

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

Case No.:

WILLIAM PINEIRO,

Plaintiff,

v.

JAMES CADY, individually, and
ALFRED T. LAMBERTI, as SHERIFF
of BROWARD COUNTY, Florida,

Defendants.

COMPLAINT

1. This is a civil action seeking money damages in excess of \$15,000 dollars, exclusive of costs, interest, and attorney's fees, against JAMES CADY, individually, and ALFRED T. LAMBERTI, as SHERIFF of BROWARD COUNTY, Florida.

2. This action is brought pursuant to 42 U.S.C. § 1983 and § 1988, and the Fourth and Fourteenth Amendments to the United States Constitution. The United States District Court for the Southern District of Florida has jurisdiction of this action under 42 U.S.C. § 1983, 28 U.S.C. § 1331, and 28 U.S.C. § 1343. Plaintiff further invokes the supplemental jurisdiction of the United States District Court to hear pendant State tort claims arising under State law, pursuant to 28 U.S.C. § 1367(a).

3. Plaintiff has served notice of claim pursuant to the provisions of Florida Statute § 768.28.

PARTIES

4. Plaintiff WILLIAM PINEIRO is a resident of Broward County, State of Florida.

5. At all times referred to herein, Defendant JAMES CADY [hereinafter Defendant CADY] was acting under color of law as a deputy sheriff for ALFRED T. LAMBERTI, as SHERIFF of BROWARD COUNTY, Florida, and in such capacity as an agent, servant, and employee of ALFRED T. LAMBERTI, as SHERIFF of BROWARD COUNTY, Florida.

6. Defendant ALFRED T. LAMBERTI, as SHERIFF of BROWARD COUNTY, Florida, is the Sheriff of Broward County, Florida [hereinafter Defendant ALFRED T. LAMBERTI, as SHERIFF OF BROWARD COUNTY, Florida, or Defendant BROWARD SHERIFF'S OFFICE], as organized and existing under the Constitution and laws of the State of Florida. In this cause, Defendant ALFRED T. LAMBERTI, as SHERIFF of BROWARD COUNTY, Florida, acted through its agents, employees, and servants, including Defendant CADY, and others.

7. Plaintiff sues Defendant CADY in his individual capacity.

FACTS

8. On the evening of Saturday, December 5, 2009, Plaintiff attended an annual party hosted by his friend, Jorge Rodriguez, and his wife, Maria Rentel, at their residence located at 4608 S.W. 28th Avenue, Dania Beach, Broward County, Florida. Many of the invites were friends of Jorge Rodriguez and co-workers at Fort Lauderdale-Hollywood International Airport, where they worked for American Airlines.

9. At all times material hereto, Plaintiff was 47 years old, with no prior arrests.

10. After midnight on December 6, 2009, Plaintiff was inside the living room of the Rodriguez residence when he was advised by Maria Rentel that a deputy was standing behind

his pickup truck, writing a ticket.

11. Plaintiff walked to the front door of the Rodriguez residence, and in fact, observed Defendant CADY standing behind his pickup truck issuing a parking ticket.

12. Plaintiff walked to the area of his pickup truck as Maria Rentel watched from the front door of her residence.

13. Plaintiff approached his pickup truck and stated: "Excuse me, officer. That is my truck."

14. Defendant CADY responded by advising Plaintiff to "[s]hut the f - - up."

15. Plaintiff observed several other deputies on the street, and decided to return inside the Rodriguez residence, whereupon Plaintiff spoke with Maria Rentel.

16. Maria Rentel agreed to move Plaintiff's truck, and advised Plaintiff that she would relocate the vehicle to a driveway on the side yard of the Rodriguez residence.

17. Maria Rentel thereupon moved the truck, and returned Plaintiff's keys to Plaintiff inside the fenced backyard of the residence.

18. Shortly thereafter, Plaintiff observed Jorge Rodriguez in the vicinity of several deputies.

19. The deputies were ordering Jorge Rodriguez's guest to leave, and threatening to tow any vehicles which remained.

20. Jorge Rodriguez explained to the deputies that all of his guests were inside the backyard and residence, and all the music had been turned off.

21. A deputy responded that "everybody has to go," and reiterated that all vehicles would be towed and any remaining guests would be arrested.

