

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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WAYNE BRYANT,

Plaintiff,

-against-

VILLAGE OF GREENWOOD LAKE and  
ANTHONY DASILVA,

Defendants.

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**COMPLAINT**

**JURY TRIAL  
DEMANDED**

Through his attorneys, Sussman and Watkins, plaintiff Wayne Bryant complains of defendant Village of Greenwood Lake (the “Village”) as follows:

**NATURE OF THE CASE**

1. This is an action for negligence against the Village of Greenwood Lake for the failure of its Village Justice Court (the “Justice Court”), through its officers, agents, officials and employees, to properly record or otherwise account for plaintiff’s timely and complete payment of a fine for a traffic citation.

2. This wrongful conduct resulted in the Justice Court’s erroneously issuing a warrant for plaintiff’s arrest for nonpayment of the fine and failure to cancel or revoke the erroneously issued warrant.

3. As a result of the Village’s negligence, plaintiff was wrongfully arrested and detained for several hours, had his personal property impounded and otherwise suffered severe substantial economic and non-economic injury, including, but not limited to, loss of money, loss of use of property, emotional distress, humiliation, stigma and interference with employment opportunities.

4. This action also seeks to redress defendant New York State Trooper Anthony Dasilva's violation of plaintiff's Fourth Amendment right to be free from unreasonable searches and seizures.

5. Upon arresting plaintiff, defendant Dasilva unlawfully searched plaintiff's entire vehicle without a proper warrant, plaintiff's or reasonable suspicion to believe there was evidence of any crime in the vehicle.

### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 as this action arises under the Fourth and Fourteenth Amendments to the United States Constitution and, therefore, involves the resolution of a federal question. This court also has subject matter jurisdiction pursuant to 28 U.S.C. § 1343(a) and 42 U.S.C. §§ 1983 and 1988 as this action seeks to redress the deprivation of federal civil rights under color of state law.

7. This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367 as they arise from the same common nucleus of operative facts as do his federal claims and are so interrelated with the federal claims as to make supplemental jurisdiction appropriate.

8. On February 10, 2011, plaintiff timely filed a proper notice of claim with the Village of Greenwood Lake pursuant to New York General Municipal Law ("GML") § 50-E and, on May 12, 2011, the Village conducted an examination of plaintiff pursuant to GML § 50-H.

9. Venue properly lies within the United States District Court for the Southern District of New York pursuant to 28 U.S.C. § 1391(b) because a substantial number of the acts and omissions giving rise to the claims occurred in the County of Orange, State of New York, which is within the jurisdiction of the Southern District of New York.

## PARTIES

10. Plaintiff Wayne Bryant is an African-American male residing in the City of Poughkeepsie, County of Dutchess, State of New York. He is an insurance adjuster by profession and, other than the arrest at issue in this Complaint, has no prior criminal history.

11. Defendant Village is a municipal corporation duly established and existing under the laws of the State of New York. The Village is situated entirely within the Town of Warwick, County of Orange, State of New York.

12. Defendant Dasilva is a New York State Trooper and, upon information and belief, resides in the State of New York.

## FACTUAL ALLEGATIONS

13. On or about September 22, 2010, plaintiff appeared before the Village Justice Court, Hon. Nancy DeAngelo, to answer for a traffic ticket he had received on or about June 14, 2010.

14. In resolution of that ticket, plaintiff agreed to plead guilty to a non-moving violation and was fined two hundred thirty-five dollars (\$235.00).

15. The Court provided plaintiff until December 14, 2010 to pay the fine in full.

16. On December 14, 2010, plaintiff called the Justice Court to advise he wanted to pay the fine that day and to determine whether he could come in person to do so.

17. The Justice Court personnel who fielded plaintiff's call advised plaintiff that he could pay the fine any time that day, so long as he did so before the court closed for the day.

18. Plaintiff visited the Justice Court later that day, December 14, 2010, and, at 3:50pm, by using his bank debit card, paid the \$235 fine in full.

19. Plaintiff's bank account had sufficient funds to cover the total amount of the fine and, indeed, the payment was processed in the ordinary course of business.

20. Plaintiff received two receipts upon paying the fine – a printed credit card sale receipt and a handwritten cash receipt.

21. The printed credit card sale receipt indicates that payment was made on December 14, 2010 at 15:50:26 (3:50:26pm). The handwritten cash receipt bears a date of either “12-14-10” or “12-15-10” – the “4” and “5” of the day portion of the date are written over each other and it is not clear from the face of the receipt whether “15” replaced “14” or whether “14” replaced “15.”

22. After paying the fine in person on December 14, 2010, the deadline by which he was given to make payment, plaintiff left the Justice Court with the understanding that the matter had been completely resolved and disposed of and, indeed, no one at the at court indicated to him anything to the contrary.

23. The Order to Pay Fine that plaintiff received on September 22, 2011 states: “Failure to pay the fine or appear in court by the date shown will result in a bench warrant being issued for your arrest. If the fine has been paid please disregard this notice.”

24. Based on this language, a reasonable person would believe that if the fine is paid by the date shown in the notice, no bench warrant would or could issue.

25. Upon information and belief, the Justice Court personnel who accepted plaintiff’s payment wrongfully failed to record his payment in plaintiff’s court file or otherwise failed to account for the payment.

26. Upon information and belief, since plaintiff’s timely payment was not properly recorded or otherwise accounted for, the Justice Court wrongfully issued a warrant for plaintiff’s arrest and wrongfully failed to cancel or revoke that warrant once issued.

27. On or about December 20, 2010, at approximately 4:00 pm, plaintiff was pulled over by defendant Dasilva while driving on Interstate 84 in Town of Montgomery, County of Orange, State of New York.

28. Defendant Dasilva stated that he pulled plaintiff over for failure to wear a seat belt.

29. During the traffic stop, plaintiff complied with Dasilva's command that he exit his vehicle.

30. After plaintiff exited his vehicle, Dasilva arrested plaintiff based on the warrant issued by the Village of Greenwood Lake Justice Court.

31. Plaintiff explained to Dasilva that he had paid the fine in full and that the receipts for such payment were in the glove compartment of his vehicle.

32. Dasilva refused to allow plaintiff to get the receipts from the car and, instead, handcuffed plaintiff, patted him down and placed him in the back of the police car.

33. Plaintiff pleaded with Dasilva to allow him to retrieve the receipts, but Dasilva refused. Upon information and belief, Dasilva called the Village Justice Court and confirmed the validity of the warrant.

34. Once plaintiff was secured in the back seat of the police car, Dasilva searched plaintiff's vehicle while waiting for a tow-truck to arrive to impound plaintiff's vehicle.

35. At the time Dasilva searched plaintiff's vehicle, he did not have a warrant to do so and plaintiff did not consent to such search.

36. At the time Dasilva searched plaintiff's vehicle, he did not have probable cause or reasonable suspicion to believe that there was evidence of any crime inside plaintiff's vehicle or any criminality afoot.

37. During Dasilva's search of plaintiff's vehicle, he found a bottle containing pills of Tylenol with Codeine and Hydrocodone, for which plaintiff had a valid and lawful prescription.

38. Despite the fact that plaintiff informed Dasilva that he possessed a valid and lawful prescription for the pills, Dasilva charged plaintiff, by information, for the Class A misdemeanor offense of possession of a controlled substance in the seventh degree [PL § 220.03].

39. Dasilva also wrote plaintiff tickets for failure to wear a seatbelt [VTL § 1229-C(3)] and for possessing a controlled substance in other than its original container [PHL § 3345].

40. On or about January 11, 2011, before the Justice Court of the Town of Montgomery, the seat belt and original container charges were dismissed and plaintiff pleaded guilty to a violation of a parking violation [VTL § 1201(a)] in resolution of the possession charge. Plaintiff paid a fine of one hundred forty dollars (\$140.00).

41. After Dasilva finished searching plaintiff's vehicle, the tow-truck arrived and took plaintiff's vehicle away.

42. Dasilva then transported plaintiff to the State Police barracks in the Town of Montgomery, where plaintiff was fingerprinted and photographed.

43. At approximately 8:30pm-9:00pm that evening, plaintiff was transported to another State Police barracks where plaintiff was transferred from the custody of the State Police to the custody of the Village of Greenwood Lake Police Department.

44. Plaintiff was then transported to the holding cell in the Village Justice Court to await the arrival of the Village Justice for a bail hearing.

45. The Village Justice arrived at close to midnight and plaintiff appeared before the Court.

46. Plaintiff explained to the Court that the warrant under which he was arrested was erroneous because he had paid the fine in full on December 14, 2010.

47. Plaintiff explained further that the Dasilva refused to allow him to retrieve the receipts evidencing such payment from his glove compartment and that, had the officer permitted him to do so, his arrest would have been averted.

48. After hearing plaintiff's explanation, the Village Justice stepped down from the bench and, upon information and belief, went to chambers to call the court clerk.

49. Upon information and belief, before returning to the bench, the Village Justice located and verified the paperwork evidencing plaintiff's timely payment of the fine in full.

50. The Village Justice then returned to the bench and told plaintiff that he was free to go because, in fact, he had paid the fine in full.

51. The Village Justice then called a taxi to take plaintiff home as plaintiff's car had been impounded earlier that day.

52. At his own expense [approximately sixty-five dollars (\$65.00)], Plaintiff took the taxi to the impound lot, where he recovered his car at an expense of two hundred fifty dollars (\$250.00).

53. Plaintiff is an insurance adjuster and is licensed by the State of New York Insurance Department.

54. Plaintiff's license with the Insurance Department was due to be renewed on December 31, 2010.

55. Due to the plaintiff's arrest on or about December 20, 2010 as set forth in this Complaint, the Insurance Department refused to renew plaintiff's license. Plaintiff was unable to obtain a renewal license from the Department of Insurance until several months later.

56. In or about May 2011, plaintiff applied for a job with Allstate Insurance Company.

57. Upon information and belief, Allstate conducts criminal background checks of all job applicants.

58. Upon information and belief, Allstate conducted a criminal background check of plaintiff and discovered plaintiff's December 20, 2010 arrest.

59. Allstate did not hire plaintiff. Upon information and belief, Allstate did not hire plaintiff because of his December 20, 2010 arrest.

60. Regardless of whether plaintiff's December 20, 2010 arrest, or any of the charges related thereto, are ever expunged or otherwise removed from his record, whenever plaintiff is asked if he has ever been arrested, whether on a job application or otherwise, to answer truthfully, plaintiff must answer affirmatively.

61. Other than plaintiff's December 20, 2010 arrest, plaintiff has never been arrested.

62. As a result of plaintiff's December 20, 2010 arrest, plaintiff has suffered, and will continue indefinitely to suffer, the negative stigma and implications of having been arrested, including, but not limited to, being disadvantaged when applying for jobs.

### **CLAIMS FOR RELIEF**

#### **Count I – Violation of Fourth Amendment/Unconstitutional Search and Seizure** **(U.S. Const., amend. IV and XIV; 42 U.S.C. § 1983)** **Against Defendant Trooper Dasilva**

63. Plaintiff hereby re-alleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 62 above.

64. The Fourth Amendment to the United States Constitution provides that: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."



65. The protections afforded by the Fourth Amendment are applicable to the actions of State officials through the Fourteenth Amendment of the United States Constitution and violations thereof are actionable under 42 U.S.C. § 1983.

66. Searches made without a valid and lawful search warrant are presumptively unreasonable and thereby violate the Fourth Amendment unless a proper exception to the warrant requirement applies.

67. When Dasilva searched plaintiff's vehicle, he did not possess a valid warrant to do so.

68. When Dasilva searched plaintiff's vehicle, he did not have plaintiff's consent to do so and, indeed, plaintiff expressly told Dasilva he could not search plaintiff's vehicle.

69. When Dasilva searched plaintiff's vehicle, plaintiff was handcuffed and secured in the back seat of the police vehicle and Dasilva did not have probable cause or reasonable suspicion to believe that there was evidence of any crime in plaintiff's vehicle. Nor did Dasilva have any reasonable and articulable suspicion that plaintiff had been involved in any criminal activity, other than the mere seat belt infraction underlying the traffic stop, or that plaintiff was armed and dangerous.

70. Without probable cause or reasonable and articulable suspicion to believe that evidence of any crime was located in plaintiff's vehicle or that plaintiff was involved in any criminal activity or was armed and dangerous, and with knowledge that he did not have a valid warrant to search plaintiff's vehicle and that plaintiff did not consent to such a search, Dasilva intentionally, willfully, maliciously and in reckless disregard of plaintiff's federally protected rights, searched plaintiff's entire vehicle while plaintiff was handcuffed and secured in the back of the police car.

71. As a result of Dasilva's unconstitutional search, Dasilva unlawfully seized prescription pills for which plaintiff possessed a valid and lawful prescription.

72. As a result, Dasilva charged plaintiff with unlawful possession of a controlled substance in the seventh degree [PL § 220.03], a Class A Misdemeanor.

73. In resolution of the possession offense, plaintiff pleaded guilty to a parking violation and paid a one hundred forty dollar (\$140.00) fine.

74. But for Dasilva's unlawful conduct, plaintiff would not have been charged with the possession offense, been convicted of a parking violation or paid the \$140 fine.

**Count II – Negligence**  
**Against Defendant Village of Greenwood Lake**

75. Plaintiff hereby reallages and incorporates herein by reference each and every allegation contained in paragraphs 1 through 74 above.

76. On or about September 22, 2010, before the Justice Court, plaintiff pleaded guilty to a non-moving traffic violation for which he was assessed a \$235.00 fine, payable to the Justice Court on or before December 14, 2010.

77. Plaintiff timely paid the fine, which was the only fine outstanding against him, in full on December 14, 2010.

78. Plaintiff justifiably believed that his timely payment in full of the fine constituted final resolution and disposition of his matter and as eliminating any possibility that an arrest warrant might issue or other negative result obtain.

79. Through its officers, officials, agents and employees, the Justice Court owed a duty to plaintiff to keep accurate records, which includes properly and accurately recording or otherwise accounting for payments of fines to the Justice Court.

80. This duty was entirely nondiscretionary and ministerial in nature.

81. This duty arose from a special relationship between the Justice Court and plaintiff because the duty of a village justice court to keep accurate records is statutorily required by the Uniform Justice Court Act, which mandates that “[e]ach justice shall keep or cause to be kept legible and suitable books, papers, records and dockets of all civil . . . and all criminal actions and proceedings,” JCA § 107, and plaintiff is a person within the class of people for whose benefit this provision was enacted.

82. This duty arose from a special relationship between the Justice Court and plaintiff also because, by issuing plaintiff a notice advising him to “disregard” the risk that a bench warrant may issue if the fine was paid by December 14, 2010 and, in fact, plaintiff paid the fine by December 14, 2010, the Justice Court voluntarily assumed the affirmative duty to properly report and account for such payment and not issue a bench warrant and plaintiff justifiably relied on this affirmative undertaking. Furthermore, the day plaintiff paid the fine in full, no officer, official, agent or employee of the Justice Court advised plaintiff that the risk of a bench warrant issuing remained.

83. Through its officers, officials, agents and employees, the Justice Court breached its duty by failing to properly and accurately record plaintiff’s timely payment in full of the only fine outstanding against him on December 14, 2010.

84. As a reasonably foreseeable result of this breach, the Justice Court wrongfully issued a warrant for plaintiff’s arrest for failure to pay the fine and wrongfully failed to cancel or revoke that warrant.

85. As a reasonably foreseeable result of this breach, plaintiff was wrongfully arrested on the basis of the wrongfully-issued arrest warrant.

86. As a reasonably foreseeable result of this negligent conduct, plaintiff has been caused to suffer severe economic and noneconomic harm, including, but not limited to, loss of money, loss of use of property, emotional distress, humiliation, negative stigma and interference with employment opportunities.

87. Under the doctrine of *respondeat superior*, Defendant Village of Greenwood Lake is liable for the Justice Court's negligence as perpetrated by its officers, agents, officials and employees.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court:

- A. Assume jurisdiction of this action;
- B. Empanel a jury to hear all claims;
- C. Adjudge and declare that defendant Dasilva's conduct as set forth in this Complaint violated plaintiff's Fourth Amendment right to be free from unreasonable searches and seizures.
- D. Adjudge and declare that defendant Village of Greenwood Lake was negligent in failing to properly record or otherwise account for plaintiff's timely payment of his fine in full and, thereafter, issuing and failing to cancel or revoke a warrant for plaintiff's arrest.
- E. Award plaintiff compensatory damages;
- F. Award plaintiff punitive damages as against defendant Dasilva in that his failure to allow plaintiff to demonstrate that he had paid the fine was malicious, outrageous and without any conceivable defense;
- G. Award plaintiff the costs of this suit, including reasonable attorney's fees and litigation expenses, in accordance with 42 U.S.C. § 1988; and
- H. Award plaintiff such other and further relief as the Court deems just and proper.

Dated: October 27, 2011  
Goshen, New York

Respectfully submitted,

SUSSMAN AND WATKINS

By: 

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