

85

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

HARRY ESPADA et al :
:
Plaintiffs :
:
v. :
:
CITY OF LANCASTER et al :

No.: 19-00927

ENTERED AND FILED
2019 JAN 29 AM 11:46
PROthonotary's OFFICE
LANCASTER, PA

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and by filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or other rights important to you.

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias, de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO. VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

LAWYER REFERRAL SERVICE
LANCASTER BAR ASSOCIATION
28 EAST ORANGE STREET, LANCASTER, PA 17602
(717) 393-0737

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KEVIN C. ALLEN, ESQUIRE
CRYSTLE - ALLEN LAW, LLC
143 NORTH DUKE STREET
LANCASTER, PA 17602
PHONE: 717- 393-0600
FACSIMILE 717-396-1028

ATTORNEY FOR PLAINTIFF

This is an Arbitration Matter. An
Assessment of Damages Hearing is
Required.

THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

HARRY ESPADA :
4 Turnbridge Drive :
Lancaster, PA 17603 :

DONEEKIA DEAN :
125 Treetops Drive :
Lancaster, PA 17601 :
Plaintiffs :

v. :

CITY OF LANCASTER :
120 N. Duke Street :
Lancaster, PA 17602 :

and :

LANCASTER CITY POLICE OFFICER :
WILLIAM HAMBY :
39 West Chestnut Street :
Lancaster, PA 17603 :

and :

LANCASTER CITY POLICE OFFICER :
JOHN DOE :
(the actual name is unknown at this time) :
39 West Chestnut Street :
Lancaster, PA 17603 :
Defendants :

ENTERED AND FILED
2019 JAN 29 AM 11:46
FRITHOND LARRY'S OFFICE
LANCASTER, PA

No.: 19 - 00927

CIVIL ACTION COMPLAINT

INTRODUCTION:

On or about April 26, 2017, at 12:30 am, Plaintiff Harry Espada left his relatives' home on Seymour Street in Lancaster on his way to his Aunt's home on 4 Turnbridge Drive, Lancaster, PA. Plaintiff was followed by Lancaster City Police Officer William Hamby (hereinafter Hamby) to Prince Street and immediately pulled to the side of the road once the police lights were activated.

Police Officer Hamby asked for Mr. Espada's license, vehicle registration and insurance which was provided by the Plaintiff. Plaintiff advised him that the vehicle was owned by his girlfriend, Doneekia Dean who had given him permission to drive the vehicle. Defendant Hamby demanded that Plaintiff Espada remain in his vehicle with his hands on the steering wheel for a time period in excess of 30 minutes and although Plaintiff offered to provide the officer with his girlfriend's phone number, the officer confiscated the vehicle and left the Plaintiff on the street to walk to his destination.

Defendant Police Officer Hamby and/or John Doe drove the vehicle from the scene and required Mr. Espada and Ms. Dean to pick up the vehicle at the Lancaster City Police Station. When the vehicle was retrieved, the transmission of the vehicle was damaged and as a result of the incident needs to be replaced. This action is brought pursuant to 42 U.S.C. Section 1983, and the 4th Amendment of the United States Constitution. Plaintiff further invokes pending jurisdiction of this Court to consider claims arising under state law.

PARTIES:

1. Plaintiff, Harry Espada, is an adult individual residing at 4 Turnbridge Drive, Lancaster, Pennsylvania 17603.
2. Plaintiff, Doneekia Dean, is an adult individual residing at 125 Treetops Drive, Lancaster, Pennsylvania 17601.
3. Defendant, City of Lancaster, is and was at all times relevant to this Complaint a Municipal Corporation organized and existing under the Laws of the Commonwealth of Pennsylvania, located in the City and County of Lancaster at 120 North Duke Street, Lancaster, Pennsylvania, 17602. At all times relevant hereto, Defendant City of Lancaster acted by and through its agents, servants and/or employees. It is responsible for the policies, procedures, practices and customs created, implemented, enforced and utilized by Lancaster City Police including such policies, procedures, practices, and customs that relate to arrest, prosecution, and confiscation of property and does so through its various agencies, agents, departments, representatives, officials and/or employees including, but not limited to, Defendant Police Officers Hamby and Doe.
4. Defendant, Police Officer William Hamby, is an adult individual who, during all relevant times, was employed by Defendant City of Lancaster as a police officer. All of Defendant Hamby's actions or inactions were conducted under color of law. Upon information and belief, his business address is 39 West Chestnut Street, Lancaster, Pennsylvania, 17603. He is being sued in his individual capacity.
5. Defendant Police Officer John Doe, whose correct name is unknown, is an adult

individual who, during all relevant times, was employed by Defendant City of Lancaster as a police officer. All of Defendant Doe's actions or inactions were conducted under color of law. Upon information and belief, his business address is 39 West Chestnut Street, Lancaster, Pennsylvania, 17603. He is being sued in his individual capacity.