22. When Jorge Rodriguez protested, he was arrested and subjected to multiple

stuns with a Taser electroshock weapon. (See photographs 3337-3344, attached hereto and made a part hereof as composite Exhibit "A").

23. When Jorge Rodriguez's wife, Maria Rentel, asked "what happened" to her husband, she was also arrested and placed on the back of a police car, in handcuffs.

24. Several minutes later, Fire-Rescue arrived and examined Jorge Rodriguez.

25. As Jorge Rodriguez was being treated by Fire-Rescue, Plaintiff was standing next to the cab of his pickup truck, on the side yard driveway of the Rodriguez residence.

26. Plaintiff then observed Defendant CADY on the opposite side of the roadway, walking to his police car, whereupon Plaintiff stated: "Excuse me, officer. Can I have your name and badge number?"

27. Defendant CADY failed to reply to Plaintiff's request, whereupon Plaintiff asked: "Can you tell me why you are arresting these people?"

28. Defendant CADY responded: "What the f---, you want to be arrested, too," whereupon Defendant CADY ran across the street, tackled Plaintiff, and placed Plaintiff under arrest for the misdemeanor offense of obstruction of justice, in the absence of probable cause that Plaintiff committed any criminal offense, and in retaliation for Plaintiff's verbal inquiries directed towards Defendant CADY.

29. Plaintiff was subsequently transported to jail.

30. Following Plaintiff's arrest, Defendant CADY prepared a sworn "Probable Cause Affidavit" for submission to prosecuting authorities, containing false statements and material omissions.

31. At all times material hereto, Defendant CADY knew that his "Probable Cause Affidavit" which Defendant CADY knew would be relied upon by prosecuting authorities for the

institution and continuation of criminal proceedings against Plaintiff.

32. The "Probable Cause Affidavit" prepared by Defendant CADY for submission to prosecuting authorities contained false statements, insofar as the "Probable Cause Affidavit" falsely alleged that Plaintiff "did obstruct myself and other Deputy's [sic] by trying to get in between us and the crowd while we were trying to disperse a large crowd of people who were intoxicated and becoming confrontational," when in fact, as Defendant CADY knew, at the time Plaintiff asked for Defendant CADY's name and badge number, Jorge Rodriguez was being treated by Fire-Rescue, and the only persons on the street and in the vicinity of the deputies' vehicles and the Fire-Rescue truck were deputies, and Defendant CADY was merely walking towards his vehicle at the time of Plaintiff's inquiry. Further, as Defendant CADY knew, Plaintiff was arrested by Defendant CADY in retaliation for Plaintiff's protected speech, and at that time of Plaintiff's arrest, there was no large crowd of intoxicated or confrontational persons, and Plaintiff never attempted to "get in between" Deputy CADY and other person, either verbally or physically.

33. As a proximate cause of the false statements and material omissions contained in Defendant CADY's sworn "Probable Cause Affidavit," Plaintiff was charged with the misdemeanor offense of obstruction of justice.

34. Notwithstanding the false statements and material omissions contained in Defendant CADY's sworn "Probable Cause Affidavit" and the false testimony of Defendant CADY on April 13, 2010, the Broward County State Attorney's Office filed a nolle prosequi as to the misdemeanor offense of obstruction of justice, and Plaintiff has never been convicted by any prosecuting authority of any criminal offense as a result of his arrest by Defendant CADY.

35. At all times material hereto, the conduct of Defendant CADY occurred under color of state law.

CAUSES OF ACTION

COUNT I

**FALSE ARREST/FALSE IMPRISONMENT CLAIM AGAINST DEFENDANT
CADY, INDIVIDUALLY, COGNIZABLE UNDER 42 U.S.C. § 1983**

For his cause of action against Defendant CADY, individually, in Count I, Plaintiff states:

36. Plaintiff realleges and adopts, as if fully set forth in Count I, the allegations of paragraphs 1 through 35.

37. Defendant CADY proximately caused Plaintiff's arrest in the absence of probable cause that Plaintiff committed any criminal offense.

38. At all times material hereto, it was clearly established that "[t]he freedom of individuals verbally to oppose or challenge police action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state." *City of Houston v. Hill*, 107 S.Ct. 2502, 25010 (1987).

