

115. As a result of the foregoing, Plaintiff is entitled to compensatory damages, together with attorney's fees, costs, expert's fees, and disbursements pursuant to 42 U.S.C. §1988.

**FOURTH CLAIM FOR RELIEF:
FAILURE TO PROTECT AND NEGLECT**

116. Plaintiff repeats, reiterates and realleges each and every allegation of paragraphs "1" through "115" inclusive, of this Complaint, as if same were fully set forth herein at length.

117. All defendants, their agents, servants and employees, owed a duty to care and protect Plaintiff while he was in their custody, control and care.

118. As set forth above, all defendants failed to protect Plaintiff from known and dangerous harms.

119. As set forth above, Defendants failed to intervene, mitigate and/or stop the events alleged herein.

120. As set forth above, Defendants failed to provide timely and adequate medical care and treatment to Plaintiff.

121. As set forth above, all defendants knew of and consciously disregarded an excessive risk to Plaintiff's health and safety.

122. All defendants failed to report the unlawful conduct alleged herein to supervisors.

123. The City and NYPD, their agents, servants and employees, failed to investigate, sanction and/or discipline any of the defendant police officers for their aforesaid unlawful conduct.

124. Due to the defendants' failures to protect the plaintiff, he suffered severe and serious physical, psychological and emotional injuries.

125. 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.

PENDANT STATE CLAIMS

**FIRST CLAIM FOR RELIEF UNDER NEW YORK STATE LAW:
HARASSMENT, INTIMIDATION, ASSAULT AND BATTERY**

126. Plaintiff repeats, reiterates and realleges each and every allegation of paragraphs "1" through "125", inclusive, of this Complaint, as if same were fully set forth herein at length.

127. As set forth above, Plaintiff was harassed, intimidated, threatened, assaulted, and battered by the defendants, their agents, servants and/or employees, including but not limited to the defendant police officers.

128. The aforesaid uses of intimidation, threats, and physical force against Plaintiff was excessive, unnecessary, unprovoked and in violation of the Constitution and statutes of the State of New York, the NYS Human Rights Law, the NYS Civil Rights Law, the City Human Rights Law, and the Charter, rules and regulations of the City of New York.

129. As a result of the foregoing, Plaintiff suffered a violation of his civil and due process rights.

130. As a result of the foregoing, Plaintiff suffered severe and serious physical, psychological and emotional injuries.

131. 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.

**SECOND CLAIM FOR RELIEF UNDER NEW YORK STATE LAW:
UNLAWFUL DETAINER AND FALSE IMPRISONMENT**

132. Plaintiff repeats, reiterates and realleges each and every allegation of paragraphs "1" through "131", inclusive, of this Complaint, as if same were fully set forth herein at length.

133. As set forth above, Plaintiff was unlawfully detained and falsely imprisoned by the defendants, their agents, servants and/or employees, including but not limited to the defendant police officers.

134. The aforesaid unlawful detainer and false imprisonment of Plaintiff was in clear violation of the Constitution and statutes of the State of New York, the NYS Human Rights Law, the NYS Civil Rights Law, the City Human Rights Law, and the Charter, rules and regulations of the City of New York.

135. As a result of the foregoing, Plaintiff suffered a violation of his civil and due process rights.

136. As a result of the foregoing, Plaintiff suffered severe and serious physical, psychological and emotional injuries.

137. 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.

**THIRD CLAIM FOR RELIEF UNDER NEW YORK STATE LAW:
TRESPASS TO CHATTELS AND CONVERSION**

138. Plaintiff repeats, reiterates and realleges each and every allegation of paragraphs "1" through "137", inclusive, of this Complaint, as if same were fully set forth herein at length.

139. As set forth above, the defendant police officers confiscated Plaintiff's identification, keys, money and wallet.

140. Defendants have failed and/or refused to return Plaintiff's identification, money and wallet to him to date.

141. The trespass to chattels and conversion was in clear violation of Plaintiff's civil rights.

142. The trespass to chattels and conversion was in clear violation of statutory and common law.

143. As a result of the foregoing, Plaintiff suffered a violation of his civil and due process rights.

144. As a result of the foregoing, Plaintiff suffered loss of property.

145. 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.