FACTUAL ALLEGATIONS:

Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 5, the same as if set forth at length herein.

6. On or about April 26, 2017, at or about 12:30 am, Plaintiff Harry Espada left the home of his cousin, Melvin Nieves, at an apartment on Seymour Street in Lancaster, Pennsylvania.

7. Plaintiff Espada had parked his car on the corner of Queen and Seymour and entered his car with the intent to proceed to the home he shared with his Aunt at 4 Turnbridge Drive, Lancaster, PA.

8. Plaintiff Espada proceeded on Queen Street, passed the lights at Chesapeake Street and turned left on Hagar Street.

9. As he passed Beaver Street, while on Hagar Street, he noticed a police car behind him.

10. When Plaintiff Espada made a left turn on Prince Street, the police car lights were activated and Plaintiff immediately pulled over to the left side of Prince Street, a one-way street, in front of an Allstate Insurance Office.

11. Lancaster City Police Officer Defendant Hamby approached the Plaintiff's vehicle and asked for his license, vehicle registration and insurance.

12. Plaintiff Espada provided Defendant Hamby with the requested documents.
13. Defendant Hamby noting that the vehicle was registered to Doneekia Dean asked who she was and Plaintiff Espada explained that she was his friend.
14. Defendant Hamby asked Plaintiff Espada if Ms. Dean knew he was driving her vehicle and Plaintiff responded yes.
15. Defendant Hamby asked if Plaintiff could confirm that Doneekia Dean knew he was driving the vehicle and Plaintiff Espada offered to call her in the officer's presence to confirm the permissive use of the vehicle.
16. Defendant Hamby told Plaintiff to remain in his vehicle and went back to his cruiser.
17. Defendant Hamby took control of the vehicle and directed another unknown Lancaster City Police Officer Defendant Doe to drive the vehicle away.
18. Although Plaintiff asked the other police officers at the scene, they would not provide their names.
19. Because Plaintiff was left without a vehicle, he was forced to walk to his Aunt's home over a mile away.
20. In the early morning hours of April 26, 2017, Plaintiffs Harry Espada and Doneekia Dean arrived at the police station to pick up the vehicle, a 2005 Dodge Magnum. When they picked up the vehicle, they noted that the vehicle had been searched without their permission and that the transmission light on the dashboard lit up and the car would not drive greater than 35 miles per hour.
21. Prior to this incident, the vehicle had no significant mechanical problems and no

problems, whatsoever, with the transmission.

22. In the past, Plaintiff had been pulled over while driving the same vehicle by Lancaster City Police Officers, including Defendant Hamby and cited for excessively tinted windows. The Plaintiff had been cited on three different occasions and on the last occasion was found not guilty.

23. In spite of the not guilty verdict on the last citation, the Plaintiff had reduced the tinting on the windows.

24. Plaintiff Harry Espada was illegally stopped by Defendant Hamby without reason and without probable cause and was illegally detained without probable cause.

25. The vehicle owned by Defendant Doneekia Dean was damaged as a result of the transport by Lancaster City Police Officers, either Defendant Hamby or other unknown officers.

**COUNT I
PLAINTIFF HARRY ESPADA V. DEFENDANT HAMBY
UNLAWFUL ARREST**

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 25, the same as if set forth at length herein.

26. On or about April 26, 2017, Defendant Hamby illegally detained and arrested Plaintiff without charge. In committing the acts complained of herein, Defendant Hamby acted under color of law by falsely arresting and detaining Plaintiff without probable cause to do so.

27. In violation of Plaintiff's right to be free from unlawful arrest, Defendant Hamby violated Plaintiff's rights under the 4th Amendment to the Constitution of the United States.

28. As a direct and proximate result of the violation of Plaintiff's constitutional right

to be free from unreasonable search and seizure, Plaintiff has been unconstitutionally denied his physical liberty and is entitled to relief under 42 U.S.C. Section 1983.

