



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

EDWARD M. LILLY,

Plaintiff,

-against-

**COMPLAINT
AND JURY DEMAND**

19 CV 176

JEFFREY SWICK, individually and in his official
capacity as a Town of Lewiston Police Officer,

JAMES ULLERY, individually and in his official
capacity as a Town of Lewiston Police Officer,

DANIEL TRAPASSO, individually and in his official
capacity as a Town of Lewiston Police Officer,

BRANDON HALL, individually and in his official
capacity as a Town of Lewiston Police Officer,

UN NAMED Lewiston Police Officers, individually and in their official
capacity as a Town of Lewiston Police Officers,

TOWN OF LEWISTON,

DAVID M. HEIM individually and in his official
capacity as a Town of Wheatfield prosecutor,

TOWN OF WHEATFIELD,

OTHERS NOT YET IDENTIFIED, individually and in their official
capacity.

Defendants.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, the Plaintiff EDWARD

M. LILLY, hereby demands a jury trial of all issues so triable.

I. INTRODUCTION

1. This is an action seeking monetary damages, to redress illegal conduct by the defendants, who deprived the plaintiff of various rights and privileges secured by the Constitution and laws of the United States, specifically the First, Fourth, Sixth and Fourteenth Amendments to the United States Constitution and the Civil Rights Act of 1871, 42 U.S.C. §§ 1983, 42 U.S.C. §§ 1985, as well as the common law of the State of New York.
2. Plaintiff seeks damages, both compensatory and punitive, affirmative and equitable relief, an award of costs, interest and attorney's fees, and such other and further relief as this Court deems equitable and just.
- 3.

II. JURISDICTION

4. This action seeks to enforce rights guaranteed by the Constitution and laws of the United States and is brought pursuant to 42 U.S.C. §§ 1983, 42 U.S.C. §§ 1985. Jurisdiction is based upon 28 U.S.C. §§ 1331 (federal question), 1343 (civil rights), and 1367 (supplemental jurisdiction). The substantive federal claims are brought pursuant to 42 U.S.C. §§ 1983, 42 U.S.C. §§ 1985. The Court has supplemental jurisdiction over state common law claims.
5. Venue is proper in the Western District of New York, under 28 U.S.C. § 1391 (a) (b) and (c), because all parties reside in this District and because all of the events or omissions giving rise to the claims occurred within this District.

III. PARTIES

5. Plaintiff EDWARD M. LILLY is, and at all relevant times hereinafter mentioned was a resident of the Town of Lewiston, County of Niagara and State of New York.
6. Defendant JEFFREY SWICK was at all relevant times herein employed by the TOWN OF LEWISTON Police Department as a Police Officer. Swick is no longer employed by Lewiston. Swick resides at 216 Payne Ave, North Tonawanda, NY 14120, in Niagara County and is sued individually and in his official capacity as a police officer
7. Defendant JAMES ULLERY was at all relevant times herein employed by the TOWN OF LEWISTON Police Department as a Police Officer. Ullery resides at 875 (right) Onondaga Street, Lewiston, NY, in Niagara County and is sued individually and in his official capacity as a police officer.
8. Defendant DANIEL TRAPASSO was at all relevant times herein employed by the TOWN OF LEWISTON Police Department as a Police Officer. Trapasso is no longer employed by Lewiston. Trapasso resides at 765 Scovell Dr. Lewiston, NY, in Niagara County and is sued individually and in his official capacity as a police officer.
9. Defendant BRANDON HALL was at all relevant times herein employed by the TOWN OF LEWISTON Police Department as a Police Officer. Hall resides at 5223 Hewitt Pkwy, Lewiston, NY, in Niagara County and is sued individually and in his official capacity as a police officer.