39. At all times material hereto, it was clearly established that speech is protected under the First Amendment as long as it does not physically obstruct the officer and is not "likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest." *Id.* at 2009-10.

40. The conduct of Defendant CADY towards Plaintiff, as set forth herein, was in retaliation for Plaintiff's protected speech, objectively unreasonable, and in violation of Plaintiff's clearly established rights under the Fourth and Fourteenth Amendments and 42 U.S.C. § 1983 to be free from arrest in the absence of probable cause. *Bennett v. Hendrix*, 423 F.3d 1247, 1255-56 (11th Cir. 2005).

41. As a direct and proximate result of the acts described above, in violation of 42 U.S.C. § 1983, Plaintiff has suffered grievously, has been brought into public scandal, and with

great humiliation, mental suffering, and damaged reputation, including business reputation/goodwill.

42. As a further direct and proximate result of the conduct of Defendant CADY, Plaintiff suffered loss of his liberty and freedom, mental anguish, and loss of capacity for the enjoyment of life. Plaintiff's losses are either permanent or continuing and Plaintiff will suffer the losses in the future, in violation of Plaintiff's civil rights. Plaintiff has also agreed to pay the undersigned a reasonable fee for his services, herein.

WHEREFORE, Plaintiff prays:

- a. Judgment for compensatory damages in excess of \$ 15,000 dollars;
- b. Judgment for exemplary damages;
- c. Cost of suit;
- d. Reasonable attorney's fees, pursuant to 42 U.S.C. § 1988;
- e. Trial by jury as to all issues so triable; and
- f. Such other relief as this Honorable Court may deem just and

appropriate.

COUNT II
FIRST AMENDMENT FREE SPEECH RETALIATION CLAIM AGAINST
DEFENDANT CADY, INDIVIDUALLY, COGNIZABLE UNDER 42 U.S.C. § 1983

For his cause of action against Defendant CADY, individually, in Count II, Plaintiff states:

43. Plaintiff realleges and adopts, as if fully set forth in Count II, the allegations of paragraphs 1 through 35.

44. Defendant CADY's arrest of Plaintiff was in retaliation for Plaintiff request for Defendant CADY's name and badge number, and in the absence of probable cause that Plaintiff committed any criminal offense. *Davis v. Williams*, 451 F.3d 759, 767 (11th Cir. 2006).

45. It was clearly established law at the time of Plaintiffs' arrest that "the First

Amendment protects a significant amount of verbal criticism and challenge directed at police officers.”

City of Houston v. Hill, 107 S.Ct. 2502, 2509 (1987).

46. It was clearly established law at the time Plaintiff’s arrest that “[t]he freedom of individuals verbally to oppose or challenge police action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state.” *Id.* at 2510.

47. The arrest of Plaintiff by Defendant CADY occurred in the absence of probable cause that Plaintiff committed any criminal offense, and was likely deter a person of ordinary firmness from the exercise of First Amendment rights. The conduct of Defendant CADY towards Plaintiff constitutes unlawful retaliation in violation of Plaintiff’s clearly established rights under the First and Fourteenth Amendments, and 42 U.S.C. § 1983.

48. As a direct and proximate result of the acts described above, in violation of 42 U.S.C. § 1983, Plaintiff has suffered grievously, has been brought into public scandal, and with great humiliation, mental suffering, and damaged reputation, including business reputation/goodwill.

49. As a further direct and proximate result of the conduct of Defendant CADY, Plaintiff suffered mental anguish, loss of capacity for the enjoyment of life. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future, in violation of Plaintiff’s civil rights. Plaintiff has also agreed to pay the undersigned a reasonable fee for his services herein.

WHEREFORE, Plaintiff prays:

- a. Judgment for compensatory damages in excess of \$ 15,000 dollars;
- b. Judgment for exemplary damages;
- c. Cost of suit;
- d. Reasonable attorney’s fees, pursuant to 42 U.S.C. § 1988;
- e. Trial by jury as to all issues so triable; and

f. Such other relief as this Honorable Court may deem just and appropriate.

COUNT III
FALSE ARREST/FALSE IMPRISONMENT CLAIM
AGAINST DEFENDANT BROWARD SHERIFF'S OFFICE

For his cause of action against Defendant BROWARD SHERIFF'S OFFICE in Count III, Plaintiff states:

50. Plaintiff realleges and adopts, as if fully set forth in Count III the allegations of paragraphs 1 through 35.

51. Defendant CADY proximately caused Plaintiff's arrest in the absence of probable cause that Plaintiff committed any criminal offense.

