

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF MONROE

----- X  
CRYSTAL CHAPMAN as mother and natural guardian of  
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, 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,

Defendants.  
----- X

**SUMMONS**

Index No.: 2014-13948

The Basis of Venue is:  
Location of Incident

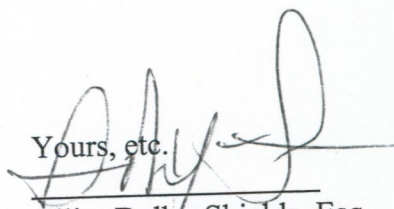
Plaintiffs designate Monroe  
County as the place of trial.

**To the above named Defendants:**

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

DATED: New York, New York  
December 23, 2014

Yours, etc.

  
Elliot Dolby-Shields, Esq.  
Attorney for Plaintiff  
300 East 93<sup>rd</sup> Street  
New York, New York 10128  
(585) 749-2089

TO: City of Rochester, City of Rochester Law Department, 30 Church Street, Rochester, New York 14614

2014 DEC 23 AM 9:49  
MONROE COUNTY CLERK

RECEIVED

POLICE OFFICER ELIUD RODRIGUEZ, Shield # 567, 185 Exchange Boulevard,  
Rochester, New York 14614

LIEUTENANT MICHAEL PERKOWSKI, Shield # 963, 185 Exchange Boulevard,  
Rochester, New York 14614

POLICE OFFICER PAUL GRANDE, Shield # 223, 185 Exchange Boulevard,  
Rochester, New York 14614

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Rochester, New York 14614

POLICE OFFICER LYONS, 185 Exchange Boulevard, Rochester, New York 14614

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INDEX NO.: 2014-13948

VERIFIED COMPLAINT

**JURY TRIAL DEMANDED**

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Plaintiffs CRYSTAL CHAMPMAN, as mother and natural guardian of RALIEK REDD,  
by their attorney, ELLIOT DOLBY-SHIELDS, as and for their Verified Complaint herein, allege  
upon information and belief as follows:

**PRELIMINARY STATEMENT**

1. This is a civil rights action to recover money damages arising out of  
defendants' violation of plaintiff RALIEK REDD's rights as secured by the Civil Rights Act, 42  
U.S.C. Section 1983, and of rights secured by the First, Fourth, Fifth and Fourteenth  
Amendments to the United States Constitution, 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 police precinct, Plaintiff MR. REDD was subject to an unconstitutional strip search by the defendant City of Rochester police officers. Additionally, the defendants 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.

6. Plaintiff MR. REDD was deprived of his constitutional and common law rights when the individual defendants unlawfully stopped, seized, detained, searched, falsely arrested, falsely imprisoned, strip-searched, and maliciously prosecuted Plaintiff MR. REDD in violation of the Fourth, Fifth and Fourteenth Amendments to the United States Constitution.

### **PARTIES**

7. Plaintiff CRYSTAL CHAPMAN is a citizen of the United States and a resident of the County of Monroe, City of Rochester, State of New York.

8. Plaintiff RALIEK REDD ("MR. REDD") is a minor, under the age of 18, and is a citizen of the United States and a resident of the County of Monroe, City of Rochester, State of New York.

9. Plaintiff CRYSTAL CHAPMAN is the mother and natural guardian of Plaintiff MR. REDD and brings this lawsuit on his behalf.

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

11. 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.

12. That at all times hereinafter mentioned, Defendant ELIUD RODRIGUEZ, Shield # 567, Defendant LIEUTENANT MICHAEL PERKOWSKI, Shield # 963, Defendant POLICE OFFICER PAUL GRANDE, Shield # 223, Defendant POLICE OFFICER LEONARD CAREFLY, Shield # 347, Defendant POLICE OFFICER LYONS, and Defendant POLICE OFFICERS "JOHN DOES" 1-10 (individually, "Defendant OFFICER JOHN DOE \_\_");



collectively, "Defendant POLICE OFFICERS"), were duly sworn police officers of said department and were acting under the supervision of said department and according to their official duties.

13. 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.

14. 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.

### **JURISDICTION**

15. Plaintiff MR. REDD 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.

16. 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.

17. The CITY OF ROCHESTER held a hearing pursuant to 50-h of the general municipal law on or about March 10, 2014.

18. This action falls within one or more of the exceptions as set forth in CPLR Section 1602, involving intentional actions, as well as the defendant, and/or defendants, having acted in reckless disregard for the safety of others, as well as having performed intentional acts.

19. Plaintiff MR. REDD has sustained damages in an amount in excess of the jurisdictional limits of all the lower Courts of the State of New York.

### **STATEMENT OF FACTS**

20. At all relevant times herein, Plaintiff MR. REDD was a 15-year-old sophomore student at Edison Technical High School ("Edison Tech").

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

22. 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.

23. 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.

24. 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.

25. Upon information and belief, the Edison Tech Varsity Basketball Team boarded the yellow school bus at the designated but 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.



33. 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.

34. 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.

35. 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.

36. 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.

37. 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.

38. 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.

39. 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.

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

41. 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.

42. Suddenly, without warning or provocation, the 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."

43. 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.

44. 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.

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

46. 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.

47. 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."

48. Thereafter, the defendant police officer approached Plaintiff MR. REDD and ordered him to put his hands behind his back.

49. 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.

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

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

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

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

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

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



56. 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.

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

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

59. 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.

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

61. 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.

62. 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.

63. Then Defendant POLICE OFFICER RODRIGUEZ AND/OR Defendant POLICE OFFICER CAREFLY searched Plaintiff MR. REDD by reaching his hands inside of Plaintiff MR. REDD's pockets and removing all of the contents therein.

64. 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.

65. After Plaintiff MR. REDD and his two teammates were arrested and handcuffed, 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.

66. 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.

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



68. 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.

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

70. 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.

71. 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.

72. 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.

73. Upon information and belief, one or more of the Defendant POLICE OFFICERS informed Coach Scott that Plaintiff MR. REDD and his two teammates were blocking pedestrian traffic, and that Plaintiff MR. REDD and his two teammates had refused to comply with Defendant POLICE OFFICER RODRIGUEZ's orders to move along from that location.

74. 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.

75. 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.

76. 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.

77. 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.



78. 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.

79. 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.

80. 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."

81. 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.

82. Thereafter, Plaintiff MR. REDD and his two teammates were transported against their will to the Downtown Rochester Police Station.

83. Upon arrival at the police station, 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.

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

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

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

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

88. The unlawful strip search caused Plaintiff MR. REDD emotional distress and embarrassment.

89. The Defendant POLICE OFFICERS' actions in strip searching Plaintiff MR. REDD violated his clearly established constitutional rights.

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

91. After Plaintiff MR. REDD and his two teammates put their clothing back on, upon information and belief, the Defendant POLICE OFFICERS ordered Plaintiff MR. REDD and his two teammates to sit on a bench in the police station.

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

93. Upon information and belief, the bench on which the Defendant POLICE OFFICERS had placed Plaintiff MR. REDD and his two teammates was in the area of the police station that was heavily trafficked by the Defendant POLICE OFFICERS, as well as numerous Rochester Police Department officers, sergeants, detectives, and civilians visiting the police station.

94. Upon information and belief, it is not the accepted practice of the Rochester Police Department to leave detainees sitting on prison benches in heavily trafficked areas.

95. Upon information and belief, numerous Defendant POLICE OFFICERS, as well as numerous Rochester Police Department officers, sergeants, detectives, and civilians visiting the police station saw Plaintiff MR. REDD and his two teammates sitting on the bench.

96. Being forced to sit on the bench in a heavily trafficked area where numerous Defendant POLICE OFFICERS, as well as numerous Rochester Police Department officers, sergeants, detectives, and civilians visiting the police station saw Plaintiff MR. REDD and his two teammates sitting caused Plaintiff MR. REDD emotional distress and embarrassment.

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

98. 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.

99. The same Defendant POLICE OFFICER asked who arrested them.

100. 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.

101. The Defendant POLICE 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 other Rochester Police Department officers, sergeants and detectives.

102. Thereafter, Plaintiff MR. REDD asked one or more of the Defendant "John Doe" POLICE OFFICERS if he could call his mother.



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

104. 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**

105. 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.

106. Shortly after receiving this call, Plaintiff MR. REDD's mother, MS. CHAPMAN, arrived at the downtown Rochester police station.

107. When Plaintiff MR. REDD's mother, MS. CHAPMAN, arrived at the downtown Rochester police station, she asked the Defendant POLICE OFFICERS why her son had been arrested.

108. Upon information and belief, the Defendant POLICE OFFICERS gave Plaintiff MR. REDD's mother, MS. CHAPMAN, conflicting and apparently fabricated reasons as to why they arrested Plaintiff MR. REDD because the Defendant POLICE OFFICERS had neither a valid nor a legal reason to arrest Plaintiff MR. REDD.

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

110. 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.

111. 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.

112. At or around the time of Plaintiff MR. REDD's mother, MS. CHAPMAN'S arrival at the downtown police station, the Defendant POLICE OFFICERS informed MS. CHAPMAN that she would be required to post bond before Plaintiff MR. REDD could be released.

113. At or around the time of Plaintiff MR. REDD's mother, MS. CHAPMAN'S arrival at the downtown police station, upon information and belief, the Defendant POLICE OFFICERS informed MS. CHAPMAN that Plaintiff MR. REDD would be released immediately after she posted his bond.

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

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

116. 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.

117. 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.

118. At or around this time, upon information and belief, the Defendant "John Doe" OFFICER(S) then present gave Plaintiff MR. REDD's mother, MS. CHAPMAN, Plaintiff MR. REDD'S release papers to sign.

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

120. 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.

121. Moreover, while Plaintiff MR. REDD was detained at the police station, the Defendant POLICE 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.

122. 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.

123. 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, including Defendant POLICE OFFICER RODRIGUEZ, Defendant



POLICE OFFICER CAREFLY and the Defendant "John Doe" POLICE OFFICERS, were dismissed in their entirety.

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

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

126. Upon information and belief, the criminal charges that were maliciously initiated against Plaintiff MR. REDD by the Defendant POLICE OFFICERS, including Defendant POLICE OFFICER RODRIGUEZ, Defendant POLICE OFFICER CAREFLY and the Defendant "John Doe" 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.

127. 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.

128. 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**

129. 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.



130. 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.

131. 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.

132. 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."

133. 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."

134. 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.



135. 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."

136. 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.

137. 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."

138. 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.

139. Further information regarding the existence of the aforementioned constitutionally-violative customs, policies, and practices of Defendant CITY OF ROCHESTER and its police officers, as well Defendant CITY OF ROCHESTER'S knowledge of the same, and Defendant CITY OF ROCHESTER'S failures to address the same are set forth in the appendix to this complaint, which is incorporated herein by reference.

140. 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.

141. 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.



142. 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.

143. 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.

144. 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**

145. 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.

146. 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).

147. 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.

148. 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.

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

150. 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).



151. 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.

152. 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.<sup>1</sup>

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

154. 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.

155. 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).

156. 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

157. 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.

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<sup>1</sup> 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).

158. 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.

159. 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.

160. 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.

**FIRST CLAIM FOR RELIEF**  
**DEPRIVATION OF FEDERAL CIVIL RIGHTS UNDER 42 U.S.C. § 1983**

161. 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.

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

163. 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.

164. 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.



165. 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.

166. 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.

167. 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.

168. 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**  
**FALSE ARREST UNDER 42 U.S.C. § 1983**

169. 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.

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

171. 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.

172. 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.

**THIRD CLAIM FOR RELIEF**  
**FAILURE TO INTERVENE UNDER 42 U.S.C. §1983**

173. 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.

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

175. 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.

176. 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.

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

178. 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.

179. 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.

**FOURTH CLAIM FOR RELIEF**  
**FALSE IMPRISONMENT AND ARREST UNDER NEW YORK STATE**  
**LAW**

180. 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.



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

182. 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.

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

184. 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.

185. 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.

186. 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.

**FIFTH CLAIM FOR RELIEF**  
**DEPRIVATION OF PLAINTIFFS' RIGHTS AS GUARANTEED BY THE**  
**NEW YORK STATE CONSTITUTION**

187. 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.

188. 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.

189. 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.

190. 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.

191. 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.

**SIXTH CLAIM FOR RELIEF**  
**NEGLIGENCE UNDER NEW YORK STATE LAW AGAINST**  
**DEFENDANT THE CITY OF ROCHESTER**

192. 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.

193. 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.

194. 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.

195. 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.

196. 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.

**SEVENTH CLAIM FOR RELIEF**  
**UNLAWFUL STRIP SEARCH UNDER 42 U.S.C. § 1983**

197. 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.

198. Plaintiff MR. REDD was searched by Defendants 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.

199. Defendants 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.

200. 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.

201. 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**  
**RESPONDEAT SUPERIOR UNDER NEW YORK STATE LAW AGAINST**  
**DEFENDANT THE CITY OF ROCHESTER**

202. 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.

203. 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.

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

205. 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.

206. 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.

**NINTH CAUSE OF ACTION**  
**MUNICIPAL LIABILITY UNDER MONELL ARISING FROM**  
**UNCONSTITUTIONAL POLICIES AND CUSTOMS UNDER**  
**42 U.S.C. § 1983**

207. 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.

208. Plaintiff MR. REDD also incorporates herein by reference the contents of the appendix attached hereto, "ADDITIONAL FACT PLEADINGS IN SUPPORT OF MONELL CLAIMS."

209. Defendants 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.



210. 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.

211. 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.

212. 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);

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

214. 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.

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

**TENTH CAUSE OF ACTION**  
**EQUAL PROTECTION UNDER 42 U.S.C. § 1983**

216. 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.

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

218. Defendants 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.

219. 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.

220. 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.

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

222. 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.

223. 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).<sup>2</sup>

224. 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.

225. 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.

226. 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.

227. 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.

228. 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.

229. 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.

230. 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.

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<sup>2</sup> 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/>

231. 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.

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

### **JURY DEMAND**

233. Plaintiffs hereby demand trial by jury of all issues properly triable thereby.

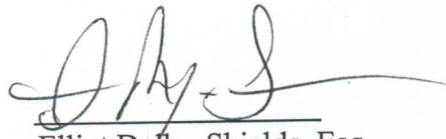


## PRAYER FOR RELIEF

**WHEREFORE**, plaintiff CRYSTAL CHAPMAN, as mother and natural guardian of RALIEK REDD, demand judgment against the defendants on each cause of action in amounts to be determined upon the trial of this action which exceeds the jurisdiction of lower courts, inclusive of punitive damages, attorneys fees, and costs and disbursements of this action, interest and such other relief as is appropriate under the law. That the Court award appropriate declaratory and injunctive relief. That the plaintiff recover the cost of the suit herein, including reasonable attorneys fees pursuant to 42 U.S.C. § 1988.

Dated: New York, New York  
December 23, 2014

By:



Elliot Dolby-Shields, Esq.  
Attorney for Plaintiff  
300 East 93<sup>rd</sup> Street  
New York, New York 10128  
(585) 749-2089

TO: City of Rochester, City of Rochester Law Department, 30 Church Street, Rochester, New York 14614  
POLICE OFFICER ELIUD RODRIGUEZ, Shield # 567, 185 Exchange Boulevard, Rochester, New York 14614  
LIEUTENANT MICHAEL PERKOWSKI, Shield # 963, 185 Exchange Boulevard, Rochester, New York 14614  
POLICE OFFICER PAUL GRANDE, Shield # 223, 185 Exchange Boulevard, Rochester, New York 14614  
POLICE OFFICER LEONARD CAREFLY, Shield # 347, 185 Exchange Boulevard, Rochester, New York 14614  
POLICE OFFICER LYONS, 185 Exchange Boulevard, Rochester, New York 14614

**ATTORNEY'S VERIFICATION**

**ELLIOT DOLBY-SHIELDS**, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

I have read the annexed **VERIFIED COMPLAINT** and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

DATED: New York, New York  
December 23, 2014



Elliot Dolby-Shields