WHEREFORE, Plaintiff Harry Espada, demands judgment against Defendants jointly, severally and in the alternative in a sum not in excess of \$50,000.00 plus punitive damages, interest, costs, attorney fees and damages for delay.

COUNT II
PLAINTIFF HARRY ESPADA V. DEFENDANT HAMBY
STATE LAW TORT CLAIMS OF FALSE ARREST

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 28, the same as if set forth at length herein.

29. At all times relevant Defendant Hamby was acting as an Officer of the Lancaster City Police Department acting at all times within the course and scope of his authority.

30. The acts of Defendant Hamby alleged above in Plaintiff's Complaint constitute the tort of false arrest all to the Plaintiff's great detriment and loss.

31. The acts of Defendant Hamby alleged above in Plaintiff's Complaint deprived Plaintiff of his rights, privileges and immunities under the laws and constitution of the Commonwealth of Pennsylvania, in particular, the right to be secure in his person and property, the right to be free from excessive punishment and the right to due process secured to him by Article I, Section VIII, IX, XIII and XXVI of the Pennsylvania Constitution.

32. As a direct and proximate result of the aforesaid actions and inactions of Defendant Hamby, Plaintiff was unconstitutionally denied his physical liberty.

33. Defendant Hamby subjected Plaintiff to these deprivations of his rights either

maliciously, arbitrarily, or by acting with reckless disregard for whether Plaintiff's rights would be violated by these actions.

WHEREFORE, Plaintiff Harry Espada, demands judgment against Defendants jointly, severally and in the alternative in a sum not in excess of \$50,000.00 plus punitive damages, interest, costs, attorney fees and damages for delay.

**COUNT III
PLAINTIFF DONEEKIA DEAN V. DEFENDANTS HAMBY AND DOE**

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 33, the same as if set forth at length herein.

34. Upon information and belief, Defendants Hamby and Doe illegally seized the personal property of Doneekia Dean, specifically, her 2005 Dodge Magnum, driving it in such a manner as to permanently damage the transmission in violation of her rights under the 4th Amendment to the Constitution.

35. As a result of the damage to the vehicle caused by Defendants Doe and Hamby, Plaintiff Dean has incurred repair bills in excessive of \$8,000.00.

WHEREFORE, Plaintiff Doneekia Dean, demands judgment against Defendants jointly, severally and in the alternative in a sum not in excess of \$50,000.00 plus punitive damages, interest, costs, attorney fees and damages for delay.

**COUNT IV
PLAINTIFFS HARRY ESPADA AND DONEEKIA DEAN V.
DEFENDANT CITY OF LANCASTER**

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 35, the same as if set forth at length herein.

36. Upon information and belief, prior to April 26, 2017, municipal Defendant, Lancaster City, tolerated and ratified a pattern and practice of unjustified arrests and misuse of police authority in that:

- a. Municipal Defendant failed to discipline or prosecute or in any manner deal with known incidents of abuse of police powers by Lancaster City Police Officers;
- b. Municipal Defendant refused to investigate complaints of previous incidents of abuse of police powers and instead officially claimed that such incidents were justified and proper; and,
- c. By means of both inaction and cover-up of such abuse of police powers, municipal Defendant encourage police officers including Defendants Hamby and Doe in this case to believe that such abuse of police powers including false arrest, and illegal seizure of property was permissible.

37. Upon information and belief, the foregoing acts, omissions and systemic deficiencies, policies and/or customs of municipal Defendant have caused police officers of municipal Defendant to be unaware of the rules and laws governing legal arrests, probable cause, and prosecution, and to believe that said issues were entirely within the discretion of the officer and that an improper use of police powers would not be honestly and properly investigated, all with the foreseeable result that officers are more likely to engage in abuse of police powers where such action is neither necessary, reasonable, nor legal.

38. Upon information and belief, municipal Defendant failed to promulgate and enforce a policy relating to lawful arrest and seizure of property which is not in violation of the

laws of the Commonwealth of Pennsylvania and the United States Constitution, thereby causing and encouraging police officers, including Defendants Hamby & Doe in this case, to violate the rights of citizens such as Plaintiffs.