52. The actions of Defendant CADY, in causing the arrest of Plaintiff in the absence of probable cause, were taken in the absence of lawful authority. The actions of Defendant CADY constitute false arrest/false imprisonment of Plaintiff under Florida law.

53. The false arrest/false imprisonment of Plaintiff was committed by Defendant CADY in the course and scope of his employment as a deputy sheriff for Defendant BROWARD SHERIFF'S OFFICE.

54. As a direct and proximate result of the acts described above, Plaintiff has suffered grievously and has been brought into public scandal, with great humiliation, mental suffering and damaged reputation, including business reputation/goodwill.

55. As a further direct and proximate result of the conduct of Defendant BROWARD SHERIFF'S OFFICE, Plaintiff suffered loss of his liberty and freedom, mental anguish, and loss of capacity for the enjoyment of life. Plaintiff's losses are either permanent or continuing and Plaintiff will suffer the losses in the future, in violation of Plaintiff's rights.

WHEREFORE, Plaintiff prays:

- a. Judgment for compensatory damages in excess of \$ 15,000 dollars;
- b. Cost of suit;
- c. Trial by jury as to all issues so triable; and
- d. Such other relief as this Honorable Court may deem just and appropriate.

COUNT IV
FALSE ARREST/FALSE IMPRISONMENT CLAIM
AGAINST DEFENDANT CADY, INDIVIDUALLY

For his cause of action against Defendant CADY, individually, in Count IV Plaintiff states:

56. Plaintiff realleges and adopts, as if fully set forth in Count IV the allegations of paragraphs 1 through 35.

57. Defendant CADY proximately caused Plaintiff's arrest in the absence of probable cause that Plaintiff committed any criminal offense.

58. The actions of Defendant CADY, in causing the arrest of Plaintiff in the absence of probable cause, were taken in absence of lawful authority. The actions of Defendant CADY constitute false arrest/false imprisonment of Plaintiff under Florida law.

59. Alternatively to the allegations set forth in Count III, if Plaintiff's arrest by Defendant CADY was committed outside the course and scope of Defendant CADY's employment, or in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property, the conduct of Defendant CADY occurred in his individual capacity.

60. As a direct and proximate result of the acts described above, Plaintiff has suffered grievously and has been brought into public scandal, with great humiliation, mental

suffering and damaged reputation, including business reputation/goodwill.

61. As a further direct and proximate result of the conduct of Defendant CADY, Plaintiff suffered loss of his liberty and freedom, mental anguish, and loss of capacity for the enjoyment of life. Plaintiff's losses are either permanent or continuing and Plaintiff will suffer the losses in the future, in violation of Plaintiff's rights.

WHEREFORE, Plaintiff prays:

- a. Judgment for compensatory damages in excess of \$ 15,000 dollars;
- b. Judgment for exemplary damages;
- c. Cost of suit;
- d. Trial by jury as to all issues so triable; and
- e. Such other relief as this Honorable Court may deem just and appropriate.

COUNT V
MALICIOUS PROSECUTION AGAINST DEFENDANT CADY, INDIVIDUALLY

For his cause of action against Defendant CADY, individually, in Count V, Plaintiff states:

62. Plaintiff realleges and adopts, as if fully set forth in Count V, the allegations of paragraphs 1 through 35.

63. No reasonably cautious police officer in the position of Defendant CADY would have believed Plaintiff was guilty-in-fact of any criminal offense.

64. Defendant CADY, individually, proximately caused criminal proceedings to be instituted or continued against Plaintiff with malice and in the absence of probable cause that Plaintiff committed any criminal offense by causing police reports to be submitted to prosecuting authorities containing materially false statements and material omissions.

65. The conduct of Defendant CADY, individually, was reckless and without regard to whether the institution or continuation of criminal proceedings against Plaintiff were justified.

66. At all times material hereto, Defendant CADY knew that his sworn "Probable Cause Affidavit" would be submitted to prosecuting authorities, and would be relied upon by prosecuting authorities for the institution and continuation of criminal proceedings against Plaintiff.