10. Defendant “Un named Police Officer” was at all relevant times herein employed by the TOWN OF LEWISTON Police Department as a Police Officer. Un named Police Officer is sued individually and in his official capacity as a police officer.
11. Defendant TOWN OF LEWISTON is a municipal corporation operating under the laws of the State of New York with offices in Lewiston, New York.
12. Defendant DAVID HEIM was at all relevant times herein an independent contractor, and /or employed by the TOWN OF WHEATFIELD. Heim resides at 3198 Woodland CT. S. North Tonawanda, NY, in Niagara County and is sued individually and in his official capacity as prosecutor.
13. Defendant TOWN OF WHEATFIELD is a municipal corporation operating under the laws of the State of New York with offices in North Tonawanda, New York.
14. Defendant “Others not yet identified” was at all relevant times herein employed by the TOWN OF LEWISTON or the TOWN OF WHEATFIELD, and is sued individually and in his/her official capacity.
15. At all times herein, the individual defendants were acting within the scope of their employment.
16. At all times herein, the individual defendants were acting under color of law.

IV. FACTUAL BACKGROUND

17. It is established and well known in the Lewiston area, that several citizens have been menaced and have suffered civil rights violations at the hands of a few predatory rouge police officers.

18. Police misconduct targeting the Smith and Lilly families' dates back to Thanksgiving Day of 2007. New York State Trooper Ben Campbell and Lewiston Police Officer Lauren Passanese-Campbell menaced, intimidated, berated and violated the rights of plaintiff's mother in law, (Joanne Smith). Prior to becoming a target of Ben Campbell, the only other police contact involving Joanne Smith, was for an expired inspection in 1963 (44 years earlier). LILLY, SMITH v. CAMPBELL 1:11-cv-00540
19. Several other Police officers from the New York State Police and the Lewiston Police Dept. have retaliated by victimizing plaintiff's family members and other citizens since November 2007.
20. Other examples of civil rights violations against the plaintiff and plaintiff's family are enumerated in previous Federal Court cases.
21. Civil Rights violations perpetrated by Ben Campbell are under; 11-cv-00540. This case is still active. The Joanne Smith component was dismissed as untimely, the Lilly component is being handled by Attorney James Ostrowski
22. Civil Rights violations perpetrated by Lauren Passanese-Campbell are under; 14-cv-00001. This case was handled by the late Attorney Richard Wyssling, and was dismissed as untimely.
23. Civil Rights violations perpetrated by Danny Cullen are under; 15-cv-00874. This case is still active, and is being handled by Attorney James Ostrowski.
24. Civil Rights violations perpetrated by Brandon Hall are under; 16-cv-00242. This case is still active.

25. Civil Rights violations perpetrated by Scott Stafford are under; 18-cv-00002. This case involves plaintiff's son USAF Sgt. David Lilly. Defendant Stafford encountered plaintiff David Lilly, and asked if he was [School Board Member] Edward Lilly's son, plaintiff confirmed that he was. Defendant was then issued an appearance ticket. The actions perpetrated and statements made by both Scott and Audrey Stafford, make it clear that hatred motivates misuse of Police authority. Police misconduct towards individuals clearly extends to other family members. This case is still active.
- 26 Plaintiff's brother in law (Thomas M. Smith) is a long-time critic of the New York State Police and Lewiston Police Department and has made numerous complaints about both agencies over the years.
- 27 As a result of the complaints, Thomas Smith was retaliated against by being charged with violating a non-existent statute, arrested and held in Niagara County Jail for four days. THOMAS M. SMITH v. TOWN of LEWISTON 1:17-cv-00959. This case is still active, and is being handled by Attorney James Ostrowski.
26. It is noteworthy that Plaintiff has NEVER been stopped or menaced by a Niagara County Sheriff. Several Niagara County Sheriffs Deputies reside in Lewiston, have children that attend Lewiston Porter School, and patrol the same areas of Lewiston as the Lewiston Police and the New York State Police. Based on information and belief, the Niagara County Sheriff Dept. does not operate by retaliation and intimidation.

