

54. Upon information and belief, the pattern of misconduct alleged herein has been condoned by ranking commanders and supervisors of the NYPD, who have been or are aware of the number, frequency, and severity of these incidents and of the continuing risk of physical injury at the hands of uniformed officers. Supervisors receive and/or received a daily compilation of reports from NYPD commands documenting violent incidents, including an officer's use of force. These reports, which are circulated throughout the NYPD, contain brief summaries of the incident. These summaries have documented, and continue to document, the routine application of intimidation, police stops, strip searches, false arrests and imprisonments, and false criminal charges being asserted by officers under circumstances which very often suggest that the officers' accounts are fabricated to cover up brutality and other misconduct. These reports routinely document injustices the same or similar to the allegations contained herein, and consistently find no basis to question the officer's conduct, even when officer reports describe conduct which is proscribed by NYPD written policy or fail to account for the arrestee's injuries.

55. With rare exception, officers whose misconduct is brought to the attention of supervisory personnel continue to work without any substantial disciplinary action being taken against them. Many of these officers are simply transferred to another precinct, where their misconduct continues. Although the NYPD has a computerized system capable of identifying officers involved in multiple unlawful arrests and/or cover-ups, this information has not been utilized by NYPD commanders or supervisors to reduce the severity or incidence of these events. The fact that these abuses by officers remain unchecked and unrestrained leads the staff to believe that they may act with impunity.

56. Similarly, City and NYPD officials and supervisory staff have consistently failed to investigate CCRB and IAB complaints of police harassment and intimidation, racial profiling, unlawful police stops, false arrests and detentions, police cover-ups, officer disrespect, medical inattention, violations of NYPD guidelines, as well as other misconduct; and have failed to discipline the subjects of those grievances and complaints which were substantiated.

CONDITIONS PRECEDENT

69. On or about July 24, 2013, Plaintiff caused a Notice of Claim to be electronically filed with the City of New York, setting forth the time, place, substance of claim, and description of injuries sustained by the plaintiff herein.

70. More than thirty (30) days have elapsed since said date and the City of New York has neglected and refused to make an adjustment thereof.

71. The City of New York did notice a hearing pursuant to Section 50-h of the General Municipal Law. Said hearing was adjourned once as of right and never rescheduled by the City of New York. Accordingly, the City of New York has waived its right to a hearing of Plaintiff.

72. This action is commenced, including all applicable tolls, within the applicable statutes of limitations.

73. This action falls within one or more of the exceptions set forth in CPLR §1602.

**FIRST CLAIM FOR RELIEF:
42 U.S.C. §1983**

74. Plaintiff repeats, reiterates and realleges each and every allegation of paragraphs "1" through "73", inclusive, of this Complaint, as if same were fully set forth herein at length.

75. As set forth above, the defendant police officers, acting under the color of law, harassed, intimidated, racially-profiled, threatened, and used excessive physical force on Plaintiff; falsely detained and imprisoned Plaintiff; conspired to violate Plaintiff's civil rights; conspired to falsely detain and imprison Plaintiff; ignored, refused, denied, and/or delayed Plaintiff's requests for medical attention; and knowingly drafted and/or filed, or conspired to file, false against Plaintiff in order to cover-up evidence of their unlawful activities, all without legal cause or justification and with purposeful intent to cause harm to Plaintiff.

76. As set forth above, City and/or NYPD supervisors and officers failed to notify City or federal authorities as to what they had seen and/or heard.

77. As set forth above, the City, NYPD and/or their supervisory personnel failed to take appropriate action to investigate and report the subject incident.

78. As set forth above, the subject incident, as well as the defendant police officers' ignoring, acquiescence, joining and/or complicity in same, constituted an unnecessary, unreasonable, and excessive use of force.

79. The defendants acted with deliberate indifference to the plaintiff's safety, security, health and immediate medical needs.

80. As a direct and proximate result of the defendants' deliberate indifference, the plaintiff's resulting physical, psychological and emotional injuries, pain and suffering were caused and/or significantly exacerbated.

81. As set forth above, the defendants have made every effort to conceal the truth about what actually occurred, including but not limited to covering up, or attempting to cover up, the illegal conduct of the defendant police officers.

82. The aforesaid acts and omissions violated the plaintiff's clearly established rights under the First, Fourth, Fifth, Eighth and/or Fourteenth Amendments of the United States Constitution and were the direct and proximate cause of the physical, psychological, and emotional injuries he suffered.

83. The actions of the defendant police officers were malicious.

84. As set forth above, the City and NYPD have had, and continue to have, a custom and practice of deliberate delay and avoidance in investigating allegations of abuse and other misconduct by their police officers, to the detriment of the plaintiff.