67. The criminal proceedings instituted or continued by Defendant CADY reached a bona fide resolution in Plaintiff's favor.

68. As a direct and proximate result of the acts described above, Plaintiff has suffered grievously and has been brought into public scandal, with great humiliation, mental suffering and damaged reputation, including business reputation/goodwill.

69. As a further direct and proximate result of the conduct of Defendant CADY, individually, Plaintiff suffered loss of his liberty and freedom, mental anguish, and loss of capacity for the enjoyment of life. Plaintiff's losses are either permanent or continuing and Plaintiff will suffer the losses in the future, in violation of Plaintiff's rights. As a result of the criminal proceedings commenced or continued by Defendant CADY, it was necessary for Plaintiff to retain the services of a criminal defense attorney to defend himself against the charges instituted or continued by Defendant CADY.

WHEREFORE, Plaintiff prays:

- a. Judgment for compensatory damages in excess of \$ 15,000 dollars;
- b. Judgment for exemplary damages;
- c. Cost of suit;
- d. Trial by jury as to all issues so triable; and

e. Such other relief as this Honorable Court may deem just and appropriate.

DEMAND FOR JURY TRIAL

70. Plaintiff demands trial by jury on all issues so triable as of right.

DATED this 11th day of August, 2010.

By: s/ Hugh L. Koerner

Hugh L. Koerner

Florida Bar No.: 716952

Email: hkpa@fdn.com

Hugh L. Koerner, P.A.

