

COURT OF COMMON PLEAS
BUTLER COUNTY, OHIO

ERIC LINDSAY : CASE NO.
5803 Hemlock Ct. :
Liberty Township, OH 45044 : Judge:
 :
Plaintiff : COMPLAINT AND JURY DEMAND
v. :
 :
MEIJER, INC :
2929 Walker Avenue :
Grand Rapids, MI 49544 :
 :
Please Serve: :
CT Corporation System :
4400 Easton Commons Way :
Suite 125 :
Columbus, OH 43219 :
 :
And :
 :
TANNER CSENDES :
West Chester Police Dept. :
9577 Beckett Road Ste 500 :
West Chester, OH 45069 :
 :
And :
 :
TIMOTHY MITKENBAUGH :
West Chester Police Dept. :
9577 Beckett Road Suite 500 :
West Chester, OH 45069 :
 :
And :
 :
John and Jane Does :
(Names & addresses currently unknown)

And :
ABC Corporations :
(Names & addresses currently unknown) :
Defendants. :

In the same vein as so many national instances where African-Americans have been confronted by law enforcement for engaging in their daily lives and doing nothing illegal, this case is about the unsupportable and illegal profiling, detention, accusing, and interrogation of an African American customer by Police Officers and the complicit actions of the retail store where it occurred.

PARTIES

1. Eric Lindsay (“Lindsay”) is, and at all times relevant was, a citizen of Butler County, Ohio.
2. Defendant Tanner Csendes (“Csendes”) was, at all times relevant, a Police Officer for the City of West Chester. While on duty, Csendes committed unlawful acts against Plaintiff, as described in this Complaint.
3. Defendant Timothy Mitkenbaugh (“Mitkenbaugh”) was, at all times relevant, a Police Officer for the City of West Chester. While on duty, Mitkenbaugh committed unlawful acts against Plaintiff, as described in this Complaint.
4. Defendant Meijer Corporation (“Meijer”) was at all times relevant, a corporation operating in the State of Ohio. The actions and inactions of Meijer employees and representatives contributed to the harm caused Plaintiff here.

JURISDICTION

5. Jurisdiction in this Court is proper.
6. The events that are the subject of this Complaint occurred in Butler County, Ohio.
7. This Court has concurrent jurisdiction over the federal claim.
8. The amount in controversy exceeds \$15,000 (fifteen thousand dollars).

FACTS

9. On Friday, January 29, 2021, at approximately 7:00 p.m., Plaintiff entered the Meijer store on Tylersville Road to pick up some items before heading home from work.
10. There were many shoppers in the large store at the time.
11. Plaintiff is a sixty-year old African-American with a dark complexion.
12. Plaintiff was dressed in an orange jacket.
13. Plaintiff walked into the Meijer store behind Officer Csendes and Officer Mintkenbaugh who were there to investigate a criminal complaint for theft/shoplifting.
14. Before Officers Csendes and Mintkenbaugh walked into the Meijer store ahead of Plaintiff, the Officers received a physical description of the alleged shoplifter they were looking for.

15. Because Plaintiff entered the store after the Officers, Plaintiff was not, and could not possibly have been, the alleged shoplifter the Officers were there to investigate.
16. Upon information and belief, the report of the alleged shoplifting and the physical description of the alleged shoplifter was communicated to law enforcement by agents of Meijer.
17. The description of the alleged shoplifter communicated to the Officers by agents of Meijer was a Male White in his thirties wearing a dark green or gray Carhart coat with a red hoodie underneath.
18. Upon information and belief, Plaintiff was the only African-American male customer in the store at the time he and the Officers entered the Meijer.
19. Despite the fact nothing about Plaintiff's race, age, complexion, clothing or even his location in the store matched the information provided about the alleged shoplifter, Officers Csendes and Mintkenbaugh stopped and interrogated Plaintiff about the shoplifting.
20. Plaintiff was told to "take his hands out of his pockets" and asked if he was shoplifting, by the Officers.
21. When Plaintiff got upset and questioned the Officers about why he was being stopped and questioned when he did nothing wrong, Officer Csendes falsely

stated that they received a report that the person they were looking for was wearing a brown jacket.