85. The City and NYPD, their agents, servants and/or employees, including but not limited to the defendant police officers, by reasonable diligence, could have prevented the aforesaid wrongful acts from being committed.

86. The City and NYPD, their agents, servants and/or employees, including but not limited to the defendant police officers, by reasonable diligence, could have mitigated the plaintiff's injuries had they intervened in the aforesaid unlawful conduct and/or protected Plaintiff.

87. The City and NYPD, their agents, servants and/or employees, including but not limited to the defendant police officers, violated Plaintiff's Constitutional rights by:

- a. Racially-profiling Plaintiff;
- b. Unlawfully stopping Plaintiff;
- c. Harassing, intimidating and threatening Plaintiff;
- d. Unlawfully causing and/or allowing the false arrest, detention and imprisonment of Plaintiff to occur;
- e. Using unreasonable and excessive physical force on the plaintiff;

- f. Failing to intercede on behalf of the plaintiff to prevent the Constitutional violations aforesaid, despite having an opportunity to do so, but due to their deliberate indifference declined or refused to do so;
- g. Failing to provide timely and due medical care and treatment to Plaintiff;
- h. Detaining, arresting and imprisoning Plaintiff without legal cause;
- i. Depriving the plaintiff access to and redress from the courts;
- j. Denying the plaintiff the equal protection of the laws;
- k. Engaging in a cover-up in order to conceal the wrongful and unlawful conduct taken against the plaintiff; and
- l. By subjecting Plaintiff to cruel and unusual punishment, all in violation of Federal, State and local law.

88. As a result of the foregoing, Plaintiff was caused to be subjected to the deprivations of rights, privileges and/or immunities secured by the Constitution and statutes of the United States of America and has been damaged thereby.

89. As a result of the foregoing, Plaintiff is entitled to compensatory damages, punitive damages against the individual defendants, and attorney's fees, costs, expert's fees, and disbursements pursuant to 42 U.S.C. §1988.

SECOND CLAIM FOR RELIEF:
42 U.S.C. §§1985 AND 1986

90. Plaintiff repeats, reiterates and realleges each and every allegation of paragraphs "1" through "89", inclusive, of this Complaint, as if same were fully set forth herein at length.

91. Defendants, City and NYPD, their employees, agents and/or servants, including but not limited to the defendant police officers and supervisors, acting under the color of law,

willfully conspired with one another to deprive the plaintiff of his constitutional rights, including but not limited to his right: to be free from cruel and unusual punishment; to be free from the use of unreasonable and/or excessive force; to be free from false arrest and false imprisonment; to be free from unreasonable delay and/or denial of medical attention; to be free from police harassment and intimidation; to be free from unlawful search and seizure; to equal protection of the law; to equal privileges and immunities under the law; to associate and speak freely; and to have access to and seek redress in the courts.

92. It was part of said conspiracy that said defendants did cause and/or permit Plaintiff to be falsely arrested, detained and imprisoned.

93. It was part of said conspiracy that said defendants did deny and/or delay due and necessary medical care and treatment to the plaintiff.

94. It was part of said conspiracy that said defendants did fail to protect the plaintiff from known harms while he was in their custody.

95. In furtherance of the conspiracy and in order to cover up their unlawful conduct, Defendants engaged in the following:

- a. Fabricating and contriving reports and/or records;
- b. Failing to make medical treatment timely available to Plaintiff;
- c. Although they were aware of the subject events and were required to report it, deliberately suppressing the truth; and
- d. Submitting false reports, statements and/or testimony to support and corroborate the fabricated allegations lodged against the plaintiff, for their own benefit.

96. As a result of said conspiracy and/or said defendants' furtherance of the conspiracy, Plaintiff has been injured and deprived of the rights and privileges afforded by the Constitution and statutes of the United States of America.

97. Said defendants had knowledge that a 42 U.S.C. §1985(3) conspiracy was in progress, had the power to prevent or aid in preventing the conspiracy from continuing, and neglected or refused to do so.

98. With due diligence, said defendants could have promptly reported the subject events to superiors and to duly authorized investigators. Their failure to do so contributed to the plaintiff suffering gratuitously, thereby exacerbating his pain and suffering.

99. Had said defendants complied with the law and furnished truthful information to authorities, their conduct and/or Plaintiff's conduct, the §1985(3) conspiracy would not have succeeded to the extent that it did.

100. As a proximate and direct cause of said defendants' conduct, the plaintiff suffered physical, psychological and emotional injuries.

**THIRD CLAIM FOR RELIEF:
MUNICIPAL LIABILITY**

101. Plaintiff repeats, reiterates and realleges each and every allegation of paragraphs "1" through "100", inclusive, of this Complaint, as if same were fully set forth herein at length.

102. The defendant police officers, collectively and individually, while acting under color of state and local law, engaged in conduct that constituted a custom, usage, practice, procedure or rule of the City and/or NYPD but which is forbidden by the Constitution of the United States.

103. That prior to May 14, 2013, the City and NYPD developed and maintained customs, policies, usages, practices, procedures and rules exhibiting deliberate indifference to the constitutional rights of the public, which caused the violations of the plaintiff's rights.

104. That the aforementioned customs, policies, usages, practices, procedures and rules of the City and NYPD included, but were not limited to: (a) ignoring the constitutional rights of the general public; (b) ignoring the constitutional rights of persons in their custody and control; (c) depriving persons in their custody and control their constitutional rights; (d) using force in an unreasonable, unnecessary, unjustified and excessive manner; (e) failing to adequately instruct and supervise the police officers under said defendants' control in the proper and appropriate care and treatment of individuals and detainees in their custody and control; (f) inadequately and/or improperly investigating complaints of harassment, intimidation, misconduct, use of force and abuse by police officers, and inadequately punishing the subjects of those complaints which were substantiated; (g) tolerating acts of brutality; (h) racially profiling and tolerating racial profiling by police officers; (i) the Internal Affairs Bureau and Inspector General having substantially failed in their responsibilities to investigate misconduct and discipline offenders; (j) having policies that operate to insulate police officers who engage in criminal or other serious official misconduct from detection, prosecution, and punishment, and are maintained with deliberate indifference; and (k) allowing police officers and supervisors to engage in a pattern and practice of actively and passively covering up misconduct by fellow officers, thereby establishing and perpetuating a "code of silence", which has become so ingrained in the defendants so as to constitute a policy of the City and NYPD.

105. The long-standing failure or refusal to supervise the police officers under said defendants' control, including supervisory staff, is now so institutionalized as to constitute a

policy or custom of tolerating and authorizing the type of abuse alleged herein. It is this policy or custom of abuse and cover-up that has caused the deprivation of the plaintiff's rights.

106. Said defendants' policy or custom of tolerating and authorizing this type of abuse is further evidenced by frequent and significant findings of misconduct over a period of years by command personnel, supervisors, and the police officers they supervise.

107. The failures and refusals by the City and NYPD to hold these supervisors and police officers accountable is a proximate cause of the injuries sustained by the plaintiff, and undoubtedly hundreds of other persons.

108. Through promotions and other financial and status incentives, the City and NYPD have the power to reward police officers who perform their jobs adequately and to punish -- or at the very least fail to reward -- those who do not. The City and NYPD's actions and omissions have created and maintained the perception among high-ranking supervisors that a supervisor who turns a blind eye towards evidence of officer harassment and intimidation, cover-up, medical neglect, or other misconduct, and fails to investigate these incidents, will suffer no damage to his or her career or financial penalty.

109. The pattern of unchecked abuse by police officers and supervisory staff, the extent to which these unlawful practices have been adopted by significant numbers of the staff, and the persistent failure or refusal of the City and NYPD to supervise these persons properly and to take action to curb the misconduct, demonstrates a policy of deliberate indifference which tacitly authorizes the claimed misconduct against the plaintiff.

110. The foregoing customs, policies, usages, practices, procedures and rules of the City and NYPD constituted deliberate indifference to the safety, well-being and constitutional rights of the plaintiff.

111. The foregoing customs, policies, usages, practices, procedures and rules of the City and NYPD were the direct and proximate cause of the constitutional violations suffered by the plaintiff as alleged herein.

112. The foregoing customs, policies, usages, practices, procedures and rules of the City and NYPD were the moving force behind the constitutional violations suffered by the plaintiff as alleged herein.

113. Prior to and at the time of the subject date of incident, there existed a pattern and practice of police harassment, intimidation, unlawful stops and frisks, excessive uses of physical force, unlawful detainer, false arrests and imprisonments, cover-ups and conspiracies to cover-up unlawful conduct, refusals and/or failures to provide medical care or make medical care timely available, failures to conduct unbiased and thorough investigations of same and to discipline staff meaningfully and promptly for misconduct, and the long-standing failure or refusal to supervise police officers, including supervisory staff, are now so institutionalized as to constitute a policy or custom of tolerating and authorizing the wrongs alleged herein. It is this policy or custom of abuse and cover-up that has caused the deprivation of Plaintiff's constitutional rights.

114. The City and NYPD have failed or refused to hold accountable high-ranking supervisors (i.e., captains, lieutenants, assistant deputy commissioners, deputy commissioners, and commissioner) in the face of frequent and significant misconduct, over a period of years, by these supervisors and by the officers they supervise. This failure has subjected Plaintiff and other members of the public to the constitutional and statutory violations alleged herein. This failure is a proximate cause of the injuries sustained by the plaintiff and by other members of the public.