Sheridan Executive Centre

3475 Sheridan Street, Suite 208

Hollywood, FL 33021

Telephone: (954) 522-1235

Facsimile: (954) 522-1176

Attorneys for Plaintiff William Pineiro

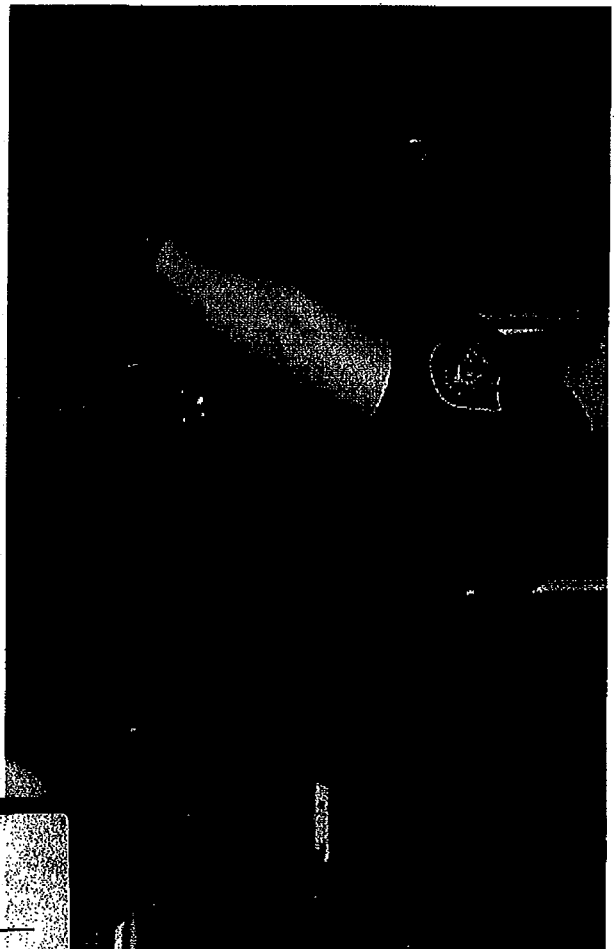