27. In the early months of 2014, plaintiff and Tom Smith once again were in the cross hairs of the Lewiston Police. Plaintiff's attorney Richard Wyssling had filed a civil suit against Lewiston Police Officer Lauren Passanese Capmbell. Tom Smith was visiting coffee shops telling everyone about Steve Reiter, Jim Ullery, and Mike Carroll stealing gas from the town. Tom Smiths vocal activities created much anger from the police, who were denying Smiths claims. A few months later, the FBI released their report confirming Tom Smiths claims.
28. The Town of Lewiston retaliated against plaintiff Lilly, by sending a letter on July 9th, 2014, notifying plaintiff he is NOT allowed to contact the Town Hall or the Police.
29. The Town of Lewiston continued to violate plaintiff's civil rights by sending another letter on August 22nd, to plaintiff's attorney, to remind plaintiff he is NOT entitled to town police services other than 911 emergency. Obviously, both letters were intended to violate plaintiffs First Amendment Rights.
30. On 12-29-2014, while plaintiff's son was home on 5 day leave, Lewiston Police Scott Stafford took the opportunity to seize USAF Sgt. David Lilly.
31. On 3-30-2015, David Lilly filed Notice of Claim against Scott Stafford.
32. On 9-19-2015, while David Lilly, was home on leave, he and Tom Smith were enjoying a night out at the "Brickyard BBQ", Center St, Lewiston. Two members of the Schmidt Brothers were verbally involved with Tom Smith, neither Schmidt knew David Lilly. For no apparent reason, Fred Schmidt took a swing at David Lilly. Other patrons became involved, police were called.
33. Jeffrey Swick and a second Lewiston Police Officer responded.

34. On 9-20-2015, Swick created and committed to police record, a false and defamatory report. Swick reported that “Thomas and Edward were agitators and instigators for the fight with Michael Schmitt”. Swick also references viewing video footage to confirm his false statements.
35. On 9-21-2015 the false police report was “reviewed by” Frank Previte
36. Despite the fact that plaintiff “Edward” Lilly was never at the Brickyard BBQ, and that no video footage existed, the Lewiston Police sent word that Tom Smith, Edward Lilly and David Lilly would soon be arrested.
37. The problem created by the Lewiston Police was extremely stressful for David Lilly, as he could jeopardize his rank of Sgt. , for being involved in a bar fight.
38. The problem created by the Lewiston Police was extremely stressful for plaintiff and his wife, as they knew that Swick had falsified the report to retaliate against David and plaintiff.
39. After a few weeks of arrest anxiety, a cell phone video surfaced that proved Swick falsified his report.
40. On October 3rd, 2015 NYS Trooper Danny Cullen and co defendant NYS Trooper Ben Campbell are both served with Civil Suit for confiscating plaintiff Lilly’s commercial drivers license. 15-cv-00874
41. On December 4th, 2015, Swick creates a second police report regarding the Brickyard BBQ. This is very suspicious, as the second report includes the exact same numbers as the first, but has a revised narrative. Two police reports with identical indentifying numbers, means either can be used in the future to defame Plaintiff, David Lilly, and Tom Smith.

42. On December 17th, 2015, plaintiff files Notice of Claim against Swick for falsifying police report and lying about video.
43. On December 17th, 2015, the plaintiff filed a Notice of Claim against defendant Jeffrey Swick, for filing a false police report, with malicious intent.
44. The notice stated in part: "Officer Jeffrey Swick, committed to public record, false & defamatory statements, identifying myself, as a perpetrator of illegal acts. This is at least the 2nd time LPD has filed a false claim. In the recent past, Lauren Passanese- Campbell filed a false report, resulting in Federal Suit 14-cv-00001. I conclude that it is the practice of members of the LPD to file false & defamatory police reports. Jeffrey Swick individually, and as Lewiston Police Officer, under Color of Law, did create a false police report identifying Edward Lilly as committing illegal acts. The action by Swick is a violation of Lilly's civil rights.
45. The above Notice of Claim was delivered to the Police Dept Building, and the Town Hall.
46. Several Lewiston Police Officers defended Swick even after the cell phone video appeared and proved Swick lied.
47. It was only a matter of time before the "Show of Force" retaliation would be used on plaintiff, as it was believed that plaintiff got away with something.