FOURTH CLAIM FOR RELIEF UNDER NEW YORK STATE LAW: CONSPIRACY

146. Plaintiff repeats, reiterates and realleges each and every allegation of paragraphs "1" through "145", inclusive, of this Complaint, as if same were fully set forth herein at length.

147. As set forth above, the defendant police officers conspired with and amongst one another to harass, intimidate, threaten, assault, batter, unlawfully detain, and falsely imprison the plaintiff, convert and destroy Plaintiff's property, cover-up their unlawful conduct, and otherwise deprive the plaintiff of his Constitutional, statutory and common law rights.

148. As a result of the foregoing, Plaintiff suffered severe and serious physical, psychological and emotional injuries, as well as loss of property.

149. 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.

**FIFTH CLAIM FOR RELIEF UNDER NEW YORK STATE LAW:
VIOLATION OF NEW YORK CONSTITUTION AND STATUTES**

150. Plaintiff repeats, reiterates and realleges each and every allegation of paragraphs "1" through "149, inclusive, of this Complaint, as if same were fully set forth herein at length.

151. By reason of the allegations contained herein, Plaintiff was deprived by defendants of his rights to be free from racial discrimination, to peaceably assemble, to be free from retaliation for exercising his constitutional and statutory rights, to be free from unlawful search and seizure, to be free from gratuitous and excessive force and punishment, to be free from cruel and unusual punishment, and to due process of law, as guaranteed to him by the Constitution and statutes of the State of New York, the NYS Human Rights Law, the NYS Civil Rights Law, the City Human Rights Law, and the Charter, rules and regulations of the City of New York. The defendants' conduct manifested deliberate indifference to plaintiff's constitutional rights, for which all defendants are liable.

152. The aforesaid violations, and the failure of supervisory personnel and the City and NYPD to take appropriate steps to curb the widespread pattern of same or similar conduct by police officers, violated plaintiff's rights under the New York State Constitution, to due process of law, and to be free from degrading treatment and physical abuse.

153. By their refusal to provide prompt medical attention to plaintiff after he was injured, the defendants violated Plaintiff's Constitutional, statutory and common law rights.

154. 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.

**SIXTH CLAIM FOR RELIEF UNDER NEW YORK STATE LAW:
NEGLIGENT HIRING, TRAINING, SUPERVISION AND RETENTION**

155. Plaintiff repeats, reiterates and realleges each and every allegation of paragraphs "1" through "154", inclusive, of this Complaint, as if same were fully set forth herein at length.

156. The City and NYPD were negligent, careless and/or reckless in the hiring, training, retention, supervision, direction, control, appointment and/or promotion of the their agents, servants and employees, including but not limited to the defendant police officers, in that said employees lacked the experience and ability to be employed by the City and/or NYPD; in failing to exercise due care and caution in their hiring, appointment and promotion practices, and in particular, hiring individuals who lacked the mental capacity and ability to function as employees of said defendants; in that the defendant-employees lacked the maturity, sensibility and intelligence to be employed by said defendants; in that said defendants knew of the lack of ability, experience and maturity of the defendant-employees when they hired them; in that said defendants, their agents, servants and/or employees, failed to suspend and/or terminate the defendant-employee(s) when such action was either proper or required; and in being otherwise careless, negligent and reckless in the instance.

157. The failure of the City and NYPD to adequately train their agents, servants and employees, including but not limited to the defendant police officers, in the exercise of their

employment functions, and their failure to enforce the laws of the State of New York and the Charter, rules and regulations of the City of New York, is evidence of the reckless lack of cautious regard for the rights of the public in general and Plaintiff in particular, and exhibited a lack of that degree of due care which prudent and reasonable individuals would show.

158. The City and NYPD knew or should have known in the exercise of reasonable care, the propensities of their agents, servants and employees, including but not limited to the defendant police officers, to engage in the wrongful conduct heretofore alleged in this Complaint.

159. The City and NYPD knew or should have known that their policies, customs and practices, as well as their negligent hiring, retention, supervision, training, appointment and promotion of their agents, servants and employees, including but not limited to the defendant police officers, created an atmosphere where the most prominent offenders felt assured that their most brazen acts of abuse, misconduct and neglect would not be swiftly and effectively investigated and prosecuted.

160. That the mistreatment and abuse of the plaintiff, as set forth above, was the reasonably foreseeable consequence of said defendants' negligent conduct.

161. The aforesaid acts of the City and NYPD, their agents, servants and employees, resulted in the plaintiff being harassed, intimidated, threatened, assaulted, battered, falsely detained, and falsely imprisoned, and his civil rights being violated.

162. The aforesaid acts of the City and NYPD, their agents, servants and employees, resulted in the plaintiff being denied and/or delayed reasonable, necessary and due medical care following the Incident.

163. The aforesaid acts of the City and NYPD resulted in the plaintiff being caused to experience severe physical, psychological and emotional pain and suffering, and in other respects, was damaged.

164. As a result of the foregoing, Plaintiff is entitled to compensatory damages, attorney's fees, costs, expert's fees, and disbursements.

**SEVENTH CLAIM FOR RELIEF UNDER NEW YORK STATE LAW:
NEGLECT AND FAILURE TO PROVIDE MEDICAL TREATMENT**

165. Plaintiff repeats, reiterates and realleges each and every allegation of paragraphs "1" through "164", inclusive, of this Complaint, as if same were fully set forth herein at length.

166. Defendants, their agents, servants and/or employees, were required to make available and/or provide medical care and treatment to the plaintiff while he was in their custody and control.

167. The defendants knew or should have known the extent of the injuries Plaintiff sustained during the subject police encounter and intentionally and/or negligently delayed, denied and/or failed to make medical care and treatment available to Plaintiff.

168. The defendants knew or should have known that their neglect, denial and/or delay of medical care and treatment to the plaintiff created an unreasonable risk of bodily injury.

169. The defendants' neglect, denial and/or delay of medical care and treatment did cause and/or exacerbate Plaintiff's physical, psychological and emotional pain and suffering.

170. 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.

**EIGHTH CLAIM FOR RELIEF UNDER NEW YORK STATE LAW:
INTENTIONAL AND NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

171. Plaintiff repeats, reiterates and realleges each and every allegation of paragraphs "1" through "170", inclusive, of this Complaint, as if same were fully set forth herein at length.

172. The aforesaid acts of the defendants, their agents, servants and employees, acting individually and/or in conjunction with the other defendants, were intentional, malicious and excessive, and served no reasonable or legitimate penological interest.

173. The defendants' intentional, reckless and/or negligent infliction of emotional and mental distress constituted misconduct of an egregious and outrageous nature that exceeds all bounds usually tolerated by society and unreasonably endangered Plaintiff's physical safety.

174. As a result of the foregoing, Plaintiff suffered severe and serious physical, psychological and emotional injuries.

175. 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.

**NINTH CLAIM FOR RELIEF UNDER NEW YORK STATE LAW:
NEGLIGENCE**

176. Plaintiff repeats, reiterates and realleges each and every allegation of paragraphs "1" through "175", inclusive, of this Complaint, as if same were fully set forth herein at length.

177. As set forth above, Defendants, their agents, servants and employees, were negligent and the proximate cause of injuries and damages suffered by the Plaintiff.

178. As a result of the foregoing, Plaintiff suffered severe and serious physical, psychological and emotional injuries.

179. 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.

**TENTH CLAIM FOR RELIEF UNDER NEW YORK STATE LAW:
*RESPONDEAT SUPERIOR***

180. Plaintiff repeats, reiterates and realleges each and every allegation of paragraphs "1" through "179", inclusive, of this Complaint, as if same were fully set forth herein at length.

181. Inasmuch as the defendant police officers were acting for, upon, and/or in furtherance of the business of their employer(s) and/or within the scope of their employment, the City and NYPD are liable, jointly and severally, under the doctrine of *respondeat superior* for the tortious actions of same.

**ELEVENTH CLAIM FOR RELIEF UNDER NEW YORK STATE LAW:
FAILURE TO PROTECT**

182. Plaintiff repeats, reiterates and realleges each and every allegation of paragraphs "1" through "181" inclusive, of this Complaint, as if same were fully set forth herein at length.

183. All defendants, their agents, servants and employees, owed a duty to care and protect Plaintiff while he was in their custody, control and care.

184. As set forth above, all defendants failed to protect Plaintiff from known and dangerous harms, including themselves and each other.

185. As set forth above, each of the defendant police officers failed to intervene, mitigate and/or stop the subject incident at any time during the happening of the incident.

186. As set forth above, the defendants failed to make timely and adequate medical care and treatment to Plaintiff following the subject beating.