22. Officers Csendes and Mintkenbaugh did not stop and confront any of the other numerous customers that were in the Meijer store, other than Plaintiff.
23. A Meijer representative was present while the Officers detained and interrogated Plaintiff.
24. The Meijer representative knew, or should have known, Plaintiff was not the alleged shoplifter.
25. Upon information and belief, Officers Csendes and Mitkenbaugh detained, interrogated and accused Plaintiff solely based on Plaintiff's race.
26. Despite the fact the Meijer representative knew Plaintiff was not the White Male who the Officers were looking for, the Meijer representative did nothing to prevent or stop the unconstitutional detention by the Officers.
27. During the detention of Plaintiff, the Officers received a radio communication advising that the actual subject of the criminal complaint they were there to investigate was under arrest on the far side of the store.
28. Upon receiving the information that the actual subject was under arrest, the Officers stopped questioning Plaintiff and walked to the other side of the store where the actual subject of the criminal complaint was being held.

29. Plaintiff, unaware of the physical description of the actual subject of the criminal complaint during the encounter with the Officers, followed the Officers to the other side of the store.
30. Plaintiff observed the actual subject in custody by an African-American West Chester Police Officer.
31. The subject in custody was a White Male, in his thirties, wearing a green jacket, exactly as the original communication Officers Csendes and Mintkenbaugh originally received that prompted them to go to the store for the criminal investigation.
32. Upon information and belief and according to the Officers, representatives of Meijer falsely accused Plaintiff of engaging in shoplifting at some point during the Defendant Officers' investigation.
33. Despite the false accusation of Plaintiff by Meijer representatives, Defendant Officers knew that Plaintiff was not the subject of the criminal complaint, yet proceeded with their detention and interrogation of Plaintiff.
34. As a result of the conduct of all Defendants, Plaintiff suffered anger, humiliation, embarrassment and emotional distress.

COUNT ONE

FALSE IMPRISONMENT

35. Plaintiff incorporates by reference the allegations above, as if fully restated herein.
36. Officers Csendes and Mitkenbaugh, under the color of their authority as police officers intentionally detained Plaintiff and questioned him about shoplifting.
37. Based on the communication they received before going into the store, Officers Csendes and Mitkenbaugh had no basis whatsoever to believe that Plaintiff was the subject they were looking for.
38. Officers Csendes and Mitkenbaugh detained and questioned Plaintiff solely based on Plaintiff's race, even though the subject they were looking for was not African-American, was thirty years younger than Plaintiff and was not wearing any of the same clothing as Plaintiff.
39. As Defendants were in the process of investigating a criminal charge, Plaintiff was not free to leave during the detention.
40. Had Defendant walked away during the questioning, Defendant could have been subject to arrest for Obstruction of Official Business, a violation of Ohio Revised Code Section 2921.31, a second degree misdemeanor.
41. Defendants' actions constitute an unlawful detention and false imprisonment.
42. As a direct and proximate result of Defendants' actions, Plaintiff suffered anger, humiliation, embarrassment and severe emotional distress.

COUNT TWO

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

43. Plaintiff incorporates by reference the allegations above, as if fully restated herein.

44. Defendants' actions were wanton and malicious.

45. Defendants' conduct was extreme and outrageous.

46. Defendants acted with specific purpose to cause Plaintiff to suffer emotional and physical harm.

47. Defendants' conduct had the actual effect of causing Plaintiff to suffer severe emotional distress during and after the incident.