**V. FACTUAL ALLEGATIONS APPLICABLE TO ALL
CAUSES OF ACTION**

48. As a result of the long history of police misconduct from a few New York State Police Officers and the Lewiston Police Department, plaintiff, members of the plaintiff's family, and other citizens have made numerous complaints about particular officers over the relevant time.
49. The response from the police was to widely publicize their "Show of Force" demonstration, for the general public to be intimidated. A more specific response was for some officers to target the individuals who have complained, or who are critical of some officers.
50. The police enjoy the tacit approval from the Town of Lewiston, and they can depend on Judge Sheeran to ignore basic legal procedures in order to ensure the police succeed with a guilty verdict, for unwarranted tickets, and the town collects fines. Fortunately, the Niagara County Court followed the law and overturned Judge Sheeran's improper decision.
51. As recently as April 28th, 2018, shortly after 7:00PM, the "Show of Force" intimidation tactic, was perpetrated against the plaintiff by a Lewiston Police car intentionally and dangerously tailgating plaintiff. (to be further explained, in its proper chronological order)
52. The retaliation tactics in this law suit begin sometime after the last lawsuit, and are similar in nature to Lilly v. Hall 16-cv-00242
53. On February 7th 2016, which was less than two months after plaintiff filed a Notice of Claim against Swick (12- 17 - 2015), Lewiston Police Officers James Ullery and Daniel Trapasso were stationed around the corner from plaintiffs house.

54. Ullery knows exactly were plaintiff lives, as he was with NYS Trooper Ben Campbell and 3 other Troopers when they woke plaintiff up in the middle of the night (3:00 AM) accusing plaintiff of printing the "Loser Cop Loses in Court" edition of the Vanguard Newspaper.
55. Plaintiff pulled over for the Lewiston Police, rolled down the driver side window completely, and the passenger side window down halfway, and placed both hands on top of the steering wheel.
56. The first officer (later to be known as Daniel Trapasso) asked for plaintiffs license and registration. Trapasso was not wearing a name tag. When plaintiff asked Trapasso for his name, Trapasso became angry and demanded plaintiff hand over his license and registration. Plaintiff stated "I will need to reach for my wallet and into my glove box".
57. With it being obvious that the license and registration were both in plaintiff's hand, he asked for Trapasso's name and reason for the stop. Trapasso defiantly refused to answer either question.
58. Plaintiff asked the second officer for his name (later to be known as James Ullery) and the reason for the stop. There was no response from Ullery.
59. Once again Plaintiff asked Trapasso for his name and reason for the stop. Trapasso responded "we don't have to tell you anything" (just like Brandon Hall)
60. Refusing to identify themselves and refusing to state the reason for the stop, made it obvious that retaliation for plaintiff's complaints, was their motivation.
61. Often times when Bullies are retaliating on someone else's behalf, (Swick)they do not want to take any personal risk by being identified, and therefore complained

about. Plaintiff offered them a no risk way out by telling them, "I know that this is a retaliation stop, and if you leave me alone, we can all forget this ever happened".

62. Plaintiff's suggestion was ignored, and the demand to hand over license was intensified.
63. Plaintiff's explanation that in the past his license was confiscated by NYS Danny Cullen, and that handing over his commercial drivers license without knowing to who, or why was concerning, Trapasso threatened to arrest.
64. Plaintiff displayed his license by placing against the window glass as he rolled his window up.
65. Plaintiff told Trapasso he was calling 911 to request supervision and "find out your name". At that point Trapasso began reciting his badge number several times but too quickly to have any meaning, but still no disclosure of his name.
66. Instead of a supervisor responding, Brandon Hall showed up, even though he has no supervision authority, and has proven himself to be very involved in retaliation and antagonizing people (16-cv-00242) Brandon Hall also enjoyed taunting my 80 year old father in law.
67. Hall arrived in car #273 and was accompanied by a fourth officer.
68. As Hall exited his car, he made an exaggerated display of his gun belt just like the Bad Ass Southern Sheriff's do in the movies, just prior to shooting someone. It was obvious that Hall was going to prolong and exacerbate the plaintiff's detention for no legitimate reason.