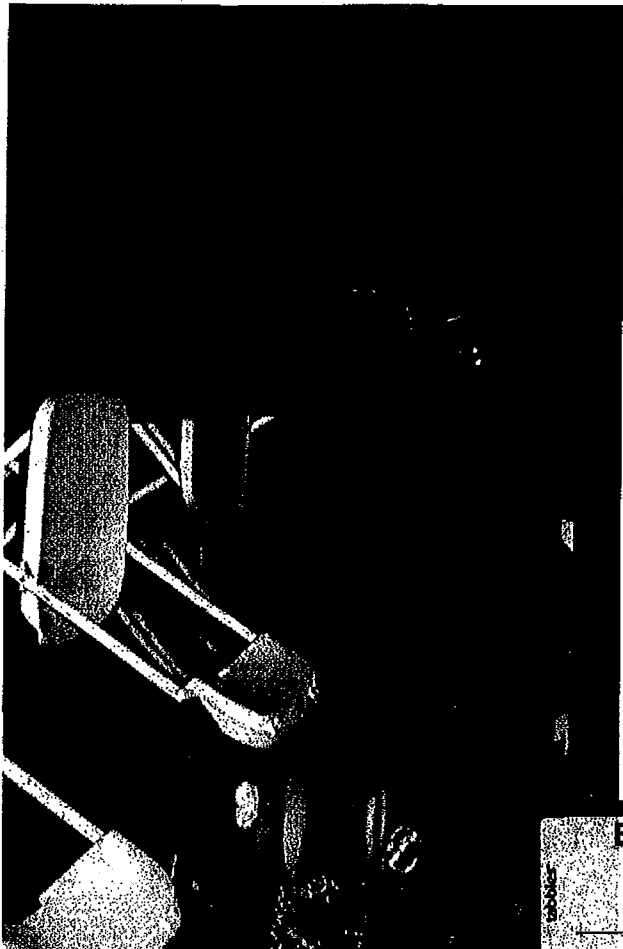
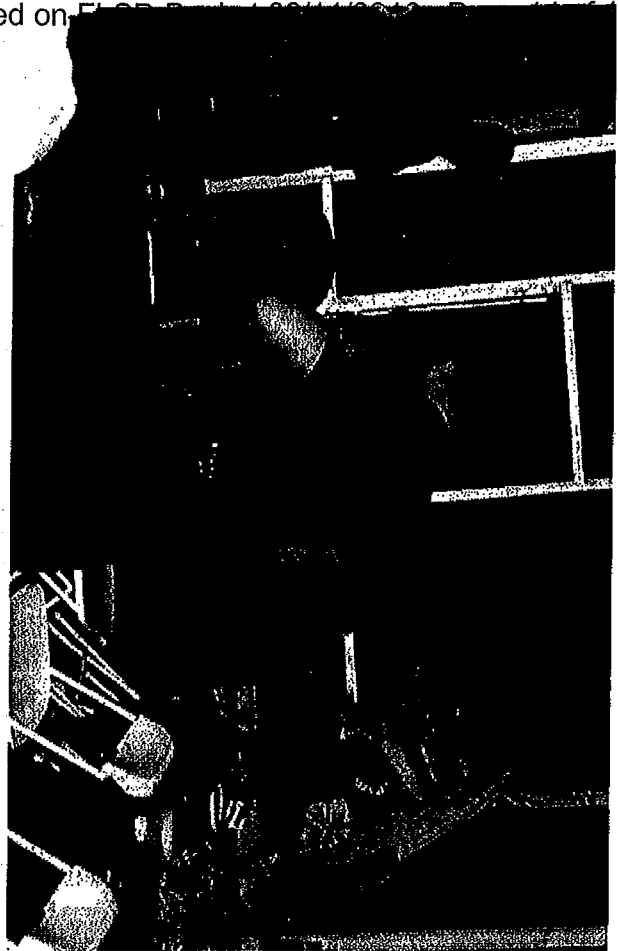
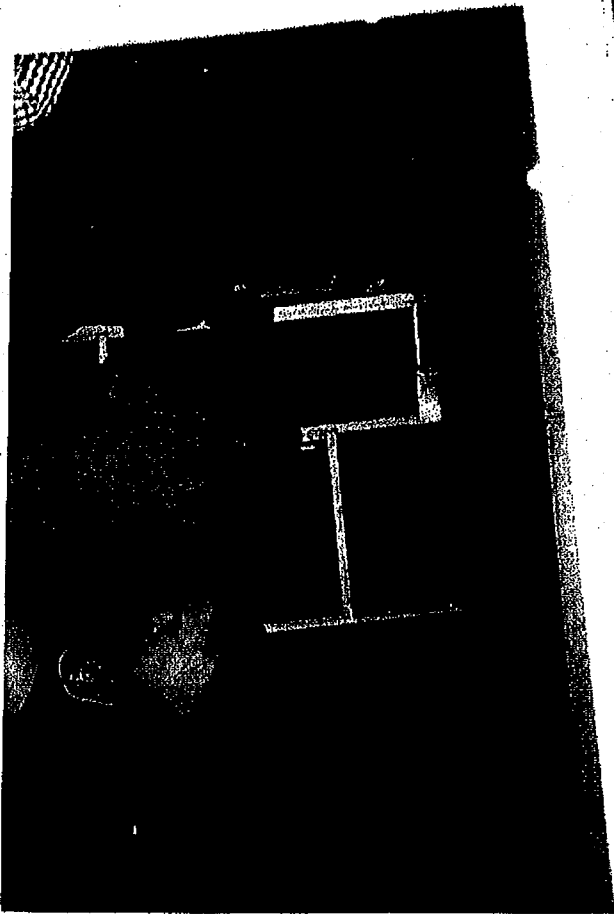
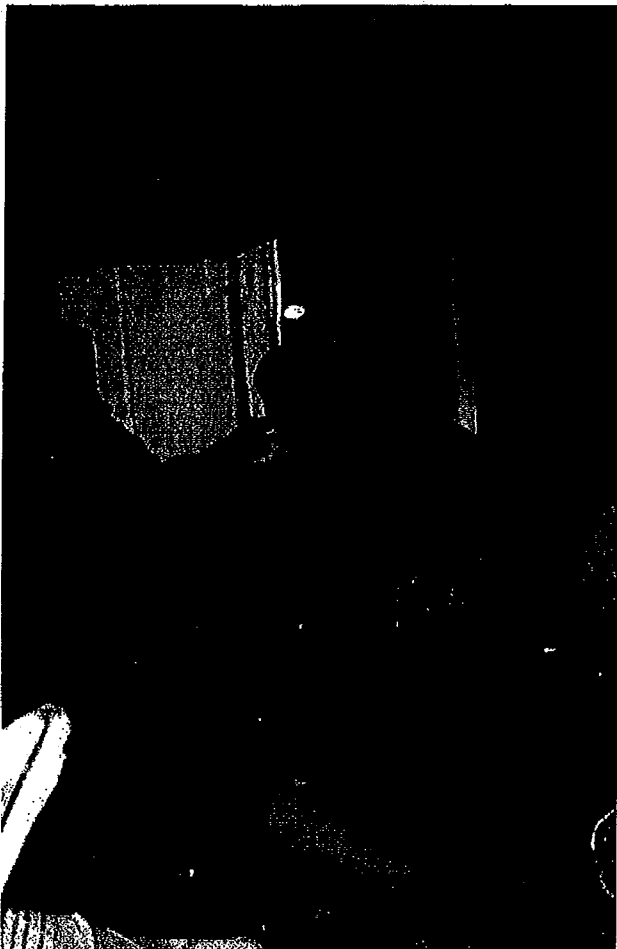
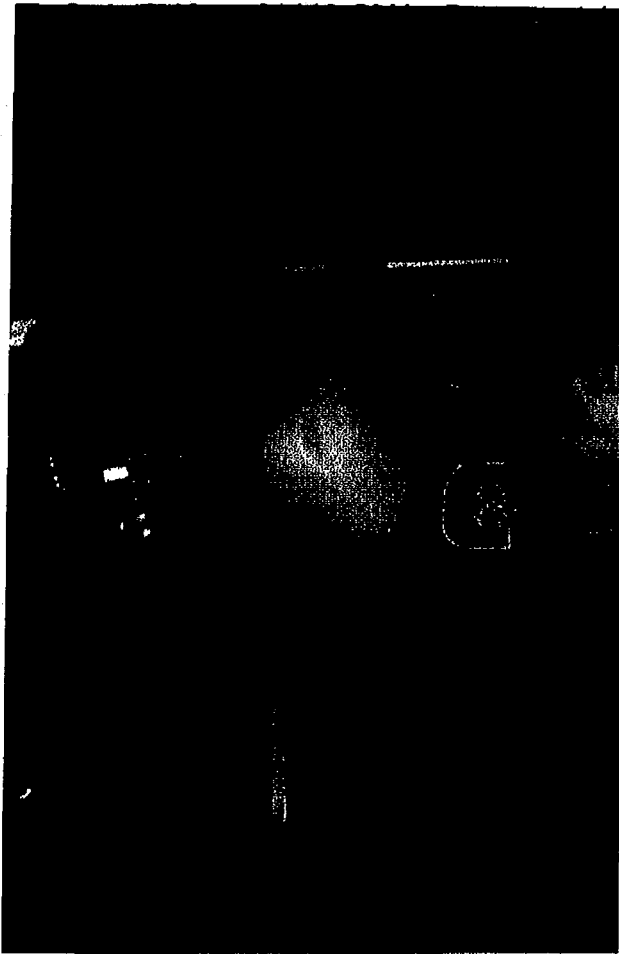