48. Plaintiff suffered severe emotional distress as a direct result of Defendants' actions.

COUNT THREE

FOURTH AMENDMENT – 42 USC Sec. 1983

49. Plaintiff incorporates by reference the allegations above, as if fully restated herein.

50. Upon information and belief, Defendants' actions, as alleged herein, were based upon Plaintiff's race.

51. Defendants stopped, questioned and accused what appeared to be the only African-American male customer in the Meijer store, despite clear information that the subject of the criminal investigation was not African-American.
52. One of the Defendant Officers deliberately lied to Plaintiff in order to justify the illegal and unconstitutional conduct.
53. Defendants, as police officers on duty and under the color of their authority as police officers, are prohibited from detaining and questioning citizens with no legal justification to do so.
54. Defendants' actions, as alleged herein, are a clear and malicious violation of Plaintiff's Right to be Free from Unreasonable Seizure protected by the Fourth Amendment, made applicable to the states through the Fourteenth Amendment of the U.S. Constitution.
55. As a direct result of Defendants' conduct, Plaintiff suffered anger, humiliation, embarrassment and severe emotional distress.
56. Defendants are liable for all such harm.

COUNT FOUR

DISCRIMINATION

57. Plaintiff incorporates by reference each of the allegations above, as if fully restated herein.

58. Meijer employees and Defendants Mitkenhaus and Csendes exhibited racial animus in their treatment of Plaintiff.
59. Meijer employees and Defendants Mitkenhaus and Csendes treated Plaintiff in a discriminatory manner based solely upon Plaintiff's race and gender, as evidenced in Defendants' actions and words toward Plaintiff.
60. The treatment was malicious, in bad faith and done in complete violation of R.C. 4112.02(G).
61. Defendants' actions were taken on behalf of Defendant Meijer and in furtherance of the business of Defendant Meier.
62. As a direct and proximate consequence of Defendants' treatment of Plaintiff, Plaintiff suffered anger, humiliation, embarrassment and severe emotional distress.
63. Defendants are liable to Plaintiff for Plaintiff's damages.

COUNT FIVE

CONSPIRACY

64. Plaintiff incorporates by reference the allegations above, as if fully restated herein.
65. Defendants Officers and Defendant Meijer representatives worked together to cause the false imprisonment of Plaintiff.

66. Defendants Officers and Defendant Meijer representatives worked together to cause the violation of Plaintiff's constitutional rights.

67. Defendants Officers and Defendant Meier representatives worked together to intentionally inflict emotional distress upon Plaintiff.

68. The malicious combination of the Defendants constitutes an actionable conspiracy.

COUNT SIX

PUNITIVE DAMAGES

69. Plaintiff incorporates by reference each of the allegations above, as if fully restated herein.

70. Defendants acted with malice, in bad faith and with the specific intention to harm Plaintiff.

71. Plaintiff was actually harmed as a direct result of Defendants' actions.

72. Plaintiff is entitled to punitive damages for suffering from Defendants' actions.

COUNT SEVEN

73. Plaintiff incorporates by reference each of the allegations above, as if fully restated herein.

74. Defendants John and Jane Does and ABC Corporations are as yet unidentified parties whose actions or inactions contributed to the injury suffered by Plaintiff as alleged in this Complaint.

75. The currently unidentified John and Jane Does and ABC Corporations are liable to Plaintiff for his injuries.

CONCLUSION

Wherefore, Plaintiff prays for the Court to do the following:

1. Enter Judgment for Plaintiff against Defendants;
2. Award compensatory damages to Plaintiff in an amount greater than twenty-five thousand dollars (\$25,000);
3. Award punitive damages to Plaintiff in an amount greater than twenty-five thousand dollars (\$25,000);
4. Award attorney's fees to Plaintiff; and,
5. Such other relief to which Plaintiff is entitled.

Respectfully submitted,

/s/ Fanon A. Rucker
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Attorney for Plaintiff

JURY DEMAND

Plaintiff Eric Lindsay, by and through counsel hereby demands a trial by jury on
all issues triable to a jury.

/s/ Fanon A. Rucker
Fanon A. Rucker (0066880)
The Cochran Firm - Ohio