39. Upon information and belief, municipal Defendant as a matter of policy and practice have with deliberate indifference failed to adequately train, discipline, sanction or otherwise direct Lancaster City Police Department Officers concerning the rights of citizens particularly the Fourth Amendment of the United States Constitution, thereby causing the Defendants, Hamby and Doe in this case, to engage in unlawful conduct described above.

40. Upon information and belief, municipal Defendant, as a matter of policy and practice, have with deliberate indifference failed to adequately train, discipline, sanction or otherwise direct Lancaster City Police Department Officers, including Defendants Hamby and Doe, who are aware of and subsequently conceal violations of the constitutional rights of citizens including Fourth Amendment rights violations by other police officers, thereby causing and encouraging officers including Defendant Hamby & Doe to engage in unlawful conduct which violates Plaintiff's Fourth Amendment rights.

41. Municipal Defendant is directly liable for its own acts and omissions, specifically with regard to the failure to train and the promulgation of violations of the Plaintiffs' Fourth Amendment rights through the maintenance of a policy, custom, practice and/or procedure that ratifies, condones, and/or tolerates such violations.

42. As a direct and proximate result of the aforesaid acts, omissions, systemic

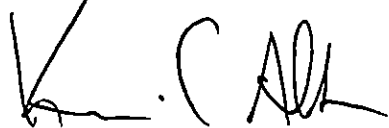
deficiencies, policies and customs of municipal Defendant, Defendants Hamby & Doe violated Plaintiffs' Fourth Amendment rights, thereby causing damages to Plaintiffs, more specifically set forth above in Plaintiffs' complaint.

WHEREFORE, Plaintiffs Harry Espada and Doneekia Dean demand judgment against Defendants jointly, severally and in the alternative in a sum not in excess of \$50,000.00 plus punitive damages, interest, costs, attorney fees and damages for delay.

Respectfully submitted,

CRYSTLE - ALLEN LAW, LLC

By:

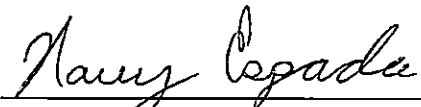


Kevin C. Allen, Esquire
Attorney for Plaintiffs, Harry Espada and
Doneekia Dean
Attorney I.D. No. 55232
143 North Duke Street
Lancaster, PA 17602
Telephone: (717) 393-0600
Facsimile: (717) 396-1028

VERIFICATION

I, **HARRY ESPADA**, verify that the statements made in the attached **CIVIL ACTION COMPLAINT** are true and correct. The undersigned understands that false statements herein are made subject to the penalties of the 18 PACSA §4904 relating to unsworn falsification to authorities.

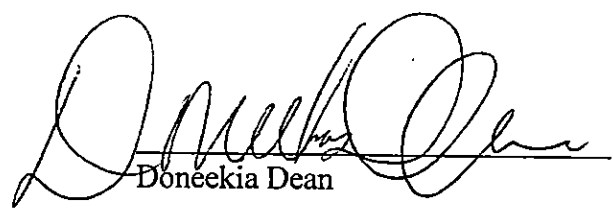
Date: 11/6/18


Harry Espada

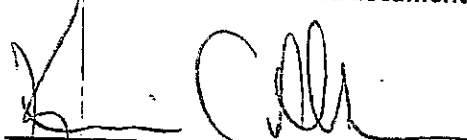
VERIFICATION

I, **DONEEKIA DEAN**, verify that the statements made in the attached **CIVIL ACTION COMPLAINT** are true and correct. The undersigned understands that false statements herein are made subject to the penalties of the 18 PACSA §4904 relating to unsworn falsification to authorities.

Date: 11/6/18


Doneekia Dean

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.


Signature of Attorney or Pro Se Litigant

Kevin C. Allen
Name

55232
Attorney Number (if application)

(717) 393-0600
Telephone

143 North Duke Street
Address

Lancaster, PA 17602
City/State/Zip Code

kevin@crystleallen.com
Email Address

Note: Parties and attorney of record in a case will have access to this confidential information form. Confidentiality of this information must be maintained.

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
**PROTHONOTARY
CIVIL COVER SHEET**

PLEASE LIST NAMES AND ADDRESSES OF ADDITIONAL PARTIES ON A SEPARATE SHEET.

ALL PARTY INFORMATION IS REQUIRED INCLUDING ZIP CODES. ALL PARTY INFORMATION MUST MATCH THE PLEADING. PLEASE DO NOT STAPLE THE COVER SHEET TO THE PLEADING. IF AN EVENT NEEDS TO BE SCHEDULED, A CAO SCHEDULING COVER SHEET MUST ALSO BE ATTACHED.