EXHIBIT
A



The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS

William Pineiro

(b) County of Residence of First Listed Plaintiff Broward
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Hugh L. Koerner, Esq., Hugh L. Koerner, P.A., Sheridan Executive Centre, 3475 Sheridan Street, Suite 208, Hollywood, FL 33021, Tel: 954/522-1235

DEFENDANTS

James Cady, individually, and Alfred T. Lamberti, as Sheriff of Broward County, Florida

County of Residence of First Listed Defendant Broward
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED.

Attorneys (If Known)

(d) Check County Where Action Arose: ☐ MIAMI-DADE ☐ MONROE ☒ BROWARD ☐ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus: General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Allen Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Re-filed (see VI below) ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S).

(See instructions second page):

a) Re-filed Case ☐ YES ☒ NO

b) Related Cases ☐ YES ☒ NO

JUDGE

DOCKET NUMBER

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

False arrest under 42 U.S.C. Section 1983

LENGTH OF TRIAL via 4 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

15,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD

DATE

August 9, 2010

FOR OFFICE USE ONLY

AMOUNT

RECEIPT #

IFP

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

WILLIAM PINEIRO

Plaintiff

v.

JAMES CADY, individually, et. al.

Defendant

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Alfred T. Lamberti, Sheriff, as Sheriff of Broward County, Florida
Broward Sheriff's Office
2601 West Broward Blvd.
Fort Lauderdale, FL 33312

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Hugh L. Koerner, Esq.
Hugh L. Koerner, P.A.
Sheridan Executive Centre
3475 Sheridan Street, Suite 208
Hollywood, FL 33021

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

WILLIAM PINEIRO

Plaintiff

v.

JAMES CADY, individually, et. al.

Defendant

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Florida Department of Financial Services (pursuant to Florida Statute 768.28(7))
By serving: The Honorable Adelaide "Alex" Sink, as Chief Financial Officer
State of Florida, Department of Financial Services
200 East Gaines Street
Tallahassee, FL 32399

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Hugh L. Koerner, Esq.
Hugh L. Koerner, P.A.
Sheridan Executive Centre
3475 Sheridan Street, Suite 208
Hollywood, FL 33021

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO. 10-CIV-61448 CIV-ALTONAGA/Simonton

WILLIAM PINEIRO,

Plaintiff,

vs.

JAMES CADY, individually; and
ALFRED T. LAMBERTI, as SHERIFF
of BROWARD COUNTY, Florida,

Defendants.

FINAL JUDGMENT

THIS CAUSE came on for trial before the Court and a jury, the Honorable Cecilia M. Altonaga, United States District Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict, it is

ORDERED AND ADJUDGED as follows, consistent with the jury's verdict:

1. Judgment is entered in favor of Plaintiff, William Pineiro, and against Defendant, James Cady. William Pineiro shall recover **\$225,000.00** from James Cady in compensatory damages, for which sum let execution issue. William Pineiro shall recover **\$25,000.00** from James Cady as punitive damages, for which sum let execution issue.
2. Plaintiff, William Pineiro, shall take nothing from Defendant, Alfred T. Lamberti, as Sheriff of Broward County, Florida. Plaintiff's action against Defendant, Alfred T. Lamberti, is dismissed on the merits.


CASE NO. 10-CIV-61448 CIV-ALTONAGA

3. The Court reserves jurisdiction over any request for the award of attorney's fees and costs.

4. Post judgment interest shall accrue on this Final Judgment pursuant to 28 U.S.C. § 1961.

5. The Clerk of the Court is instructed to **CLOSE** the case. Any pending motions are **DENIED AS MOOT**.

DONE AND ORDERED in Chambers at Miami, Florida, this 30th day of August, 2011.


CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

cc: counsel of record