69. The fourth officer did not present himself and seemed appropriately uninterested in the obvious bad behavior of the other three.
70. Ullery, Trapasso and Hall were all engaged in a conversation similar to what plaintiff had experienced with Hall, Grainge and Ljiljanich (16-cv-00242)
71. The detention was longer than necessary to issue a ticket. Then Ullery, Trapasso , Hall surrounded plaintiff's car performing their well practiced "Show of Force" to deliver the unwarranted ticket. (but no supporting deposition)
72. Repeated demands for plaintiff to roll down window were designed to further intimidate, menace, scare and harass, as it is common knowledge that simply placing ticket under windshield wiper and walking away is sufficient.
73. After the threat of extracting plaintiff from vehicle and "we will take you to the judge", plaintiff opened window slightly to accept ticket.
74. On February 19th, 2016, plaintiff sent plea of not guilty and request for supporting deposition. Lewiston Judge recused himself. Case was sent to Wheatfield Court.
75. On May 2nd, 2016, plaintiff filed a Notice of Claim against Ullery, Trapasso, and Hall, for their bad actions on February 7th, 2016.
76. By letter, plaintiff was directed to enter a plea on May 31st, 2016, in Wheatfield Court. While at court plaintiff was asked to meet with town prosecutor. Later to be identified as David M. Heim.
77. Plaintiff was escorted by Heim to his office. For no legitimate reason, Trapasso was standing at the doorway of Heim's office.
78. At that point plaintiff did not know that Heim was being used as a malicious prosecution tool for the Lewiston Police. Plaintiff explained the retaliation aspect

and asked for a dismissal or at least a routine reduction that is commonly encouraged by municipal courts. Heim became angry and yelled “Your taking the 4 points Lilly or your going to trial”. Plaintiff stated he would go in front of the judge tonight and ask for a dismissal.

79. Heim exited the office first, plaintiff followed behind down the hallway.
80. Heim abruptly turned around and closed in on plaintiff , with Trapasso behind plaintiff.
81. Heim was extremely agitated, came within 12 inches, making angry incoherent statements like “your not going to get away with this” etc.
82. Although only for a minute plaintiff was seized primarily by Heim.
83. After plaintiff received a few important documents it could be established that Heim, who had political aspirations to become Wheatfield Judge, was a willing participant in further retaliation.
84. Plaintiff filed a Notice of Claim against Ullery, Trapasso, and Hall, in retaliation response, Heim then took the extraordinary step to request the plaintiffs drivers license abstract. The plaintiffs license is “clean”.
85. On May 31st, 2016, Heim falsely reported on the “Disposition Slip” that “no plea” was entered. Heim attempted to prevent plaintiff from entering a plea, was unsuccessful, and therefore falsified document.
86. In order to prepare for trial, Plaintiff made requests of 911 calls and radio calls made during the Feb 7th, 2016 stop. The Town of Lewiston took steps to prevent evidence from being available, even though Chief Previte offered to allow

plaintiff to visit his office, and both men would listen, and perhaps come to a better understanding of what happened.

87. Chief Previte was obviously directed to rescind the offer, and the Town of Lewiston therefore , violated plaintiff's sixth amendments rights.
88. With critical evidence being withheld from plaintiff, the Civil Rights violations, and the conspiracy perpetrated by Heim and others, the Wheatfield Court asked for a change of venue to be awarded.
89. A change of venue did take place. The sixth amendment violations from Lewiston continued. For expedience sake the plaintiff agreed to accept a parking ticket plea, and the speeding ticket was dismissed.
90. Less than one year ago the "Show of Force" continued. On April 28th, 2018, shortly after 7:00PM, plaintiff was heading North on Model City Road. While stopped at the stop light at Ridge Road, a patrol car heading south on Model City Road was partially through making a right hand turn, apparently spotted plaintiffs car, and abruptly stopped.
91. Plaintiff was driving an easily recognizable vehicle. A 24 year old Volvo Station Wagon (not SUV) is an oddball car and easy to differentiate.
92. While going through the intersection, plaintiff was about 10 feet away as he drove past patrol. It was obvious patrols was targeting plaintiff.
93. Patrol made a u turn in the middle of the busy intersection, and chased after plaintiff at a high rate of speed.
94. There are no side streets or places to hide on Model City Road and the intimidating tactic was senseless.

95. Patrol closely tailgated plaintiff the entire length of Model City Rd. As plaintiff approached and stopped at the intersection of Swann Road, patrol stayed far enough away and therefore prevented plaintiff from getting a persons description or a vehicle number.
96. Despite staying at the intersection for longer than usual, patrol never moved closer.
97. Plaintiff reported the Model City Road incident to Chief Previte. As no motorist deserves this type of intimidation.
98. The excessive types of police contacts described in this and other complaints are too frequent, too intense and too unusual to be anything other than intentional actions.
99. This long history of intentional bad actions, under color of law, does not serve society and only creates distrust, anxiety and emotional distress for plaintiff and others, as it is impossible to know what the police will do next.
100. Even the expected sanctuary setting of a municipal court environment, has been compromised, by police officers when they can conspire with prosecutors such as Heim, in order to menace threaten and maliciously prosecute citizen such as plaintiff for blowing the whistle on bad cops.
101. The practice of discriminatory animus, as listed above, has the practical effect of the force of law.
102. When Bullies with Badges who use the "Show of Force" tactics, create false police reports, and retaliate against citizens for complaining about bad cops, it is appropriate to seek justice through Federal Court procedures.

VI. LEGAL CLAIMS

FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS UNDER 42 U.S.C. § 1983 —MALICIOUS SEIZURE— IN VIOLATION OF THE FOURTH and FOURTEENTH AMENDMENTS, U.S. CONSTITUTION

103. Plaintiff incorporates by reference every allegation set forth in this Complaint as if fully set forth herein.
104. The individual defendants, acting jointly and separately, conspired to and did maliciously seize the plaintiff for the purpose of retaliation.
105. Plaintiff therefore suffered an unlawful deprivation of liberty.
106. The defendants' actions violated the Plaintiff's clearly established right to liberty and personal security as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution.
107. The Defendants knew, or reasonably should have known, that their conduct violated the Plaintiff's clearly established constitutional right to liberty and personal security.
108. The Defendants acted with intent to violate, or with deliberate or reckless indifference to, the Plaintiff's clearly established Fourth and Fourteenth Amendment rights.
109. At all times relevant herein, the Defendants were acting under color of law, to deprive plaintiff of his constitutional rights. *Adickes v. S.H Kress & Co.*, 398 U.S. 144, 150 (1970)

110. As a direct result of the Defendants' conduct, the Plaintiff has suffered actual damages, anticipated attorneys' fees, and costs.

**SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS UNDER 42 U.S.C. § 1983
—POLICE RETALIATION—FOURTH AND FOURTEENTH AMENDMENTS, U. S.
CONSTITUTION**

111. Plaintiff incorporates by reference every allegation set forth in this Complaint as if fully set forth herein.
112. The individual defendants, acting jointly and separately, conspired to and did unlawfully seize plaintiff without probable cause.
113. The defendants intended to and did seize the plaintiff.
114. The plaintiff was at all times conscious of the seizure.
115. The plaintiff did not consent to the seizure.
116. The Defendants' actions violated the Plaintiff's clearly established right to personal liberty and security as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution.
117. The Defendants knew, or reasonably should have known, that their conduct violated the Plaintiff's clearly established constitutional right to liberty.
118. The Defendants acted with intent to violate, or with deliberate or reckless indifference to, the Plaintiff's clearly established Fourth and Fourteenth Amendment rights.
119. At all times relevant herein, the Defendants were acting under color of state law, or conspired with those who did act under color of state law.
120. The defendants should have known, that their conduct violated the Plaintiff's clearly established constitutional rights.

121. The Defendants acted with intent to violate, or with deliberate or reckless indifference to, the Plaintiff's clearly established Fourth, and Fourteenth Amendment rights.
122. At all times relevant herein, the Defendants were acting under color of state and/or federal law.
123. As a direct result of the Defendants' conduct, the Plaintiff suffered actual damages, and anticipated attorneys' fees and costs.

**THIRD CAUSE OF ACTION UNDER 42 U.S.C. § 1983-VIOLATION OF THE RIGHT
TO FREE SPEECH-FIRST AND FOURTEENTH AMENDMENTS, U.S.
CONSTITUTION**

124. Plaintiff incorporates by reference every allegation set forth in this Complaint as if fully set forth herein.
125. The individual defendants, acting jointly and separately, conspired to and did seize plaintiff in retaliation for his (Edward Lilly) political activities and complaints about governmental and police activities. *Elrod v. Burns*, 427 U.S. 347 (1976).
126. The Defendants knew, or reasonably should have known, that their conduct violated the Plaintiff clearly established constitutional rights.
127. The Defendants acted with intent to violate, or with deliberate or reckless indifference to, the Plaintiff's clearly established First and Fourteenth Amendment rights.
128. At all times relevant herein, the Defendants were acting under color of law.
129. As a direct result of the Defendants' conduct, the Plaintiff has suffered actual damages, anticipated attorneys' fees, and costs.

**FOURTH CAUSE OF ACTION UNDER FEDERAL AND/OR STATE LAW AGAINST
ALL DEFENDANTS SIXTH AMENDMENTS, U.S. CONSTITUTION**

130. Plaintiff incorporates by reference every allegation set forth in this Complaint as if fully set forth herein.
131. The defendants initiated and continued an unlawful seizure against the plaintiff without probable cause, and with actual malice.
132. On August 31st, 2016, the plaintiff filed a Notice of Claim against defendants David Heim and Daniel Trapasso, for unlawful seizure and retaliation with malicious intent.
133. The notice stated in part:
- “Under Color of Law, individuals Heim and Trapasso, committed acts of retaliation, threats, intimidation, and seized citizen Lilly, inside of the Wheatfield Town Hall. Therefore, the civil rights of Lilly were violated”.
134. At least thirty days have elapsed since the service of such notice.
135. This action has been commenced within three years of the event upon which the claim is based.

VII. DAMAGES

136. On account of the Defendants' actions and violations of Plaintiffs rights as set forth above, the Plaintiff suffered actual damages, loss of liberty, pain, suffering, humiliation and emotional distress.
137. Plaintiff is entitled to recover damages, anticipated attorneys' fees, costs, and punitive damages.

VIII. PRAYER FOR RELIEF

WHEREFORE, the Plaintiff requests that this Court:

1. Assume jurisdiction of this action
2. Enter judgment against the Defendants and in favor of the Plaintiff;
3. Award the Plaintiff compensatory damages of actual costs and fees;
4. Impose punitive damages of \$100,000 against each individual defendant;
5. Award Plaintiff all costs and disbursements incurred in the prosecution of this action, including reasonable attorneys' fees under 42 U.S.C. §1988;
6. Enter such other and further relief as the Court deems just and proper;

Dated: Buffalo, New York
February 7th, 2019

EDWARD M. LILLY
Pro Se Plaintiff
4497 Lower River Rd
Lewiston, New York 14092
(716) 512-3616

VERIFICATION



State of New York)
County of Erie)

EDWARD M. LILLY, being duly sworn, states that he is the Plaintiff in this action, that he has read the foregoing Complaint and knows the contents thereof; that the foregoing is true to his own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters he believes it to be true.



EDWARD M. LILLY

Sworn to before me this
7 Day of February, 2019

Vandana Bansal
2/7/2019

VANDANA BANSAL
Notary Public, State of New York
Qualified in Erie County
Reg. No. 01BA6147929
My Commission Expires 6/19/2022