with respect to the treatment of pre-trial detainees over whom MCSO exercises custodial or other control. Sheriff O’FLYNN’s principal place of business is 130 Plymouth Avenue South, Rochester, New York 14614.

39. Defendant PATRICK O’FLYNN is being sued in his individual capacity and official capacity.

40. Upon information and belief, at all times hereinafter mentioned, Defendant CORRECTION OFFICER M. KNAPP was and is a duly sworn correction officer and employee of the defendant County and MCSO and was acting under the supervision of said defendants and according to his official duties.

41. Defendant CORRECTION OFFICER M. KNAPP is being sued in his individual capacity and official capacity.

42. Upon information and belief, at all times hereinafter mentioned, Defendant CORRECTION OFFICER S. NEWTON was and is a duly sworn correction officer and employee of the defendant County and MCSO and was acting under the supervision of said defendants and according to his official duties.

43. Defendant CORRECTION OFFICER S. NEWTON is being sued in his individual capacity and official capacity.

44. Upon information and belief, at all times hereinafter mentioned, Defendant CORRECTION OFFICER B. REISTER was and is a duly sworn correction officer and employee of the defendant County and MCSO and was acting under the supervision of said defendants and according to his official duties.

45. Defendant CORRECTION OFFICER B. REISTER is being sued in his individual capacity and official capacity.

46. Upon information and belief, at all times hereinafter mentioned, Defendant CORRECTION OFFICER G. WHELEHAN was and is a duly sworn correction officer and employee of the defendant County and MCSO and was acting under the supervision of said defendants and according to his official duties.

47. Defendant CORRECTION OFFICER G. WHELEHAN is being sued in his individual capacity and official capacity.

48. Upon information and belief, at all times hereinafter mentioned, Defendant CORRECTION OFFICER G. SMITH was and is a duly sworn correction officer and employee

of the defendant County and MCSO and was acting under the supervision of said defendants and according to his official duties.

49. Defendant CORRECTION OFFICER G. SMITH is being sued in his individual capacity and official capacity.

50. Upon information and belief, at all times hereinafter mentioned, Defendant CORRECTION OFFICER T. SPRING was and is a duly sworn correction officer and employee of the defendant County and MCSO and was acting under the supervision of said defendants and according to his official duties.

51. Defendant CORRECTION OFFICER T. SPRING is being sued in his individual capacity and official capacity.

52. Upon information and belief, at all times hereinafter mentioned, Defendant CORRECTION OFFICER J. REUSCH was and is a duly sworn correction officer and employee of the defendant County and MCSO and was acting under the supervision of said defendants and according to his official duties.

53. Defendant CORRECTION OFFICER J. REUSCH is being sued in his individual capacity and official capacity.

54. Upon information and belief, at all times hereinafter mentioned, Defendant CORRECTION OFFICER J. MILLAR was and is a duly sworn correction officer and employee of the defendant County and MCSO and was acting under the supervision of said defendants and according to his official duties.

55. Defendant CORRECTION OFFICER J. MILLAR is being sued in his individual capacity and official capacity.

56. That at all times hereinafter mentioned, Defendant CORRECTION OFFICERS “RICHARD ROES” 1-10 (individually, “Defendant CORRECTION OFFICER RICHARD ROE ___”; collectively, “Defendant CORRECTION OFFICERS”), were duly sworn correction officers and employees of the defendant County and MCSO and were acting under the supervision of said defendants and according to their official duties.

57. At all times relevant herein, the Defendant CORRECTION OFFICERS either personally or through their employees, were acting under color of state law and/or in compliance with the official rules, regulations, laws, statutes, customs, usages and/or practices of the State of New York or County of Monroe, New York.

58. Each and all of the acts of the defendant CORRECTION OFFICERS alleged herein were done by said defendants while acting within the course and scope of their duties and functions as agents, servants, employees and officers of the defendant County and MSCO.

59. Plaintiff in furtherance of his causes of action brought pursuant to New York State law filed a timely Notice of Claim against the CITY OF ROCHESTER, in compliance with the Municipal Law Section 50.

60. More than thirty (30) days have elapsed since service of said Notice of Claim was filed and THE CITY OF ROCHESTER has failed to pay or adjust the claim.

VI. STATEMENT OF FACTS

61. At all relevant times herein, Plaintiff MR. REDD was a 16-year-old sophomore student at Edison Technical High School (“Edison Tech”).

62. On November 27, 2013, and at all relevant times herein, Plaintiff MR. REDD was the captain of the Edison Tech Varsity Basketball team.

63. On November 27, 2013, the Edison Tech Varsity Basketball team was scheduled to play a scrimmage game against the Aquinas High School Varsity Basketball team at Aquinas High School.

64. On November 27, 2013, at or around 9:00 A.M., a yellow school bus was scheduled to pick up Plaintiff MR. REDD and the rest of the Edison Tech Varsity Basketball Team from the designated bus stop, located in the vicinity of Stone Street and East Main Street, Rochester, New York, and transport them to their game at Aquinas High School.

65. Upon information and belief, the location of the bus stop in the vicinity of Stone Street and East Main Street, Rochester, New York, was designated by officials from the Rochester City School District and the City of Rochester, and was the bus stop used by all Rochester City School District sports teams.

66. Upon information and belief, the Edison Tech Varsity Basketball Team boarded the yellow school bus at the designated bus stop in the vicinity of Stone Street and East Main Street, Rochester, New York on numerous occasions, including every Saturday morning in October and November 2013, prior to the false arrest of Plaintiff MR. REDD on November 27, 2013.

67. Upon information and belief, the designated bus stop in the vicinity of Stone Street and East Main Street, Rochester, New York, was designated as the official pick-up and drop-off location for all Rochester City School District sports teams many years prior to the false arrest of Plaintiff MR. REDD on November 27, 2013.

68. Upon information and belief, all Rochester City School District sports teams and student athletes had been directed to use and did use the designated bus stop in the vicinity of

Stone Street and East Main Street, Rochester, New York, as their official pick-up and drop-off location for many years prior to the false arrest of Plaintiff MR. REDD on November 27, 2013.

69. Upon information and belief, subsequent to the false arrest of Plaintiff MR. REDD on November 27, 2013, on or about December 2013, the City and/or the Rochester City School District changed the location of the designated bus stop from the location where Plaintiff MR. REDD was falsely arrested in the vicinity of Stone Street and East Main Street, Rochester, New York, to a new location in the vicinity of the street in front of the downtown Rochester Young Men's Christian Association ("YMCA"), located at 444 East Main Street, Rochester, New York.

70. On November 27, 2013, at approximately 8:15 A.M., Plaintiff MR. REDD boarded a Regional Transit Service (RTS) Bus in the vicinity of Sawyer Street and Genesee Street, Rochester, New York. Plaintiff MR. REDD rode the bus downtown to the vicinity of the intersection of Clinton Avenue and East Main Street, Rochester, New York.

71. On November 27, 2013, at approximately 8:30 A.M., Plaintiff MR. REDD exited the RTS bus in the vicinity of the intersection of Clinton Avenue and Main Street, Rochester, New York.

72. After Plaintiff MR. REDD exited the RTS bus, he saw his teammate Daquon Carelock standing on the other side of East Main Street, and Plaintiff MR. REDD crossed the street and greeted Mr. Carelock.

73. Thereafter, Plaintiff MR. REDD and Mr. Carelock were greeted by a third teammate, Wan'Tauhjs Weathers, and the three young men entered a store convenience store, which upon information and belief is called "Zipps," to purchase snacks and drinks.

74. After they purchased snacks and drinks, Plaintiff MR. REDD and his two teammates exited the store and walked to the designated bus stop in the vicinity of Stone Street and East Main Street, where they stood near the entrance of a convenience store called “S & S Market,” located at 216 East Main Street, Rochester, New York.

75. While Plaintiff MR. REDD and his two teammates were waiting at their bus stop in the vicinity of the front of S & S Market, they politely opened the door for several patrons of the store.

76. In fact, upon information and belief, security camera footage from S & S Market from the morning of November 27, 2013 shows Plaintiff MR. REDD and his two teammates politely opening the door for several patrons while they waited for their bus to arrive.

77. Suddenly, without provocation, Defendant POLICE OFFICER RODRIGUEZ approached Plaintiff MR. REDD and his two teammates in a very aggressive manner, causing Plaintiff MR. REDD to fear for his physical safety.

78. Upon information and belief, Defendant POLICE OFFICER RODRIGUEZ did not have reasonable or lawful grounds to formulate a reasonable suspicion that Plaintiff MR. REDD and his two teammates had engaged in any illegal activity of any kind.

79. Thereafter, the Defendant POLICE OFFICER RODRIGUEZ ordered Plaintiff MR. REDD and his two teammates to move from the location where they were standing, without lawful purpose, in an inappropriate exercise of his powers and authority as a police officer.

80. Plaintiff MR. REDD and his two teammates attempted to explain to Defendant POLICE OFFICER RODRIGUEZ that they were members of the Edison Tech Varsity Basketball Team and that a yellow school bus was scheduled to pick up their team from that location at 9:00 A.M.

81. Defendant POLICE OFFICER RODRIGUEZ responded that Plaintiff MR. REDD and his two teammates were not standing at a bus stop and ordered them to “move along” from that location.

82. Plaintiff MR. REDD and his two teammates attempted to explain to Defendant POLICE OFFICER RODRIGUEZ that they were not waiting for a RTS bus, but instead were standing at the location from which a yellow school bus was scheduled to pick them up and transport them to their basketball game.

83. Defendant POLICE OFFICER RODRIGUEZ again ordered Plaintiff MR. REDD and his two teammates to “move along” from the location where they were standing, which was the bus stop that was designated by officials of the City of Rochester and the RCSD.

84. Thereafter, Plaintiff MR. REDD and his two teammates complied with Defendant OFFICER RODRIGUEZ’s order and walked approximately ten to fifty feet west on East Main Street, and Defendant POLICE OFFICER RODRIGUEZ walked across East Main Street.

85. Plaintiff MR. REDD and his two teammates continued to wait for their bus near the designated bus stop in the vicinity of Stone Street and East Main Street for several minutes and talked amongst themselves.

86. Suddenly, without warning or provocation, Defendant POLICE OFFICER RODRIGUEZ unlawfully approached Plaintiff MR. REDD and his two teammates a second time and yelled at them, in sum and substance, “I thought I just told you that you cannot stand here.”

87. When Defendant POLICE OFFICER RODRIGUEZ approached Plaintiff MR. REDD and his two teammates the second time, he did not have reasonable or lawful grounds to

formulate a reasonable suspicion that Plaintiff MR. REDD and his two teammates had engaged in any illegal activity of any kind.