TYPE OF ACTION: Civil Action

For Prothonotary Use Only:

DOCKET No: CI - **19-00927**

PARTY INFORMATION

PLAINTIFF'S NAME: Harry Espada

DEFENDANT'S NAME: City of Lancaster

ADDRESS: 4 Turnbridge Drive
Lancaster, PA 17603
*If confidential,
use 2nd sheet*

ADDRESS: 120 N. Duke Street
Lancaster PA 17602

PROTHONOTARY'S OFFICE
LANCASTER, PA
2019 JAN 29 AM 11:46
ENTERED AND FILED

MUNICIPALITY: _____

MUNICIPALITY: _____

TWP/BOROUGH: _____

TWP/BOROUGH: _____

DOB: _____
(mm/dd/yyyy)

TELEPHONE #: _____
(#####)

DOB: _____
(mm/dd/yyyy)

TELEPHONE #: _____
(#####)

FILING ATTORNEY / FILING PARTY INFORMATION

FIRM/OFFICE: Crystle Allen Law LLC

FILING ATTORNEY/PARTY: Kevin C. Allen

AOPC: (Attorney ID) #: 55232

ADDRESS: 143 N Duke Street

CITY: Lancaster

STATE: PA

ZIP CODE: 17602

TELEPHONE #: (717) 393-0600
(#####)

EMAIL: kevin@crystleallen.com

TAX LIEN INFORMATION

MUNICIPALITY: _____

MAP REFERENCE: _____

DEED BOOK: _____

DEED PAGE: _____

DEED DATE: _____

SALE PRICE: _____

TAX YEAR: _____

TAX LIEN AMOUNT: _____

PROPERTY DESCRIPTION: _____

PFA/SVPO/PFI INFORMATION

HEARING DATE: _____

SOCIAL SECURITY #: (Defendant – Last 4 digits) _____

POLICE DEPARTMENT: _____

PREVIOUS PETITIONS: YES

NO

If 'YES', File Date: _____

Supreme Court of Pennsylvania

Court of Common Pleas

Civil Cover Sheet

Lancaster

County

For Prothonotary Use Only:

Docket No: 19-00927

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

FILED AND FILED
 2019 JUN 29 AM 11:46
 PROTHONOTARY OFFICE
 LANCASTER, PA

SECTION A

Commencement of Action:

- Complaint
 Writ of Summons
 Petition
 Transfer from Another Jurisdiction
 Declaration of Taking

Lead Plaintiff's Name:
Harry Espada

Lead Defendant's Name:
City of Lancaster

Are money damages requested? Yes No Dollar Amount Requested: within arbitration limits
 (check one) outside arbitration limits

Is this a *Class Action Suit*? Yes No Is this an *MDJ Appeal*? Yes No

Name of Plaintiff/Appellant's Attorney: Kevin C. Allen

Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

SECTION B

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- Intentional
 Malicious Prosecution
 Motor Vehicle
 Nuisance
 Premises Liability
 Product Liability (does not include mass tort)
 Slander/Libel/Defamation
 Other: False Arrest

CONTRACT (do not include Judgments)

- Buyer Plaintiff
 Debt Collection: Credit Card
 Debt Collection: Other

 Employment Dispute: Discrimination
 Employment Dispute: Other

 Other:

CIVIL APPEALS

- Administrative Agencies
 Board of Assessment
 Board of Elections
 Dept. of Transportation
 Statutory Appeal: Other

 Zoning Board
 Other:

MASS TORT

- Asbestos
 Tobacco
 Toxic Tort - DES
 Toxic Tort - Implant
 Toxic Waste
 Other:

REAL PROPERTY

- Ejectment
 Eminent Domain/Condemnation
 Ground Rent
 Landlord/Tenant Dispute
 Mortgage Foreclosure: Residential
 Mortgage Foreclosure: Commercial
 Partition
 Quiet Title
 Other:

MISCELLANEOUS

- Common Law/Statutory Arbitration
 Declaratory Judgment
 Mandamus
 Non-Domestic Relations Restraining Order
 Quo Warranto
 Replevin
 Other:

PROFESSIONAL LIABILITY

- Dental
 Legal
 Medical
 Other Professional: