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COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT
CIVIL ACTION NO.: 21-6449

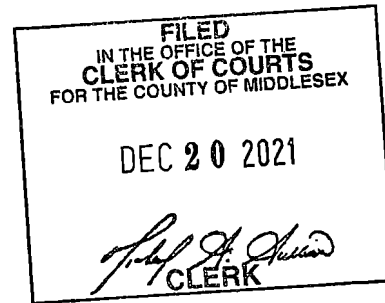
MOHAMED SALEM

Plaintiff,

v.

STONEHAM POLICE DEPARTMENT
and CITY OF STONEHAM

Defendants.



PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES the plaintiff, Mohamed Salem, and asserts the following claims against the defendants, Stoneham Police Department and the City of Stoneham, for claims of assault and battery, infliction of emotional distress, false arrest, false imprisonment, and discrimination in violation of 42 U.S.C. §1983.

PARTIES

1. Plaintiff Mohamud Salem (hereinafter "plaintiff Salem") is a real estate agent with a residential address at 83 Plymouth Street, Methuen. MA.
2. The Stoneham Police Department is located at 47 Central Street, Stoneham, MA.
3. The City of Stoneham is the public employer of the officers of the Stoneham Police Department.

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FACTS

1. Plaintiff Salem is an Egyptian immigrant who works as a real estate agent in the Commonwealth of Massachusetts.
2. Plaintiff Salem is licensed to carry on real estate brokerage business in the Commonwealth.
- 3a. On December 21, 2018, plaintiff Salem was working and intending to show the property located at 19 Danby Road, Stoneham, MA to a potential buyer.
- 3b. The said premises were posted with an outside for sale sign.
4. Plaintiff Salem arrived at the property on time earlier than his scheduled appointment with a potential buyer in order to unlock the front door of the house and to make arrangements for a proper showing of said property.
5. Plaintiff Salem retrieved the key from the lockbox situated outside the house, unlocked the front door, and entered the house.
6. At approximately 12:16 p.m., on that same day, police officers of the Stoneham Police Department, allegedly on a break-in call, appeared at the front door of the listed property with guns drawn towards plaintiff Salem's head.
7. Plaintiff Salem was shocked and terrified by this encounter.
8. One of the police officers aggressively yelled at plaintiff Salem and told him to put his fucking hands behind his back, get on his fucking knees, put his fucking phone on the ground, thereafter handcuffed plaintiff Salem with Plaintiff's hands behind his back.
9. Plaintiff Salem was unsure of what was happening and extremely frightened because of the police officers' aggressive actions.

10. Plaintiff Salem attempted to explain the situation to the police officers and told them that there must be a misunderstanding. Plaintiff Salem further stated that he was supposed to be where he was and that he was a licensed real estate broker, showing the property by appointment to a potential buyer.

11. The police officers did not believe plaintiff Salem and kept plaintiff Salem in handcuffs.

12. While plaintiff Salem was attempting to further explain that he was in fact a real estate agent and authorized to show the property, additional police officers appeared on site as backup, even though plaintiff Salem never did anything to escalate the situation.

13. Plaintiff Salem, as an Egyptian immigrant, was fearful for his life during this intimidating incident.

14. The police officers did not believe plaintiff Salem was a real estate agent showing the house.

15. The police officers accessed the property, absent reasonable suspicion, without probable cause and without a warrant.

16. Plaintiff Salem was continually kept handcuffed with his arms behind his back in the yard of the said.

17. At all times plaintiff Salem was handcuffed and surrounded by police officers who had their guns drawn on the plaintiff and refused to believe that plaintiff Salem was a real estate agent showing a home on the property.

18. Only after the potential buyer had shown up and vouched for plaintiff Salem, and the police officers had investigated the property, did the police officers then decide to release plaintiff from the handcuffs.

19. Even after the police officers had released plaintiff Salem from the handcuffs, they were apparently still not convinced that plaintiff Salem was a real estate agent there to show the property and they began harassing the plaintiff with questions about the value and layout of the property. Plaintiff Salem respectfully answered all of the police officers' questions.

20. Plaintiff Salem sustained injuries due to the unnecessary use of force used by the police officers.

21. The police officers' intentional actions caused plaintiff Salem significant humiliation, physical pain and mental anguish, and caused plaintiff pecuniary and non-pecuniary damages.

22. Shortly after the incident, plaintiff Salem entered therapy to treat his Post-Traumatic Stress Disorder ("PTSD") caused by the deliberate egregious actions of the officers of the Stoneham Police Department.

23. Since the date of this incident, plaintiff Salem has been diagnosed with trigeminal neuralgia and treating same with prescription carbamazepine.

COUNT I – NEGLIGENCE TRAINING AND/OR SUPERVISION
M.G.L. C. 258A §2

24. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 23.

25. At all relevant times, the Stoneham Police Department and the City of Stoneham failed to adequately supervise their respective employees, which caused and/or contributed to its officers' subsequent misconduct.

26. The Stoneham Police Department and the City of Stoneham failed to adequately train their respective employees, which caused and/or contributed to its officers' subsequent misconduct.

27. Pursuant to M.G.L. c.258 §2, defendants Stoneham Police Department and the City of Stoneham are liable for all “injury or loss of property.” Which was “caused by the negligent or wrongful act[s] or omission[s] of [its officers], “to the extent that [its] officers were “acting within the scope of [their] office or employment, in the same manner and to the same extent as a private individual under the circumstances ...”

28. The separate and distinct failures of defendants Stoneham Police Department and the City of Stoneham to properly supervise and/or train its officers as to their appropriate and proper conduct while in their employ resulted in the egregious actions of its officers directly and proximately causing and continuing to cause the plaintiff Salem great harm, including but not limited to compensatory, consequential, and punitive damages arising from civil rights violations and collusive police malfeasance, lost profits, lost future earning capacity, loss of prospective job opportunities, loss of personal and professional reputation within the business and social community, loss of esteem, and great humiliation and severe emotional stress, physical pain, and mental anguish.

COUNT II – DISCRIMINATION & VIOLATION OF 42 U.S.C. §1983

29. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 28.

30. By having engaged in the above-described actions, the police officers of the Stoneham Police Department deprived plaintiff of his clearly defined constitutional rights while acting under the color of law as officers of peace. The police officers denied plaintiff the rights guaranteed by the Constitution, specifically but not limited to, the Fourth Amendment rights to be free from unlawful restraint of their persons.

31. Further, the wrongful actions were undertaken with gross and reckless disregard for the plaintiff’s constitutional rights which include the following actions:

- a. The police officers failed to exercise ordinary and appropriate care in carrying out their official police duties as officers of peace, law and order.
- b. The police officers failed to conduct a proper investigation before haphazardly detaining, handcuffing, and drawing their weapons on plaintiff Salem.
- c. The police officers' actions constituted unwarranted retainment of plaintiff Salem who was restrained without probable cause to arrest or detain.

32. The police officers failed to acknowledge and give appropriate consideration to the evident exculpatory evidence provided by plaintiff Salem and the potential buyer.

33. As a result of the police officers' actions, plaintiff Salem suffered loss of freedom, loss of enjoyment of life, severe emotional and physical distress, and was otherwise damaged.

WHEREFORE, plaintiff Salem requests that this Honorable Court award to plaintiff compensatory damages, punitive damages, and any other relief that this Court deems appropriate and necessary.

COUNT III – ASSAULT AND BATTERY

34. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 33.

35. The Stoneham Police Department officers failed to use reasonable measures to apprehend plaintiff Salem. The police officers had drawn and aimed their weapons when no signs of resistance were exhibited by the plaintiff, using excessive force in subduing the plaintiff and detaining the plaintiff in handcuffs for an unreasonable period of time.

36. The Stoneham Police Department officers engaged in unwarranted physical contact with the plaintiff and placed plaintiff in fear of physical and deathly harm by their actions

and did so with the intention of putting the plaintiff in fear and harmful or offensive bodily contact.

37. As a direct and proximate result of the unwarranted physical conduct and assaults committed by the Stoneham Police Department officers, plaintiff Salem suffered compensatory damages, including injuries, therapy, emotional distress, other medical expenses, legal expenses, and costs.

WHEREFORE, plaintiff Salem requests that this Honorable Court award to plaintiff compensatory damages, punitive damages, legal costs and fees, and any other relief that this Court deems appropriate and necessary.

COUNT IV – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

38. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 37.

39. The Stoneham Police Department officers' actions in the circumstances described herein included using unnecessary force on the plaintiff, including but not limited to handcuffing plaintiff and harassing him in front of the property and the potential buyer, which constitutes extreme and egregious conduct beyond all bounds of decency and should not be tolerated.

40. The Stoneham Police Department officers knew or should have known that plaintiff Salem would suffer emotional distress and damages as they were aiming their guns at plaintiff and had kept plaintiff in handcuffs without probable cause or reasonable suspicion.

41. As a direct and proximate result of the egregious misconduct of the Stoneham Police Department officers, plaintiff Salem was caused to suffer great emotional distress, public humiliation, and to seek therapy as a result of the incident.

COUNT V – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

42. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 41.

43. As a direct and proximate result of the aggressive and egregious misconduct of the officers of the Stoneham Police Department, plaintiff Salem suffered emotional distress accompanied and manifested by physical symptomologies.

WHEREFORE, plaintiff Salem requests that this Honorable Court award to plaintiff compensatory damages, punitive damages, legal costs and fees, and any other relief that this Court deems appropriate and necessary.

COUNT VI – FALSE ARREST

44. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 43.

45. As a direct and proximate result of the malicious, wanton and willful acts of the Stoneham Police Department officers acting under the color of law, plaintiff was intentionally and unlawfully subject to a *de facto* arrest, without probable cause, and deprived of rights guaranteed to him by the Constitution of the United States.

WHEREFORE, plaintiff Salem requests that this Honorable Court award to plaintiff compensatory damages, punitive damages, legal costs and fees, and any other relief that this Court deems appropriate and necessary.

COUNT VII – FALSE IMPRISONMENT

46. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 45.

47. The Stoneham Police Department officers committed the tort of false imprisonment by physically restraining plaintiff Salem's movement without probable cause.

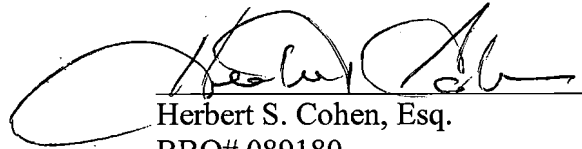
48. Plaintiff Salem was confined against his will.

WHEREFORE, plaintiff Salem requests that this Honorable Court award to plaintiff compensatory damages, punitive damages, legal costs and fees, and any other relief that this Court deems appropriate and necessary.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL TRIABLE ISSUES.

Plaintiff,
MOHAMED SALEM

By his attorney,

A handwritten signature in black ink, appearing to read 'Herbert S. Cohen', is written over a horizontal line.

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Dated: December ____, 2021