88. Plaintiff MR. REDD and his two teammates again attempted to explain to Defendant POLICE OFFICER RODRIGUEZ that they were members of the Edison Tech Varsity Basketball team, that their team was scheduled to play a basketball game against Aquinas High School that morning, and that they were standing at the location where a yellow school bus was scheduled to pick them up and transport them to their game.

89. Defendant POLICE OFFICER RODRIGUEZ responded that no busses stop at that location, and ordered plaintiff and his teammates to “move along.”

90. Thereafter, Plaintiff MR. REDD and his two teammates complied with Defendant POLICE OFFICER RODRIGUEZ’s order and began walking further west on East Main Street away from the designated bus stop.

91. Suddenly, without warning or provocation, Defendant POLICE OFFICER RODRIGUEZ grabbed Mr. Carelock and began placing him in handcuffs. When the defendant police officer grabbed Mr. Carelock, he ordered Plaintiff MR. REDD and Mr. Weathers to “stop.”

92. Thereafter, Defendant POLICE OFFICER RODRIGUEZ approached Plaintiff MR. REDD and ordered him to put his hands behind his back.

93. Upon information and belief, Defendant POLICE OFFICER RODRIGUEZ did not have reasonable or lawful grounds to support reasonable cause to believe that Plaintiff MR. REDD and his two teammates had engaged in any illegal activity of any kind.

94. At no time did Plaintiff MR. REDD commit a crime.

95. At no time were Plaintiff MR. REDD and his two teammates blocking pedestrian traffic.

96. At no time were Plaintiff MR. REDD and his two teammates blocking vehicular traffic.

97. Defendant POLICE OFFICER RODRIGUEZ did not have probable cause to arrest Plaintiff MR. REDD.

98. Nevertheless, Defendant POLICE OFFICER RODRIGUEZ handcuffed Plaintiff MR. REDD without legal justification or probable cause.

99. Upon information and belief, at no time was Plaintiff MR. REDD read his Miranda rights by any of the Defendant POLICE OFFICERS.

100. Despite the fact that neither Plaintiff MR. REDD nor his two teammates had engaged in any illegal behavior of any type, Defendant POLICE OFFICER RODRIGUEZ called for back up.

101. Following Defendant POLICE OFFICER RODRIGUEZ's call for back up, Plaintiff MR. REDD and his two teammates waited with Defendant OFFICER RODRIGUEZ.

102. At no point did either Plaintiff MR. REDD or his two teammates attempt to run away from Defendant POLICE OFFICER RODRIGUEZ.

103. At or around this time, a police car arrived at the location of the bus stop in the vicinity of East Main Street and Stone Street in response to Defendant POLICE OFFICER RODRIGUEZ's call for back up.

104. Upon information and belief, Defendant POLICE OFFICER CAREFLY stepped out of the police car.

105. Upon information and belief, Defendant POLICE OFFICER RODRIGUEZ told Defendant POLICE OFFICER CAREFLY that Plaintiff MR. REDD and his two teammates refused his order to “move along,” and that is why they were being arrested.

106. At or around this time, the Defendant POLICE OFFICER RODRIGUEZ and/or Defendant POLICE OFFICER CAREFLY frisked and searched Plaintiff MR. REDD over his clothing, touching all areas of his body.

107. Defendant POLICE OFFICER RODRIGUEZ and/or Defendant POLICE OFFICER CAREFLY then searched Plaintiff MR. REDD by reaching his hands inside of Plaintiff MR. REDD’s pockets and removing all of the contents therein.

108. Defendant POLICE OFFICER RODRIGUEZ and/or Defendant POLICE OFFICER CAREFLY then took Plaintiff MR. REDD’s gym bag, which contained his basketball shoes and Edison Tech Varsity Basketball Team uniform.

109. After Plaintiff MR. REDD and his two teammates were arrested and handcuffed, upon information and belief, Defendant POLICE OFFICER RODRIGUEZ and/or Defendant POLICE OFFICER CAREFLY searched inside of Plaintiff MR. REDD’s gym bag, which contained his basketball sneakers and Edison Tech Varsity Basketball Team uniform.

110. At no time did Defendant POLICE OFFICER RODRIGUEZ or Defendant POLICE OFFICER CAREFLY recover any guns, drugs, or contraband of any kind from Plaintiff MR. REDD.

111. Plaintiff MR. REDD was handcuffed and placed under arrest without legal justification or probable cause.

112. Thereafter, additional Defendant POLICE OFFICERS arrived at location of the bus stop in the vicinity of East Main Street and Stone Street in response to Defendant POLICE OFFICER RODRIGUEZ's call for back up.

113. Thereafter, Defendant POLICE OFFICER RODRIGUEZ placed Plaintiff MR. REDD in the back of a police car.

114. After Defendant POLICE OFFICER RODRIGUEZ placed Plaintiff MR. REDD in the back of a police car, Plaintiff MR. REDD noticed approximately five of his Edison Tech Varsity Basketball Team teammates watching him being placed under arrest.

115. Thereafter, the Edison Tech Varsity Basketball Coach, Jacob Scott ("Coach Scott"), arrived at location of the bus stop in the vicinity of East Main Street and Stone Street, where Defendant POLICE OFFICER RODRIGUEZ and Defendant POLICE OFFICER CAREFLY had arrested Plaintiff MR. REDD and his two teammates.

116. Upon information and belief, Coach Scott asked one or more of the Defendant POLICE OFFICERS why Plaintiff MR. REDD and his teammates were being arrested.

117. Upon information and belief, one or more of the Defendant POLICE OFFICERS informed Coach Scott that Plaintiff MR. REDD and his two teammates were arrested because they had refused to comply with Defendant POLICE OFFICER RODRIGUEZ's order to "move along" from their bus stop in the vicinity of Stone Street and East Main Street.

118. Upon information and belief, videotape evidence recovered from S & S Market clearly demonstrates that Plaintiff MR. REDD and his two teammates were not blocking pedestrian traffic.

119. Further, the date of the incident at issue herein, November 27, 2013 was the Wednesday before the Thanksgiving holiday, and upon information and belief, it is highly improbable that the sidewalk in the vicinity of East Main Street and Stone Street was sufficiently congested with pedestrian traffic that MR. REDD and his two teammates could possibly have blocked pedestrian traffic without employing extraordinary means to do so.

120. Upon information and belief, videotape evidence recovered from S & S Market clearly demonstrates that Defendant POLICE OFFICER RODRIGUEZ and other Defendant POLICE OFFICERS falsified police paperwork in an attempt to justify the unlawful stop, seizure, search and arrest of Plaintiff MR. REDD and his two teammates.

121. Upon information and belief, Coach Scott informed the Defendant POLICE OFFICERS that Plaintiff MR. REDD and his two teammates were standing at the bus stop designated by the Rochester City School District and City of Rochester, and that they had done nothing wrong and they had not committed any crime.

122. Upon information and belief, Coach Scott pleaded with the Defendant POLICE OFFICERS to release Plaintiff MR. REDD and his two teammates because they had done nothing wrong and they had not committed any crime.

123. Upon information and belief, a Defendant POLICE OFFICER told Coach Scott that if he did not get out of the way, that he too would be arrested.

124. Upon information and belief, a Defendant POLICE OFFICER told Coach Scott that if he had a big enough caravan, he would arrest “all of you.”

125. Upon information and belief, the Defendant POLICE OFFICERS’ threats to Coach Scott were made pursuant the Rochester Police Department’s continuing custom or

practice of condoning police officers' use of their arrest powers to penalize individuals for questioning their authority, in the absence of reasonable cause to arrest.

126. Thereafter, Plaintiff MR. REDD and his two teammates were transported against their will to the Monroe County Jail (the "Jail").

127. Upon arrival at the jail, one or more of the Defendant POLICE OFFICERS took Plaintiff MR. REDD and his two teammates inside of the building and took off their handcuffs.

128. Thereafter, Plaintiff MR. REDD and his two teammates were all placed in a room together where multiple Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICERS subjected Plaintiff MR. REDD and his two teammates to an unconstitutional strip search.

129. Specifically, Plaintiff MR. REDD and his two teammates were forced to take off all of their clothes and shake each piece of clothing out.

130. At no time did the Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICERS have an objective reason to believe that Plaintiff MR. REDD had secreted drugs, weapons or illegal contraband under his clothing.

131. At no time did the Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICERS recover any drugs, contraband or other illegal paraphernalia from Plaintiff MR. REDD or his two teammates.

132. The actions of the Defendant POLICE OFFICERS and/or the Defendant CORRECTION OFFICERS in strip-searching Plaintiff MR. REDD caused Plaintiff MR. REDD emotional distress and embarrassment.

133. The actions of the Defendant POLICE OFFICERS and the Defendant CORRECTION OFFICERS in strip-searching Plaintiff MR. REDD violated his clearly established constitutional rights.

134. Thereafter, Plaintiff MR. REDD and his two teammates were ordered to put their clothing back on.

135. After Plaintiff MR. REDD and his two teammates put their clothing back on, upon information and belief, the Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICERS ordered Plaintiff MR. REDD and his two teammates to sit on a bench in the jail.

136. Upon information and belief, the Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICERS kept Plaintiff MR. REDD sitting on the same bench for approximately four hours.

137. Upon information and belief, the bench on which the Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICERS had placed Plaintiff MR. REDD and his two teammates was in the area of the jail that was heavily trafficked by the Defendant POLICE OFFICERS, the Defendant CORRECTION OFFICERS as well as numerous RPD and MCSO officers, sergeants, detectives, and employees, and civilians visiting the jail.

138. Upon information and belief, it is not the accepted practice of the RPD or the MCSO to leave detainees sitting on prison benches in heavily trafficked areas.

139. Upon information and belief, numerous Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICERS, as well as numerous RPD and MCSO officers, sergeants, detectives, and civilians visiting the jail saw Plaintiff MR. REDD and his two teammates sitting on the bench.

140. Being forced to sit on the bench in a heavily trafficked area where numerous Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICERS, as well as numerous RPD and MCSO officers, sergeants, detectives, and civilians visiting the jail saw Plaintiff MR. REDD and his two teammates sitting caused Plaintiff MR. REDD emotional distress and embarrassment.

141. Thereafter, a Defendant POLICE OFFICER and/or Defendant CORRECTION OFFICER approached Plaintiff MR. REDD and his two teammates and asked them why they had been arrested.

142. Plaintiff MR. REDD and his two teammates responded in sum and substance that they did not know why they had been arrested, and that they were simply waiting at their bus stop to be picked up and transported to their basketball game.

143. The same Defendant POLICE OFFICER and/or Defendant CORRECTION OFFICER asked who arrested them.

144. Plaintiff MR. REDD and his two teammates responded by providing a physical description of the Defendant POLICE OFFICER who initially stopped and arrested them, now known to be Defendant POLICE OFFICER RODRIGUEZ.

145. The Defendant POLICE OFFICER and/or Defendant CORRECTION OFFICER who was addressing Plaintiff MR. REDD and his two teammates responded by stating in sum and substance, that the Defendant POLICE OFFICER who arrested Plaintiff MR. REDD and his two teammates, now known to be Defendant POLICE OFFICER RODRIGUEZ, is known as "Officer Asshole" to the Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICERS and other RPD and MCSO officers, sergeants and detectives.

146. Thereafter, Plaintiff MR. REDD asked one or more of the Defendant “John Doe” POLICE OFFICERS and/or Defendant CORRECTION OFFICERS if he could call his mother.

147. After several hours, at approximately 12:00 P.M., Plaintiff MR. REDD was finally allowed to make a telephone call.

148. Plaintiff MR. REDD called his home telephone and spoke with his brother, who informed Plaintiff MR. REDD that their mother was already at the police station.

PLAINTIFF MR. REDD’S RELEASE AND COURT APPEARANCES

149. At or around 9:00 A.M, November 27, 2013, Coach Scott called Plaintiff MR. REDD’s mother, CRYSTAL CHAPMAN, and informed her that Plaintiff MR. REDD had been falsely arrested.

150. Shortly after receiving this call, Plaintiff MR. REDD’s mother, MS. CHAPMAN, arrived at the Monroe County Jail.

151. When Plaintiff MR. REDD’s mother, MS. CHAPMAN, arrived at the jail, she asked the Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICER why her son had been arrested.

152. Upon information and belief, the Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICERS gave Plaintiff MR. REDD’s mother, MS. CHAPMAN, conflicting and apparently fabricated reasons as to why Plaintiff MR. REDD had been arrested because the Defendant POLICE OFFICERS had neither a valid nor a legal reason to arrest Plaintiff MR. REDD.

153. Upon information and belief, the Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICERS gave Plaintiff MR. REDD's mother, MS. CHAPMAN, conflicting and apparently fabricated reasons as to why Plaintiff MR. REDD had been arrested because the Defendant POLICE OFFICERS did not know why they had arrested Plaintiff MR. REDD.

154. The Defendant POLICE OFFICERS had neither a valid nor a legal reason to arrest Plaintiff MR. REDD because Plaintiff MR. REDD was not engaged in any illegal activity of any kind or type when Defendant POLICE OFFICER RODRIGUEZ performed the aforementioned stop of Plaintiff MR. REDD.

155. The Defendant POLICE OFFICERS had neither a valid nor a legal reason to arrest Plaintiff MR. REDD because Plaintiff MR. REDD was not engaged in any illegal activity of any kind or type when Defendant POLICE OFFICER RODRIGUEZ and the Defendant POLICE OFFICERS performed the aforementioned arrest of Plaintiff MR. REDD.

156. At or around the time that Plaintiff MR. REDD's mother, MS. CHAPMAN, arrived at the jail, the Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICERS informed MS. CHAPMAN that she would be required to post bond before Plaintiff MR. REDD could be released.

157. At or around the time of Plaintiff MR. REDD's mother, MS. CHAPMAN, arrived at the jail, upon information and belief, the Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICERS informed MS. CHAPMAN that Plaintiff MR. REDD would be released immediately after she posted his bond.

158. While Plaintiff MR. REDD was in the Defendants' custody, bond was set in the amount of \$200.00.

159. Plaintiff MR. REDD's mother, MS. CHAPMAN, posted the \$200.00 bond on his behalf at approximately 12:14 P.M., November 27, 2013.

160. However, for an unknown reason, Plaintiff MR. REDD was not immediately released after his mother, MS. CHAPMAN posted his bond, and was instead detained in the Defendants' custody for approximately two additional hours.

161. At approximately 2:00 P.M. on November 27, 2013, after being unlawfully detained by Defendants for approximately five and a half hours, Plaintiff MR. REDD was returned to his mother, MS. CHAPMAN.

162. At or around this time, upon information and belief, the Defendant POLICE OFFICERS and/or Defendant CORRECTIONS OFFICER then present gave Plaintiff MR. REDD's mother, MS. CHAPMAN, Plaintiff MR. REDD'S release papers to sign.

163. At or around this time, upon information and belief, Plaintiff MR. REDD's mother, MS. CHAPMAN, signed Plaintiff MR. REDD'S release papers.

164. At or around 2:00 P.M., November 27, 2013, following the Defendant POLICE OFFICERS' arrest of Plaintiff MR. REDD, Plaintiff MR. REDD was released from the custody of the Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICERS.

165. Moreover, while Plaintiff MR. REDD was detained at the jail, the Defendant POLICE OFFICERS and/or Defendant CORRECTION OFFICERS maliciously initiated a criminal prosecution of Plaintiff MR. REDD by falsely communicating to the Monroe County District Attorneys' Office that Plaintiff MR. REDD had committed a crime, and by providing facts and evidence to the District Attorneys' Office that they knew to be untrue.

166. The initiation of the malicious prosecution of Plaintiff MR. REDD was facilitated by one or more of the individually named Defendant POLICE OFFICERS doing one or more of the following: creating false police reports; directing another to prepare a false police report; preparing a false criminal complaint; directing another to falsely prepare a criminal complaint; signing a false criminal complaint; and providing facts and evidence to the District Attorneys' Office that they knew to be untrue.

167. Thereafter, approximately six days later, on December 3, 2014, the criminal charges that were maliciously initiated against Plaintiff MR. REDD by the Defendant POLICE OFFICERS were dismissed in their entirety.

168. During his criminal prosecution, Plaintiff MR. REDD was required to appear in Monroe County Criminal Court on approximately two occasions.

169. Upon information and belief, the criminal charges that were maliciously initiated against Plaintiff MR. REDD by the Defendant POLICE OFFICERS were dismissed in their entirety because Plaintiff MR. REDD did not actually commit an offense of any sort or type.

170. Upon information and belief, the criminal charges that were maliciously initiated against Plaintiff MR. REDD by the Defendant POLICE OFFICERS were dismissed in their entirety because Plaintiff MR. REDD was neither engaged in any illegal activity of any kind or type when Defendant POLICE OFFICER RODRIGUEZ stopped him, nor when Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE OFFICER CAREFLY, and Defendant "John Doe" POLICE OFFICERS arrested him.

171. Upon information and belief, Defendant POLICE OFFICER RODRIGUEZ, at no point leading up to the stop in question, held a reasonable suspicion that

either Plaintiff MR. REDD or his two teammates had committed or were about to commit a crime or offense.

172. Following the arrival of Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and Defendant “John Doe” POLICE OFFICERS at the location of the Edison Tech Varsity Basketball Team bus stop, in the vicinity of East Main Street and Stone Street, Defendant POLICE RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and Defendant “John Doe” POLICE OFFICERS, upon information and belief, at no point leading up to the arrest in question, held a reasonable belief that Plaintiff MR. REDD had committed or was about to commit a crime or offense.

**PLAINTIFF MR. REDD WAS FALSELY ARRESTED PURSUANT TO THE
UNCONSTITUTIONAL POLICIES, PRACTICES AND CUSTOMS OF THE
DEFENDANT CITY OF ROCHESTER AND
THE ROCHESTER POLICE DEPARTMENT**

173. Instead, upon information and belief, the Defendant POLICE OFFICERS, including Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and the Defendant “John Doe” POLICE OFFICERS’ arrest of Plaintiff MR. REDD was an illegal “contempt of cop” arrest.

174. Upon information and belief, Defendant POLICE OFFICER RODRIGUEZ stopped and Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and Defendant “John Doe” POLICE OFFICERS arrested Plaintiff MR. REDD on November 27, 2013 as a result of Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE CAREFLY and the Defendant “John Doe” POLICE OFFICERS’ collective act of making arrests based on a shared sentiment characterized as “Racism of Ready Victimization”, not of hate, whereby minority individuals are charged with crimes and violations such as resisting arrest, disorderly conduct, and obstruction of governmental administration, in

the absence of probable cause to arrest, due to a perceived ease of prosecution of such minority individuals.

175. Upon information and belief, Defendant POLICE OFFICER RODRIGUEZ stopped and Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and Defendant “John Doe” POLICE OFFICERS arrested Plaintiff MR. REDD on November 27, 2013 as a result of Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE CAREFLY and the Defendant “John Doe” POLICE OFFICERS’ collective act of making arrests based on one (or all) of their individually held sentiment characterized as “Racism of Ready Victimization”, not of hate, whereby minority individuals are charged with crimes and violations such as resisting arrest, disorderly conduct, and obstruction of governmental administration, in the absence of probable cause to arrest, due to a perceived ease of prosecution of such minority individuals.

176. Upon information and belief, Defendant POLICE OFFICER RODRIGUEZ stopped and Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and Defendant “John Doe” POLICE OFFICERS arrested Plaintiff MR. REDD on November 27, 2013 as a result of Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE CAREFLY and the Defendant “John Doe” POLICE OFFICERS’ attempt to carry out the Rochester Police Department’s official policy known as “Operation Cool Down.”

177. Upon information and belief, Defendant POLICE OFFICER RODRIGUEZ stopped and Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and Defendant “John Doe” POLICE OFFICERS arrested Plaintiff MR. REDD on November 27, 2013 as a result of Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE CAREFLY and the Defendant “John Doe” POLICE OFFICERS’ attempt to

carry out the Rochester Police Department's official policy known as "Clear the Block" and/or "Clear the Streets."

178. Upon information and belief, pursuant to "Operation Cool Down," Rochester Police Officers, including but not limited to Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE CAREFLY and the Defendant "John Doe" POLICE OFFICERS, were trained, instructed and authorized to aggressively approach, stop, and engage citizens on the public sidewalks and streets of Rochester, without reasonable suspicion or probable cause that a crime is occurring, in an effort to deter violence and crime in the City of Rochester.

179. Upon information and belief, pursuant to the "Operation Cool Down," Rochester Police Officers, including but not limited to Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and the Defendant "John Doe" POLICE OFFICERS, were trained, instructed and authorized to arrest individuals without probable cause that a crime has occurred or is occurring, when the individual refused to comply with police officers' orders to "move along."

180. Upon information and belief, pursuant to the "Clearing the Block" and/or "Clearing the Street" program, Rochester Police Officers, including but not limited to Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and the Defendant "John Doe" POLICE OFFICERS, were trained, instructed and authorized to aggressively approach, stop, and engage citizens on the public sidewalks and streets of Rochester, without reasonable suspicion or probable cause that a crime is occurring, in an effort to remove citizens who lawfully assemble on the sidewalks in the vicinity of local businesses.

181. Upon information and belief, pursuant to the “Clearing the Block” and/or “Clearing the Street” program, Rochester Police Officers, including but not limited to Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and the Defendant “John Doe” POLICE OFFICERS, were trained, instructed and authorized to arrest individuals without probable cause that a crime has occurred or is occurring, when the individual refused to comply with police officers’ orders to “move along.”

182. The Defendant OFFICERS, including Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and the Defendant “John Doe” POLICE OFFICERS, and Defendant CITY OF ROCHESTER collectively and individually, while acting under color of state law, engaged in constitutionally-violative conduct that constituted a custom, usage, practice, procedure or rule of the respective municipality/authority, which is forbidden by the Constitution of the United States.

183. At the time of the November 27, 2013 incident and arrest of Plaintiff MR. REDD by the Defendant POLICE OFFICERS, including Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and the Defendant “John Doe” POLICE OFFICERS, Plaintiff MR. REDD did not have any warrants out for his arrest.

184. At the time of the November 27, 2013 incident and arrest of Plaintiff MR. REDD by the Defendant POLICE OFFICERS, including Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and the Defendant “John Doe” POLICE OFFICERS, Plaintiff MR. REDD was not carrying any weapons of any sort.

185. At the time of the November 27, 2013 incident and arrest of Plaintiff MR. REDD by the Defendant POLICE OFFICERS, including Defendant POLICE OFFICER

RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and the Defendant “John Doe” POLICE OFFICERS, Plaintiff MR. REDD was not engaged in any illegal activity of any kind.

186. Some of the Defendant POLICE OFFICERS observed the violation of Plaintiff MR. REDD’S rights under the Constitution of the United States and New York State Law by the other Defendant POLICE OFFICERS, including Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and other Defendant POLICE OFFICERS, and did nothing to prevent the unjustifiable stop, seizure, search, false arrest, false imprisonment, strip search or malicious prosecution of Plaintiff MR. REDD.

187. As a result of the foregoing, Plaintiff MR. REDD sustained, *inter alia*, mental injuries, emotional distress, embarrassment, loss of property, damage to property, humiliation and deprivation of his constitutional rights.

**PRIOR INSTANCES OF MISCONDUCT BY
DEFENDANT POLICE OFFICER ELIUD RODRIGUEZ**

188. Upon information and belief, Defendant POLICE OFFICER RODRIGUEZ has been accused of misconduct on one or more occasions prior to the false arrest of Plaintiff MR. REDD on November 27, 2013.

189. Defendant POLICE OFFICER RODRIGUEZ has been named as a defendant in at least one lawsuit alleging that he used excessive and unnecessary amounts of force during the effectuation of an arrest. See Richards v. City of Rochester, et al., Docket # 02-CV-6473-JWF (W.D.N.Y. 2002).

190. In Richards, Defendant POLICE OFFICER RODRIGUEZ and his partner were accused of using excessive force during the arrest of Edward S. Richards, a mentally impaired man, on July 15, 2001. See id.

191. In Richards, the court appointed a Guardian ad litem for the plaintiff, Edward S. Richards, because he was adjudicated to be mentally incompetent. See id.

192. In Richards, upon information and belief, the City of Rochester indemnified Defendant POLICE OFFICER RODRIGUEZ and his partner.

193. In Richards, the City of Rochester settled all claims that Edward S. Richards brought against Defendant POLICE OFFICER RODRIGUEZ, his partner and the Defendant CITY OF ROCHESTER for \$40,000.00. See Order Granting Settlement, Docket Entry # 59, Richards v. City of Rochester, et al., No.: 02-CV-6473-JWF (W.D.N.Y. 2002).

194. Upon information and belief, Defendant POLICE OFFICER RODRIGUEZ was never reprimanded, suspended or terminated from his employment by the Defendant CITY OF ROCHESTER or the Rochester Police Department following the July 15, 2001 incident in which Defendant POLICE OFFICER RODRIGUEZ and his partner were alleged to have used excessive force against Edward S. Richards, a mentally incompetent man.

195. On June 21, 2012, Defendant POLICE OFFICER RODRIGUEZ was one of seven Rochester Police Officers who shot and killed Israel Andino on Locust Street in Rochester.¹

196. Upon information and belief, Israel Andino had been diagnosed with bipolar disorder.

197. Upon information and belief, the Rochester police officers, including Defendant POLICE OFFICER RODRIGUEZ, knew that Israel Andino had been diagnosed with bipolar disorder when they responded to the 911 call on June 21, 2012.

¹ See Forsyth, T., *Rally Denounced RPD Murder of Israel "Izzy" Andino!*, INDYMEDIA (June 28, 2012), <http://rochester.indymedia.org/node/49305> (last visited Dec. 8, 2014).

² McDermott M., Meghan, *Black arrest rate high in Rochester area*, DEMOCRAT & CHRONICLE, November 19, 2014 Article incorporated herein by reference and available online at: <http://www.democratandchronicle.com/story/news/2014/11/18/racial-arrest-disparity-gates->

198. Israel Andino's mother, Carmen Baez, filed a lawsuit against the City of Rochester alleging that the Rochester police officers, including Defendant POLICE OFFICER RODRIGUEZ, were "deliberately indifferent" to Mr. Andino's serious medical and psychological needs, and that his fatal injuries "were caused directly through the neglect, carelessness, and lack of skill" of the officers. See Baez v. City of Rochester et. al, No.: 6:13-cv-06625-CJS-JWF (W.D.N.Y. 2013).

199. Upon information and belief, Defendant POLICE OFFICER RODRIGUEZ was never reprimanded, suspended or terminated from his employment by the Defendant CITY OF ROCHESTER or the Rochester Police Department following the June 21, 2012 incident in which Defendant POLICE OFFICER RODRIGUEZ and other Rochester police officers shot and killed Israel Andino.

UNITED STATES DEPARTMENT OF JUSTICE INVESTIGATION

200. In approximately May 2014, the United States Department of Justice, including the Federal Bureau of Investigation (FBI) and the United States Attorneys' Office for the Western District of New York, began conducting an investigation into the unlawful actions of the individually named defendant police officers, including the false arrest, strip search and malicious prosecution of Plaintiff MR. REDD, which took place on November 27, 2013.

201. On August 25, 2014, an FBI investigator and an Assistant United States Attorney for the Western District of New York conducted a witness interview of Plaintiff MR. REDD as part of their investigation into the incident that took place on the morning of November 27, 2013, to determine whether to initiate a criminal prosecution of the individually named Defendant POLICE OFFICERS for their unlawful conduct.

202. Upon information and belief, the investigation into the actions of the individually named Defendant POLICE OFFICERS by the FBI and the United States Attorneys' Office is ongoing.

203. Upon information and belief, the Federal investigation of this incident reflects the consistent failures of oversight by the Defendant CITY OF ROCHESTER in maintaining a law-abiding and constitutionally-compliant police department, and further reflects Defendant CITY OF ROCHESTER's continuing failure to adequately supervise or discipline police officers such as the Defendant POLICE OFFICERS.

PLAINTIFF MR. REDD WAS STRIP SEARCHED PURSUANT TO THE UNCONSTITUTIONAL POLICIES, PRACTICES AND CUSTOMS OF THE DEFENDANT COUNTY OF MONROE AND COUNTY OF MONROE SHERIFF'S DEPARTMENT, UNDER THE DIRECTION OF DEFENDANT SHERIFF O'FLYNN

204. In defiance of clear constitutional commands, the County and the MCSO promulgated, implemented, enforced, and/or failed to rectify a policy, practice and custom of strip-searching arrestees charged with misdemeanors and/or violations in the absence of reasonable suspicion probable cause to believe they are concealing drugs, weapons or other contraband underneath their clothing.

205. Upon information and belief, CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and Defendant "RICHARD ROE" CORRECTION OFFICERS strip-searched Plaintiff MR. REDD on November 27, 2013 as a result of the defendant CORRECTION OFFICERS' collective act of conducting strip-searches based on a shared sentiment characterized as "Racism of Ready Victimization", not of hate, whereby

minority individuals are strip-searched when only charged with misdemeanors and/or violations such as resisting arrest, disorderly conduct, and obstruction of governmental administration, in the absence of reasonable suspicion probable cause to believe they are concealing drugs, weapons or other contraband on their person, motivated by a desire to punish the arrestee for the arrestee's putative failure to display the degree of deference or subservience demanded by the arresting officers and/or Correction Officers.

206. Upon information and belief, CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS strip-searched Plaintiff MR. REDD on November 27, 2013 as a result of the defendant CORRECTION OFFICERS' attempt to carry out the defendant County and MCSO official policy known as JBGO 28-J-02, "Searches of Persons."

207. JBGO 28-J-02, "Searches of Persons," states that all arrestees "charged with misdemeanors and/or violations will be strip-searched ONLY under the following circumstances":

- a. "Nature of Offense - Offenses which based upon their nature, create a reasonable suspicion that the prisoner may be concealing contraband and/or crimes committed where weapons, violence, prostitution, assault, or narcotics are involved."

- b. “Prior Jail History – Prisoners with any prior jail history documenting possession of contraband on their person or introduction or attempted introduction of contraband into the facility.”
- c. “Circumstances of the Arrest – Discovery of incriminating matter during routine searches, information derived from the search or conduct of a co-defendant, observations of arresting officer(s), paraphernalia found at time of arrest, and/or informant(s) tip.”
- d. “Characteristics of the Prisoner – Attitudes and/or behaviors displayed by the prisoner, which may be interpreted as manipulation or distractions in an attempt to conceal contraband or any clothing items, which by their nature, prevent a thorough pat search from being effective. This will include, but not be limited to: excessive nervousness, unusual conduct, evasive or contradictory answers, needle marks or other indications of drug addiction.”
- e. “Clothing – Loose fitting or bulky clothing that makes it difficult to pat search.”
- f. “Prisoner Status – All intermittent (weekender) and locally sentenced inmates.”

208. JBGO 28-J-02, “Searches of Persons,” also states that, “[s]trip searches will be conducted by a deputy of the same gender as the inmate, in an area away from other persons in order to maintain the dignity of the inmate at all times.”

209. MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER

B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS were trained, instructed and authorized to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is concealing drugs, weapons or contraband underneath their clothing.

210. MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS were trained, instructed and authorized to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is concealing drugs, weapons or contraband underneath their clothing, when the Correction Officers knew the arrestee was not going to be introduced into the general inmate population.

211. Upon information and belief, pursuant to JBGO 28-J-02, "Searches of Persons," MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, were trained, instructed and authorized to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is

concealing drugs, weapons or contraband underneath their clothing, when the “circumstances of the arrest” involved the individual refusing to comply with the arresting officers’ orders to “move along.”

212. Upon information and belief, pursuant to JBGO 28-J-02, “Searches of Persons,” MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant “RICHARD ROE” CORRECTION OFFICERS, were trained, instructed and authorized to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is concealing drugs, weapons or contraband underneath their clothing, when the arrestee is wearing “loose fitting or bulky clothing,” despite the fact that the arrestee’s clothing does not make it difficult to conduct a pat search of that individual arrestee.

213. Upon information and belief, pursuant to JBGO 28-J-02, “Searches of Persons,” MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant “RICHARD ROE” CORRECTION OFFICERS, were trained, instructed and authorized to conduct strip searches of multiple arrestees who were arrested together as part of the same incident and charged with misdemeanors and violations, without reasonable suspicion or probable cause that any of the arrestees are

concealing drugs, weapons or contraband underneath their clothing, despite the fact that JBGO 28-J-02 states that “strip searches will be conducted ... in an area away from other persons in order to maintain the dignity of the inmate at all times.”

214. JBGO 28-J-02, “Searches of Persons,” does not include any guidance, training, instruction or authorization to MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant “RICHARD ROE” CORRECTION OFFICERS, to conduct strip searches of minor arrestees under the age of eighteen (18) years.

215. Upon information and belief, pursuant to JBGO 28-J-02, “Searches of Persons,” MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant “RICHARD ROE” CORRECTION OFFICERS, were trained, instructed and authorized to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is concealing drugs, weapons or contraband underneath their clothing, despite the fact that the arrestee was a minor under the age of eighteen (18) years.

216. JBGO 28-J-02, “Searches of Persons,” does not include any guidance, training, instruction or authorization to MCSO Correction Officers, including but not limited to

CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, to conduct strip searches of arrestees who are not going to be introduced into the general inmate population.

217. Upon information and belief, pursuant to JBGO 28-J-02, "Searches of Persons," MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, were trained, instructed and authorized to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is concealing drugs, weapons or contraband underneath their clothing, despite the fact that the arrestee is not going to be introduced into the general inmate population.

218. Upon information and belief, pursuant to JBGO 28-J-02, "Searches of Persons," MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, were trained, instructed and authorized to strip search arrestees charged with

misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is concealing drugs, weapons or contraband underneath their clothing, solely on the basis of that individual arrestee's race.

219. Upon information and belief, pursuant to JBGO 28-J-02, "Searches of Persons," MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, were trained, instructed and authorized to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is concealing drugs, weapons or contraband underneath their clothing, solely on the basis of that individual arrestee's race.

220. Upon information and belief, pursuant to JBGO 28-J-02, "Searches of Persons," MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, were trained, instructed and authorized to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is concealing drugs, weapons or contraband underneath their clothing, when the arrestee's race is

African American, but not to strip search arrestees under the exact same circumstances when the arrestee's race is Caucasian.

221. The Defendant CORRECTION OFFICERS, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, SHERIFF PATRICK O'FLYNN and Defendant COUNTY collectively and individually, while acting under color of state law, engaged in constitutionally-violative conduct that constituted a custom, usage, practice, procedure or rule of the respective municipality/authority, which is forbidden by the Constitution of the United States.

222. At the time of the November 27, 2013 incident and strip search of Plaintiff MR. REDD by the Defendant CORRECTION OFFICERS, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, the aforesaid defendant CORRECTION OFFICERS knew that Plaintiff MR. REDD was not going to be introduced into the general inmate population.

223. At the time of the November 27, 2013 incident and strip search of Plaintiff MR. REDD by the Defendant CORRECTION OFFICERS, including but not limited to

CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant “RICHARD ROE” CORRECTION OFFICERS, the aforesaid defendant CORRECTION OFFICERS knew that the nature of the offense for which Plaintiff MR. REDD was arrested did not, “based upon [its] nature, create a reasonable suspicion that [Plaintiff MR. REDD] may be concealing contraband” and that Plaintiff MR. REDD was not alleged to have committed a crime involving “weapons, violence, prostitution, assault or narcotics.”

224. At the time of the November 27, 2013 incident and strip search of Plaintiff MR. REDD by the Defendant CORRECTION OFFICERS, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant “RICHARD ROE” CORRECTION OFFICERS, Plaintiff MR. REDD did not have any prior jail history.

225. At the time of the November 27, 2013 incident and strip search of Plaintiff MR. REDD by the Defendant CORRECTION OFFICERS, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or

Defendant “RICHARD ROE” CORRECTION OFFICERS, the aforesaid defendant CORRECTION OFFICERS knew that the circumstances of Plaintiff MR. REDD’s arrest did not include “[d]iscovery of incriminating matter during routine searches, information derived from the search or conduct of a co[arrestee], observations of arresting officer(s), paraphernalia found at the time of arrest, and/or informant(s) tip,” that could have led a reasonable correction officer to conclude there was reasonable suspicion or probable cause to believe Plaintiff MR. REDD was concealing drugs, weapons, or contraband underneath his clothing.

226. At the time of the November 27, 2013 incident and strip search of Plaintiff MR. REDD by the Defendant CORRECTION OFFICERS, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant “RICHARD ROE” CORRECTION OFFICERS, the aforesaid defendant CORRECTION OFFICERS knew that the “characteristics” of Plaintiff MR. REDD’s did not include “[a]ttitudes and/or behaviors displayed by [Plaintiff Mr. Redd], which may be interpreted as manipulation or distractions in an attempt to conceal contraband or any clothing items, which by their nature, prevent a thorough pat search from being effective,” and that Plaintiff MR. REDD was not excessively nervous, engaging in unusual conduct, giving evasive or contradictory answers, and he did not display any needle marks or other indications of drug addiction.

227. At the time of the November 27, 2013 incident and strip search of Plaintiff MR. REDD by the Defendant CORRECTION OFFICERS, including but not limited to

CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant “RICHARD ROE” CORRECTION OFFICERS, the aforesaid defendant CORRECTION OFFICERS knew that the “clothing” Plaintiff MR. REDD’s was wearing was not “[l]oose fitting or bulky” so as to make “it difficult to pat search” Plaintiff MR. REDD and so there was no reason to force Plaintiff MR. REDD to completely disrobe.

228. At the time of the November 27, 2013 incident and strip search of Plaintiff MR. REDD by the Defendant CORRECTION OFFICERS, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant “RICHARD ROE” CORRECTION OFFICERS, the aforesaid defendant CORRECTION OFFICERS knew that Plaintiff MR. REDD was not an “intermittent (weekender) [or] locally sentenced inmate.”

229. At the time of the November 27, 2013 incident and strip search of Plaintiff MR. REDD by the Defendant CORRECTION OFFICERS, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or

Defendant "RICHARD ROE" CORRECTION OFFICERS, Plaintiff MR. REDD was not carrying any weapons, drugs, or contraband of any sort.

230. At the time of the November 27, 2013 incident and strip search of Plaintiff MR. REDD by the Defendant CORRECTION OFFICERS, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, Plaintiff MR. REDD was not engaged in any illegal activity of any kind.

231. At the time of the November 27, 2013 incident and strip search of Plaintiff MR. REDD by the Defendant CORRECTION OFFICERS, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, the aforesaid defendant CORRECTION OFFICERS intentionally strip searched Plaintiff MR. REDD for the sole reason that he was an African American young man, and the aforesaid defendants knew that they would not have strip searched a Caucasian young man arrested under the exact same circumstances.

232. Some of the Defendant CORRECTION OFFICERS observed the violation of Plaintiff MR. REDD'S rights under the Constitution of the United States and New York State Law by the other Defendant CORRECTION OFFICERS, including Defendant CORRECTION

OFFICERS, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant “RICHARD ROE” CORRECTION OFFICERS, and did nothing to prevent the unjustifiable strip search of Plaintiff MR. REDD.

233. Some of the Defendant CORRECTION OFFICERS observed the violation of Plaintiff MR. REDD’S rights under the Constitution of the United States and New York State Law by the other Defendant CORRECTION OFFICERS, including Defendant CORRECTION OFFICERS, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant “RICHARD ROE” CORRECTION OFFICERS, and did nothing to prevent the unjustifiable strip search of Plaintiff MR. REDD because he was a young African American male, where the aforesaid defendants would have taken actions to prevent the unjustifiable strip search of Plaintiff MR. REDD if he was a young Caucasian male.

234. As a result of the MCSO policies, Plaintiff MR. REDD sustained, *inter alia*, mental injuries, emotional distress, embarrassment, loss of property, damage to property, humiliation and deprivation of his constitutional rights.

FIRST CLAIM FOR RELIEF
DEPRIVATION OF FEDERAL CIVIL RIGHTS UNDER 42 U.S.C. § 1983
BY CITY OF ROCHESTER, Defendant “John Doe” POLICE OFFICERS,
Defendant POLICE OFFICER “JANE DOE #1,” Defendant POLICE
OFFICER “JANE DOE #2,” Defendant OFFICER RODRIGUEZ, Defendant
OFFICER PERKOWSKI, Defendant OFFICER GRANDE, Defendant
OFFICER CAREFLY, and Defendant OFFICER LYONS

235. Plaintiff MR. REDD repeats, reiterates and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

236. All of the aforementioned acts of the Defendant CITY OF ROCHESTER, Defendant “John Doe” POLICE OFFICERS, Defendant POLICE OFFICER “JANE DOE #1,” Defendant POLICE OFFICER “JANE DOE #2,” Defendant OFFICER RODRIGUEZ, Defendant OFFICER PERKOWSKI, Defendant OFFICER GRANDE, Defendant OFFICER CAREFLY, and Defendant OFFICER LYONS (“CITY Defendants”, or “Defendant POLICE OFFICERS” unless otherwise described, henceforth), their agents, servants and employees, were carried out under the color of state law.

237. All of the aforementioned acts deprived Plaintiff MR. REDD of the rights, privileges and immunities guaranteed to citizens of the United States by the First, Fourth, and Fourteenth Amendments to the Constitution of the United States of America, and in violation of 42 U.S.C. § 1983.

238. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers with all of the actual and/or apparent authority attendant thereto.

239. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers, pursuant to the customs, usages, practices,

procedures, and the rules of the City of Rochester and the City of Rochester Police Department, all under the supervision of ranking officers of said department.

240. The individual Defendants and Defendant CITY OF ROCHESTER, collectively and individually, while acting under color of state law, engaged in Constitutionally violative conduct that constituted a custom, usage, practice, procedure or rule of the respective municipality/authority, which is forbidden by the Constitution of the United States.

241. As a result of the above constitutionally impermissible conduct, Plaintiff MR. REDD was caused to suffer personal injuries, violation of his civil rights, emotional distress, anguish, anxiety, fear, humiliation, loss of freedom, legal expenses and damage to his reputation and standing within his community.

242. As a result of Defendants' impermissible conduct, Plaintiff MR. REDD was injured and harmed. Accordingly, Plaintiff MR. REDD demand judgment against Defendants in a sum of money to be determined at trial.

SECOND CLAIM FOR RELIEF
DEPRIVATION OF FEDERAL CIVIL RIGHTS UNDER 42 U.S.C. § 1983
BY COUNTY OF MONROE, MCSO, SHERIFF O'FLYNN,
CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S.
NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS
OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH,
CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J.
REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant
"RICHARD ROE" CORRECTION OFFICERS

243. Plaintiff MR. REDD repeats, reiterates and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

244. All of the aforementioned acts of the Defendant COUNTY OF MONROE, through the MCSO and Defendant O'FLYNN, and the Defendant CORRECTION OFFICERS,

including Defendant CORRECTION OFFICERS, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant “RICHARD ROE” CORRECTION OFFICERS, (“County Defendants” unless otherwise described, henceforth), their agents, servants and employees, were carried out under the color of state law.

245. All of the aforementioned acts deprived Plaintiff MR.REDD of the rights, privileges and immunities guaranteed to citizens of the United States by the First, Fourth, and Fourteenth Amendments to the Constitution of the United States of America, and in violation of 42 U.S.C. § 1983.

246. The acts complained of were carried out by the aforementioned individual CORRECTION OFFICER defendants in their capacities as correction officers with all of the actual and/or apparent authority attendant thereto.

247. The acts complained of were carried out by the aforementioned individual CORRECTION OFFICER defendants in their capacities as correction officers, pursuant to the customs, usages, practices, procedures, and the rules of the County of Monroe and the MCSO, all under the supervision of ranking officers of said department, including defendant SHERIFF O’FLYNN.

248. The individual CORRECTION OFFICER Defendants and Defendant COUNTY OF MONROE, collectively and individually, while acting under color of state law, engaged in Constitutionally violative conduct that constituted a custom, usage, practice,

procedure or rule of the respective municipality/authority, which is forbidden by the Constitution of the United States.

249. As a result of the above constitutionally impermissible conduct, Plaintiff MR. REDD was caused to suffer personal injuries, violation of his civil rights, emotional distress, anguish, anxiety, fear, humiliation, loss of freedom, legal expenses and damage to his reputation and standing within his community.

250. As a result of CORRECTION OFFICER Defendants' impermissible conduct, Plaintiff MR. REDD was injured and harmed. Accordingly, Plaintiff MR. REDD demand judgment against Defendants in a sum of money to be determined at trial.

THIRD CLAIM FOR RELIEF
FALSE ARREST UNDER 42 U.S.C. § 1983 AGAINST CITY DEFENDANTS

251. Plaintiff MR.REDD repeats, reiterates and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

252. As a result of the aforesaid conduct by the Defendant POLICE OFFICERS, Plaintiff MR. REDD was subjected to an illegal, improper and false arrest by the Defendant POLICE OFFICERS and taken into custody and caused to be falsely imprisoned, detained and confined without any probable cause, privilege or consent.

253. As a result of the above constitutionally impermissible conduct, Plaintiff MR. REDD was caused to suffer personal injuries, violation of his civil rights, emotional distress, anguish, anxiety, fear, humiliation, loss of freedom, legal expenses and damage to his reputation and standing within his community.

254. As a result of City Defendants' impermissible conduct, Plaintiff MR. REDD was injured and harmed. Accordingly, Plaintiff MR. REDD demand judgment against Defendants in a sum of money to be determined at trial.

FOURTH CLAIM FOR RELIEF
FAILURE TO INTERVENE UNDER 42 U.S.C. §1983 AGAINST CITY
DEFENDANTS

255. Plaintiff MR. REDD repeats, reiterates and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

256. The Defendants had an affirmative duty to intervene on Plaintiff MR. REDD's behalf to prevent the violation of his constitutional rights.

257. The individual Defendants failed to intervene on Plaintiff MR. REDD's behalf to prevent the violation of his constitutional rights despite having had a realistic opportunity to do so.

258. The individual Defendants failed to intervene on Plaintiff MR. REDD's behalf to prevent the violation of his constitutional rights despite having substantially contributed to the circumstances within which Plaintiff MR. REDD's rights were violated by their affirmative conduct.

259. As a result of the aforementioned conduct of the individual Defendants, Plaintiff MR. REDD's constitutional rights were violated.

260. As a result of the above constitutionally impermissible conduct, Plaintiff MR. REDD was caused to suffer personal injuries, violation of his civil rights, emotional distress, anguish, anxiety, fear, humiliation, loss of freedom, legal expenses and damage to his reputation and standing within his community.

261. As a result of Defendants' impermissible conduct, Plaintiff MR. REDD was injured and harmed. Accordingly, Plaintiff MR. REDD demand judgment against Defendants in a sum of money to be determined at trial.

FIFTH CLAIM FOR RELIEF
FAILURE TO INTERVENE UNDER 42 U.S.C. §1983 AGAINST COUNTY
DEFENDANTS

262. Plaintiff MR. REDD repeats, reiterates and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

263. The Defendants had an affirmative duty to intervene on Plaintiff MR. REDD's behalf to prevent the violation of his constitutional rights when the individual CORRECTION OFFICER and/or POLICE OFFICER defendants strip searched MR. REDD.

264. The individual CORRECTION OFFICER defendants failed to intervene on Plaintiff MR. REDD's behalf to prevent the violation of his constitutional rights despite having had a realistic opportunity to do so.

265. The individual CORRECTION OFFICER defendants failed to intervene on Plaintiff MR. REDD's behalf to prevent the violation of his constitutional rights despite having substantially contributed to the circumstances within which Plaintiff MR. REDD's rights were violated by their affirmative conduct.

266. As a result of the aforementioned conduct of the individual CORRECTION OFFICER defendants, Plaintiff MR. REDD's constitutional rights were violated.

267. As a result of the above constitutionally impermissible conduct, Plaintiff MR. REDD was caused to suffer personal injuries, violation of his civil rights, emotional

distress, anguish, anxiety, fear, humiliation, loss of freedom, legal expenses and damage to his reputation and standing within his community.

268. As a result of CORRECTION OFFICER defendants' impermissible conduct, Plaintiff MR. REDD was injured and harmed. Accordingly, Plaintiff MR. REDD demands judgment against Defendants in a sum of money to be determined at trial.

SIXTH CLAIM FOR RELIEF
FALSE IMPRISONMENT AND ARREST UNDER
NEW YORK STATE LAW AGAINST CITY DEFENDANTS

269. Plaintiff MR. REDD repeats, reiterates, and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

270. As a result of the aforesaid conduct by Defendant THE CITY OF ROCHESTER and the Defendant POLICE OFFICERS, Plaintiff was unlawfully detained and confined.

271. The Defendant POLICE OFFICERS—in performance of their duties with powers and authorities designated upon them by Defendant THE CITY OF ROCHESTER—intentionally confined Plaintiff MR. REDD.

272. Plaintiff MR. REDD was at all times consciously aware of his confinement by the Defendant POLICE OFFICERS.

273. At no point throughout Plaintiff MR. REDD'S unlawful detention and confinement by the Defendant POLICE OFFICERS did Plaintiff MR. REDD consent to said confinement.

274. At no point throughout Plaintiff MR. REDD'S unlawful detention and confinement by the Defendant "John Doe" POLICE OFFICERS were the actions of the Defendant "John Doe" POLICE OFFICERS otherwise privileged.

275. As a result of Defendants' impermissible conduct, Plaintiff MR. REDD was injured and harmed. Accordingly, Plaintiff demands judgment against Defendants in a sum of money to be determined at trial.

SEVENTH CLAIM FOR RELIEF
DEPRIVATION OF PLAINTIFFS' RIGHTS AS GUARANTEED BY THE
NEW YORK STATE CONSTITUTION AGAINST CITY DEFENDANTS

276. Plaintiff MR. REDD repeats, reiterates and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

277. As a result of the aforesaid conduct of Defendant THE CITY OF ROCHESTER and the Defendant POLICE OFFICERS, Plaintiff MR. REDD was deprived of rights guaranteed to him by the New York State Constitution, including though not limited to the right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures as described in Article I §12 of the New York State Constitution.

278. The acts complained of were carried out by the Defendant POLICE OFFICERS in their capacities as police officers, with all of the actual and/or apparent authority attendant thereto, pursuant to the customs, usages, practices, procedures, and the rules of Defendant THE CITY OF ROCHESTER and the Rochester Police Department.

279. The Defendant POLICE OFFICERS and Defendant THE CITY OF ROCHESTER, collectively and individually, while acting under color of state law violated

Plaintiff MR. REDD'S constitutional rights by engaging in conduct proscribed by the New York State Constitution.

280. As a result of Defendants' impermissible conduct, Plaintiff MR. REDD was injured and harmed. Accordingly, Plaintiff MR. REDD demands judgment against Defendants in a sum of money to be determined at trial.

EIGHTH CLAIM FOR RELIEF
NEGLIGENCE UNDER NEW YORK STATE LAW AGAINST CITY
DEFENDANTS

281. Plaintiff MR. REDD repeats, reiterates and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

282. Defendant THE CITY OF ROCHESTER was negligent in the hiring and retention of the Defendant POLICE OFFICERS as follows:

- A. Upon information and belief, Defendant THE CITY OF ROCHESTER failed to use reasonable care in the hiring and retention of the Defendant POLICE OFFICERS who conducted and participated in the acts of subjecting Plaintiff to an unlawful stop, unlawful seizure, unlawful search, false arrest, false imprisonment, unlawful strip search, malicious prosecution and violations of his constitutional rights in the manners described herein.
- B. Defendant THE CITY OF ROCHESTER knew, or should have known in the exercise of reasonable care, the propensities of the aforesaid Defendant POLICE OFFICERS to engage in the wrongful conduct heretofore alleged in this complaint.

283. Defendant THE CITY OF ROCHESTER was negligent in the training and supervision of the Defendant POLICE OFFICERS as follows:

A. Defendant THE CITY OF ROCHESTER knew or should have known that the requirements, guidelines, and terms of its training for the Defendant POLICE OFFICERS were insufficient and inadequate to prevent the Defendant POLICE OFFICERS from engaging in the wrongful conduct heretofore alleged in this complaint.

284. Defendant THE CITY OF NEW YORK is also liable to Plaintiffs on the basis of *respondeat superior* as a result of the constitutionally-impermissible actions of the Defendant “John Doe” POLICE OFFICERS as described herein.

285. As a result of Defendants’ impermissible conduct, Plaintiff was injured and harmed. Accordingly, Plaintiff demands judgment against Defendants in a sum of money to be determined at trial.

NINTH CLAIM FOR RELIEF
UNLAWFUL STRIP SEARCH UNDER 42 U.S.C. § 1983 AGAINST CITY
DEFENDANTS

286. Plaintiff MR. REDD repeats, reiterates and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

287. Plaintiff MR. REDD was searched by the Defendant POLICE OFFICERS and/or the Defendant POLICE OFFICERS caused Plaintiff MR. REDD to be searched without an individualized reasonable suspicion or probable cause that plaintiff was concealing weapons or other contraband based on a crime charged, the particular characteristics of the arrestee, and/or the circumstances of the arrest.

288. The Defendant POLICE OFFICERS acted under pretense and color of state law and in their individual and official capacities and within the scope of their employment. Said acts by said defendants were beyond the scope of their jurisdiction, without authority of law, and in abuse of their powers, and said defendants acted willfully, knowingly, and with the specific intent to deprive Plaintiff MR. REDD of his constitutional rights secured by 42 U.S.C. § 1983, and by the Fourth and Fourteenth Amendments to the United States Constitution.

289. As a result of the above constitutionally impermissible conduct, Plaintiff MR. REDD was caused to suffer personal injuries, violation of his civil rights, emotional distress, anguish, anxiety, fear, humiliation, loss of freedom, legal expenses and damage to his reputation and standing within his community.

290. As a result of Defendants' impermissible conduct, Plaintiff MR. REDD was injured and harmed. Accordingly, Plaintiff MR. REDD demands judgment against Defendants in a sum of money to be determined at trial.

TENTH CLAIM FOR RELIEF
UNLAWFUL STRIP SEARCH UNDER 42 U.S.C. § 1983 AGAINST
COUNTY DEFENDANTS

291. Plaintiff MR. REDD repeats, reiterates and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

292. Plaintiff MR. REDD was searched by the Defendant CORRECTION OFFICERS without an individualized reasonable suspicion or probable cause that plaintiff was concealing weapons or other contraband based on a crime charged, prior jail history, the particular characteristics of the arrestee, clothing, and/or the circumstances of the arrest.

293. The Defendant CORRECTION OFFICERS acted under pretense and color of state law and in their individual and official capacities and within the scope of their employment. Said acts by said defendants were beyond the scope of their jurisdiction, without authority of law, and in abuse of their powers, and said defendants acted willfully, knowingly, and with the specific intent to deprive Plaintiff MR. REDD of his constitutional rights secured by 42 U.S.C. § 1983, and by the Fourth and Fourteenth Amendments to the United States Constitution.

294. As a result of the above constitutionally impermissible conduct, Plaintiff MR. REDD was caused to suffer personal injuries, violation of his civil rights, emotional distress, anguish, anxiety, fear, humiliation, loss of freedom, legal expenses and damage to his reputation and standing within his community.

As a result of Defendants' impermissible conduct, Plaintiff MR. REDD was injured and harmed. Accordingly, Plaintiff MR. REDD demands judgment against Defendants in a sum of money to be determined at trial.

ELEVENTH CLAIM FOR RELIEF
RESPONDEAT SUPERIOR UNDER NEW YORK STATE LAW
AGAINST CITY OF ROCHESTER

295. Plaintiff MR. REDD repeats, reiterates and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

296. The police officers that detained and arrested Plaintiff MR. REDD, and who committed the other wrongs against the Plaintiff MR. REDD described herein, whether named individual herein or not, were employees of Defendant THE CITY OF ROCHESTER.

297. At all relevant times, these police officers were acting within the scope of their employment and on behalf of Defendant THE CITY OF ROCHESTER.

298. Defendant THE CITY OF ROCHESTER is responsible for the torts of these police officers, and for the consequences of their actions generally, under the theory of respondeat superior.

299. As a result of Defendants' impermissible conduct, Plaintiff MR. REDD was injured and harmed. Accordingly, Plaintiff MR. REDD demand judgment against Defendants in a sum of money to be determined at trial.

TWELFTH CLAIM FOR RELIEF
MUNICIPAL LIABILITY UNDER *MONELL* ARISING FROM
UNCONSTITUTIONAL POLICIES AND CUSTOMS UNDER 42 U.S.C. §
1983 AGAINST CITY OF ROCHESTER

300. Plaintiff MR. REDD repeats, reiterates and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

301. The Defendant POLICE OFFICERS arrested and incarcerated Plaintiff MR. REDD in the absence of any evidence of criminal wrongdoing, notwithstanding their knowledge that said arrests and incarcerations would jeopardize Plaintiff MR. REDD'S liberty, wellbeing, safety, and constitutional rights.

302. The acts complained of were carried out by the aforementioned Defendants in their capacities as police officers and officials, with all the actual and/or apparent authority attendant thereto.

303. The acts complained of were carried out by the aforementioned Defendants in their capacities as police officers and officials pursuant to the customs, policies,

usages, practices, procedures and rules of the CITY OF ROCHESTER and the Rochester Police Department, all under supervision of ranking officers of said department.

304. The aforementioned customs, policies, usages, practices, procedures and rules of the CITY OF ROCHESTER and the City of Rochester Police Department include, but are not limited to, the following unconstitutional practices:

- a) wrongfully arresting individuals without probable cause due to perceived lack of respect for police officer (i.e., “contempt of cop” arrests);
- b) wrongfully arresting individuals without probable cause in order to meet the goals of “Operation Cool Down”;
- c) wrongfully arresting persons without probable cause due to perceived lack of respect for the officer; in order to teach a lesson in respect while also satisfying the goals of “Operation Cool Down” (i.e., “contempt of cop” arrests used in an attempt to provide legal justification for arrests made pursuant to “Operation Cool Down”);
- d) wrongfully arresting individuals without probable cause in order to meet the goals of the “Clear the Block” and/or “Clear the Streets” program;
- e) wrongfully arresting persons without probable cause due to perceived lack of respect for the officer; in order to teach a lesson in respect while also satisfying the goals of the “Clear the Block” and/or “Clear the Streets” program (i.e., “contempt of cop” arrests used in an attempt

to provide legal justification for arrests made pursuant to the “Clear the Block” and/or “Clear the Streets” program);

305. As a result of the aforementioned conduct of the Defendants, Plaintiff MR. REDD’S constitutional rights were violated.

306. As a result of the above constitutionally impermissible conduct, Plaintiff MR. REDD was caused to suffer personal injuries, violation of his civil rights, emotional distress, anguish, anxiety, fear, humiliation, loss of freedom, damage to his reputation and standing within his community.

307. As a result of Defendants’ impermissible conduct, Plaintiff MR. REDD demands judgment against Defendants in a sum of money to be determined at trial.

THIRTEENTH CLAIM FOR RELIEF
MUNICIPAL LIABILITY UNDER *MONELL* ARISING FROM
UNCONSTITUTIONAL POLICIES AND CUSTOMS UNDER 42 U.S.C. §
1983 AGAINST THE COUNTY OF MONROE AND SHERIFF O’FLYNN

308. Plaintiff MR. REDD repeats, reiterates and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein

309. The Defendant CORRECTION OFFICERS strip searched Plaintiff MR. REDD in the absence of any evidence that he was concealing drugs, weapons or contraband underneath his clothing, notwithstanding their knowledge that said strip search would jeopardize Plaintiff MR. REDD’S liberty, wellbeing, safety, and constitutional rights.

310. The acts complained of were carried out by the aforementioned CORRECTION OFFICER Defendants in their capacities as correction officers and officials, with all the actual and/or apparent authority attendant thereto.

311. The acts complained of were carried out by the aforementioned Defendants in their capacities as police officers and officials pursuant to the customs, policies, usages, practices, procedures and rules of the COUNTY OF MONROE and the MCSO, all under supervision of ranking officers of said department, including defendant SHERIFF O'FLYNN.

312. Upon information and belief, pursuant to JBGO 28-J-02, "Searches of Persons," MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS received training, instruction and authorization from the COUNTY OF MONROE and SHERIFF O'FLYNN to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is concealing drugs, weapons or contraband underneath their clothing.

313. Upon information and belief, pursuant to JBGO 28-J-02, "Searches of Persons," MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS received training, instruction and authorization from the COUNTY OF MONROE and SHERIFF O'FLYNN to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is concealing drugs, weapons or

contraband underneath their clothing, who were not going to be introduced into the general inmate population.

314. Upon information and belief, pursuant to JBGO 28-J-02, "Searches of Persons," MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS received training, instruction and authorization from the COUNTY OF MONROE and SHERIFF O'FLYNN to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is concealing drugs, weapons or contraband underneath their clothing, when the "circumstances of the arrest" involved the individual refusing to comply with the arresting officers' orders to "move along."

315. Upon information and belief, pursuant to JBGO 28-J-02, "Searches of Persons," MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, were trained, instructed and authorized to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is concealing drugs, weapons or contraband underneath their clothing, when the arrestee is wearing

“loos fitting or bulky clothing,” despite the fact that the arrestee’s clothing does not make it difficult to conduct a pat search of that individual arrestee.

316. Upon information and belief, pursuant to JBGO 28-J-02, “Searches of Persons,” MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant “RICHARD ROE” CORRECTION OFFICERS, were trained, instructed and authorized to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is concealing drugs, weapons or contraband underneath their clothing, despite the fact that the arrestee was a minor under the age of eighteen (18) years.

317. JBGO 28-J-02, “Searches of Persons,” does not include any guidance, training, instruction or authorization to MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant “RICHARD ROE” CORRECTION OFFICERS, to conduct strip searches of minor arrestees under the age of eighteen (18) years.

318. JBGO 28-J-02, “Searches of Persons,” does not include any guidance, training, instruction or authorization to MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON,

CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, to conduct strip searches of arrestees who are not going to be introduced into the general inmate population.

319. Upon information and belief, pursuant to JBGO 28-J-02, "Searches of Persons," MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, were trained, instructed and authorized to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is concealing drugs, weapons or contraband underneath their clothing, solely on the basis of that individual arrestee's race.

320. Upon information and belief, pursuant to JBGO 28-J-02, "Searches of Persons," MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, were trained, instructed and authorized to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is

concealing drugs, weapons or contraband underneath their clothing, solely on the basis of that individual arrestee's race.

321. Upon information and belief, pursuant to JBGO 28-J-02, "Searches of Persons," MCSO Correction Officers, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, were trained, instructed and authorized to strip search arrestees charged with misdemeanors and violations without reasonable suspicion or probable cause that the arrestee is concealing drugs, weapons or contraband underneath their clothing, when the arrestee's race is African American, but not to strip search arrestees under the exact same circumstances when the arrestee's race is Caucasian.

322. JBGO 28-J-02, "Searches of Persons," creates a pervasive and unreasonable risk of Constitutional injury to citizens, including Plaintiff MR. REDD, amounts to a deliberate indifference to or tacit authorization of constitutional injury to citizens and there is an affirmative causal link between said Defendants' policy, JBGO 28-J-02, "Searches of Persons," their disregard for the constitutional rights of citizens and the constitutional injuries suffered by Plaintiff MR. REDD.

323. The aforementioned customs, policies, usages, practices, procedures and rules of the COUNTY OF MONROE and the MCSO as implemented by SHERIFF O'FLYNN, but are not limited to, the following unconstitutional practices:

- f) wrongfully strip searching individuals without reasonable suspicion or probable cause that they are concealing drugs, weapons or contraband underneath their clothing due to perceived lack of respect for correction officers (i.e., “contempt of officer” strip search);
- g) wrongfully strip searching individuals without reasonable suspicion that they are concealing drugs, weapons or contraband underneath their clothing when the “circumstances of the arrest” involved the perceived lack of respect for the arresting officers (i.e., “contempt of cop” strip search);
- h) wrongfully strip searching persons without reasonable suspicion or probable cause that they are concealing drugs, weapons or contraband underneath their clothing due to perceived lack of respect for the officer; in order to teach a lesson in respect while also satisfying the goals of JBGO 28-J-02 (i.e., “contempt of officer” strip search used in an attempt to provide legal justification for strip search conducted pursuant to JBGO 28-J-02);
- i) wrongfully strip searching persons without reasonable suspicion or probable cause that they are concealing drugs, weapons or contraband underneath their clothing due to the arrestee wearing “loose fitting or bulky clothing,” despite the fact that the arrestee’s clothing does not make it difficult to conduct a pat search of that individual arrestee, as a pretext for conducting an unlawful search on the basis of the arrestee’s race;

- j) wrongfully strip searching persons who are minors under the age of eighteen (18) years without reasonable suspicion or probable cause that they are concealing drugs, weapons or contraband underneath their clothing;
- k) wrongfully strip searching persons who are not going to be introduced into the general inmate population without reasonable suspicion or probable cause that they are concealing drugs, weapons or contraband underneath their clothing;
- l) wrongfully strip searching persons without reasonable suspicion or probable cause that they are concealing drugs, weapons or contraband underneath their clothing due to the fact that the arrestee is African American where a Caucasian arrestee would not have been strip searched under the exact same circumstances.

324. Upon information and belief, by and through policy, custom and training, defendant COUNTY OF MONROE and SHERIFF O'FLYNN had actual or constructive knowledge that their subordinates, including but not limited to CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, were engaged in conduct that posed a pervasive and unreasonable risk of constitutional deprivations and injury to citizens, including Plaintiff MR. REDD, and have condoned this custom, policy and training whereby unconstitutional practices occur.

325. Upon information and belief, CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, had a prior employment history involving alleged misconduct and Defendants COUNTY OF MONROE and SHERIFF O'FLYNN were negligent for their training, supervision and retention of said officers.

326. Upon information and belief, despite defendants COUNTY OF MONROE and SHERIFF O'FLYNN's knowledge that their subordinates, including CORRECTIONS OFFICER M. KNAPP, CORRECTIONS OFFICER S. NEWTON, CORRECTIONS OFFICER B. REISTER, CORRECTIONS OFFICER G. WHELEHAN, CORRECTIONS OFFICER G. SMITH, CORRECTIONS OFFICER T. SPRING, CORRECTIONS OFFICER J. REUSCH, CORRECTIONS OFFICER J. MILLAR, and/or Defendant "RICHARD ROE" CORRECTION OFFICERS, engaged in conduct that posed a pervasive and unreasonable risk of constitutional injury to citizens like Plaintiff MR. REDD, their response to said knowledge was so inadequate as to show deliberate indifference to or tacit authorization of the alleged offensive practices of their subordinates.

327. Upon information and belief, there is an affirmative causal link between the aforescribed culpable action and/or inaction of Defendants COUNTY OF MONROE and SHERIFF O'FLYNN and the particular constitutional injuries suffered by Plaintiff MR. REDD.

328. As a result of the aforementioned conduct of the Defendants, Plaintiff MR. REDD'S constitutional rights were violated.

329. As a result of the above constitutionally impermissible conduct, Plaintiff MR. REDD was caused to suffer personal injuries, violation of his civil rights, emotional distress, anguish, anxiety, fear, humiliation, loss of freedom, damage to his reputation and standing within his community.

330. As a result of Defendants' impermissible conduct, Plaintiff MR. REDD demands judgment against Defendants in a sum of money to be determined at trial.

FOURTEENTH CLAIM FOR RELIEF
EQUAL PROTECTION UNDER 42 U.S.C. § 1983 AGAINST CITY
DEFENDANTS

331. Plaintiff MR. REDD repeats, reiterates and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

332. At all times described herein, Plaintiff MR. REDD was possessed of the right to equal protection under the laws, as guaranteed under the 14th Amendment to the United States Constitution.

333. The Defendant POLICE OFFICERS arrested and incarcerated Plaintiff MR. REDD in the absence of any evidence of criminal wrongdoing, notwithstanding their knowledge that said arrest and incarceration would jeopardize Plaintiff MR. REDD'S liberty, well-being, safety and constitutional rights.

334. The acts complained of were carried out by the Defendants in their capacities as police officers and officials, with all the actual and/or apparent authority attendant thereto.

335. The acts complained of were carried out by the aforementioned Defendants in their capacities as police officers and officials pursuant to the customs, policies,

usages, practices, procedures, and rules of the City of Rochester and the Rochester Police Department, all under the supervision of ranking officers of said department.

336. Plaintiff MR. REDD was falsely accused of crimes and violations and was taken into Police custody and detained against his will.

337. That the actions of the Defendants heretofore described, constituted unlawful detention, imprisonment, search, strip search, and malicious prosecution, and were designed to and did cause mental harm, pain, and suffering both in violation of Plaintiff MR. REDD'S constitutional rights as guaranteed under 42 U.S.C. § 1983 and the United States Constitution, Fourth and Fourteenth Amendments and the Constitution of the State of New York and in direct retaliation for Plaintiff MR. REDD'S exercise of his civil and constitutional rights of free expressive association as guaranteed by the Fourteenth Amendments to the United States Constitution as well as the Constitution of the State of New York.

338. On November 19, 2014, the Democrat & Chronicle published an article citing a USA Today study of FBI arrest data for the years 2011 and 2012, which showed that the Rochester Police Department arrest rate of African-American residents (299.5 per 1,000) is approximately three times greater than the arrest rate of non-African-American residents (112.2 per 1,000).²

339. The particular arrest of Plaintiff MR. REDD is believed to have been motivated in whole or in part by a custom or practice of racism of victimization, not of hate, whereby minority individuals are charged with crimes and violations such as resisting arrest,

² McDermott M., Meghan, *Black arrest rate high in Rochester area*, DEMOCRAT & CHRONICLE, November 19, 2014 Article incorporated herein by reference and available online at: <http://www.democratandchronicle.com/story/news/2014/11/18/racial-arrest-disparity-gates-rochester/19243017/>

disorderly conduct, and obstruction of governmental administration, in the absence of probable cause to arrest, due to perceived ease of prosecution of minority individuals.

340. The particular arrest of Plaintiff MR. REDD is believed to have been motivated in whole or in part by a custom or practice of racism of victimization, not of hate, whereby minority individuals are charged with crimes and violations such as resisting arrest, disorderly conduct, and obstruction of governmental administration, in the absence of probable cause to arrest, due to perceived ease of prosecution of minority individuals, because the Defendants informed Plaintiff MR. REDD that he was being arrested after it was already established that Plaintiff MR. REDD was not carrying any weapons or illegal substances, and did not have any outstanding warrants against him.

341. The Defendants, through their actions, carried out a discriminatory application of such laws, driven by a discriminatory motivation of what might otherwise be facially neutral statutes due to a perceived ease of prosecution.

342. As a result of the aforementioned conduct, Defendants have violated Plaintiff MR. REDD'S constitutional rights to equal protection, and Plaintiff MR. REDD is entitled to seek redress under 42 U.S.C. § 1983, and is further entitled to injunctive relief to the extent necessary to prevent further disparate treatment and retaliation.

343. The foregoing customs, policies, usages, practices, procedures and rules of the CITY OF ROCHESTER and the Rochester Police Department were the direct and proximate cause of the constitutional violations suffered by Plaintiff MR. REDD as alleged herein.

344. The foregoing customs, policies, usages, practices, procedures and rules of the CITY OF ROCHESTER and the Rochester Police Department were the moving force behind the constitutional violations suffered by Plaintiff MR. REDD as alleged herein.

345. As a result of the foregoing customs, policies, usages, practices, procedures and rules of the CITY OF ROCHESTER and the Rochester Police Department, Plaintiff MR. REDD was subjected to an unlawful stop, seizure, arrest, search, false arrest, false imprisonment, strip search, and malicious prosecution.

346. As a result of the foregoing, Plaintiff MR. REDD was caused to suffer personal injuries, violation of his civil rights, emotional distress, anguish, anxiety, fear, humiliation, loss of freedom, damage to his reputation and standing within his community.

347. As a result of the foregoing, Plaintiff MR. REDD demands judgment against Defendants in a sum of money to be determined at trial.

WHEREFORE and in light of the foregoing, it is respectfully requested that the Court assume jurisdiction and:

[a] Invoke pendent party and pendent claim jurisdiction.

[b] Award appropriate compensatory and punitive damages.

[c] Award appropriate declaratory and injunctive relief.

[d] Empanel a jury.

[e] Award attorney's fees and costs.

[f] Award such other and further relief as the Court deems to be in the interest of justice.

Dated: New York, New York
September 1, 2015

Respectfully Submitted,

ELLIOT DOLBY-SHIELDS, ESQ.

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