

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
GREGORY CROCKETT,

Plaintiff,

-against-

THE CITY OF NEW YORK and  
NYPD DETECTIVE ANTHONY DESPOSITO,

Defendants.

-----X

Plaintiff designates  
New York County as the  
place of trial

Basis of venue is  
county of occurrence

**SUMMONS**


To the above named defendant(s):

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the plaintiff's attorney within 20 days after service of this summons (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
December 26, 2013

SIVIN & MILLER, LLP

By

  
Edward Sivin  
Attorneys for Plaintiff  
20 Vesey St., Suite 1400  
New York, NY 10007  
(212) 349-0300

To:

The City of New York: 100 Church Street, New York, NY 10007

NYPD Det. Anthony Desposito, c/o NYPD 73<sup>rd</sup> Pct., 6370 E. New York Ave., Bklyn, NY 11212

SUPREME COURT OF THE STATE OF NEW YORK  
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VERIFIED COMPLAINT

Plaintiff, by his attorneys SIVIN & MILLER, LLP, as and for his complaint herein,  
alleges as follows, upon information and belief:

**THE PARTIES**

1. That at all times herein mentioned, defendant The City of New York (hereinafter "the City") was and is a municipal corporation, duly organized and existing under and by virtue of the laws of the State of New York.

2. That on May 20, 2013, prior to the institution of this action, a notice of claim and intention to sue was duly served upon and filed with the City and NYPD Detective Anthony Desposito (hereinafter "Desposito") on behalf of plaintiff; that this action was not commenced until the expiration of thirty (30) days after such notice of claim and intention to sue was presented and the defendants have neglected and/or refused to make adjustment or payment thereon, and this action is being commenced within one year and ninety days after the causes of action accrued herein.

3. That at all times herein mentioned, the City operated, controlled, and maintained a police force known as the New York Police Department (hereinafter "the NYPD").

4. That at all times herein mentioned, Desposito was and is a police detective employed by the NYPD.

5. That at all times herein mentioned, Desposito was acting within the scope and course of his employment with the NYPD, and under color of state law.

### **THE FACTS**

6. Plaintiff repeats and realleges each and every allegation set forth above as though fully set forth herein.

7. That on or about December 13, 2011, plaintiff was charged in the Supreme Court of the State of New York, County of New York, with multiple felonies and other crimes, including conspiracy in the fourth degree, criminal possession of a weapon in the second degree, criminal possession of a weapon in the third degree, criminal possession of a weapon in the fourth degree, criminal possession of a controlled substance in the third degree, unlawful possession of marijuana, and criminally using drug paraphernalia in the second degree.

8. That at all times herein mentioned, Desposito had spearheaded the investigation into the facts and events underlying the aforesaid prosecution of plaintiff.

9. That in support of the prosecution, Desposito made verbal representations to the Office of the New York County District Attorney regarding plaintiff's connection to a house in which illegal drugs and weapons allegedly were recovered.

10. That among the verbal representations made by Desposito were that plaintiff stated to Desposito that he used the house as his primary residence and that he stayed over or slept at the house several times per week.

11. That plaintiff in fact never made any such statements to Desposito, and

Desposito knew that plaintiff had not made any such statements to him nor to anyone else.

12. That when he made the aforementioned representations to the District Attorney, Desposito knew that those representations were false.

13. That on or about December 13, 2011, Desposito repeated those false representations in testimony before a Grand Jury.

14. That at all times herein mentioned, Desposito knew that there did not exist probable cause for plaintiff to be charged with any crimes.

15. That as a result of Desposito's intentional misrepresentations both to the District Attorney and to the Grand Jury, plaintiff was indicted on the aforementioned criminal charges.

16. That as a result of Desposito's intentional misrepresentations both to the District Attorney and to the Grand Jury, plaintiff was arrested on December 14, 2011.

17. That the arrest of plaintiff was effectuated without a warrant and without probable cause to believe that plaintiff had committed any crime.

18. That following his arrest plaintiff was forcibly confined and imprisoned for a period of approximately twenty-two days.

19. That over the ensuing fourteen months, plaintiff was criminally prosecuted and was compelled to appear in court on numerous occasions to defend against the criminal charges that had been initiated by Desposito.

20. That Desposito knew that there was no probable cause to initiate or continue the prosecution of plaintiff.

21. That on February 7, 2013, all criminal charges against plaintiff were dismissed and the criminal prosecution terminated favorably to plaintiff.

22. That on February 19, 2013, the Clerk of the Court of the Supreme Court of the State of New York, County of New York, certified the dismissal of the criminal charges against plaintiff.

23. That the aforementioned actions of Desposito were intentional and malicious.

**FIRST CAUSE OF ACTION AGAINST DESPOSITO**

(False Arrest/Imprisonment Under 42 U.S.C. § 1983)

24. Plaintiff repeats and realleges each and every allegation set forth above as though fully set forth herein.

25. That the aforementioned actions of Desposito constitute a false arrest and false imprisonment of plaintiff, and thus an unlawful seizure of plaintiff in violation of the Fourth and Fourteenth Amendments to the U.S. Constitution, and entitle plaintiff to recover damages against Desposito pursuant to 42 U.S.C. § 1983.

**SECOND CAUSE OF ACTION AGAINST THE CITY and DESPOSITO**

(Malicious Prosecution Under NY State Law)

26. Plaintiff repeats and realleges each and every allegation set forth above as though fully set forth herein.

27. That the aforementioned actions of Desposito constitute a malicious prosecution of plaintiff under New York State law, for which Desposito is answerable in damages and for which the City is vicariously liable under the doctrine of respondeat superior.

**THIRD CAUSE OF ACTION AGAINST DESPOSITO**

(Malicious Prosecution Under 42 U.S.C. § 1983)

28. Plaintiff repeats and realleges each and every allegation set forth above as though fully set forth herein.

29. That the aforementioned actions of Desposito constitute a malicious prosecution of plaintiff, and thus an unlawful seizure of plaintiff in violation of the Fourth and Fourteenth Amendments to the U.S. Constitution, and entitle plaintiff to recover damages against Desposito pursuant to 42 U.S.C. § 1983.

30. That all of the causes of action pleaded herein fall within one or more of the exceptions set forth in New York's Civil Practice Law & Rules § 1602 with respect to joint and several liability.

WHEREFORE, plaintiff demands judgment against defendants, and both of them, on all of the foregoing causes of action, in the form of compensatory damages for his pain and suffering, loss of enjoyment of life, and economic loss, in amounts that exceed the jurisdictional limits of all lower courts that otherwise would have jurisdiction in this matter, and plaintiff further demands punitive damages against Desposito, in an amount to be determined by the trier of fact, together with attorney's fees pursuant to 42 U.S.C. § 1988, and together with costs and disbursements.

Dated: New York, New York  
December 26, 2013

Yours, etc.  
SIVIN & MILLER, LLP

By \_\_\_\_\_

Edward Sivin  
Attorneys for Plaintiff  
20 Vesey St., Suite 1400  
New York, NY 10007  
(212) 349-0300

VERIFICATION

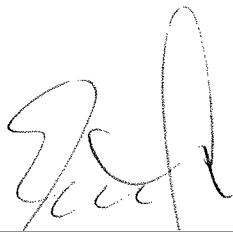
EDWARD SIVIN, an attorney duly admitted to practice law in the State of New York, hereby affirms the following, under penalty of perjury:

That I am the attorney for the plaintiff(s) in the within action. That I have read the foregoing complaint and know the contents thereof; that the same is true to my own knowledge, except as to the matters therein stated to be upon information and belief; and as to those matters I believe it to be true.

That the reason this verification is made by your affirmant and not by the plaintiff(s) is that plaintiff(s) does not reside in the County where your affirmant maintains his office.

That the grounds for your affirmant's belief as to all matters not stated upon my knowledge are as follows: records, reports, facts and documents contained in plaintiff(s) file maintained by your affirmant's office.

Dated: New York, New York  
December 26, 2013

  
\_\_\_\_\_  
EDWARD SIVIN

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Index No.

Year 2013

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SUMMONS AND VERIFIED COMPLAINT

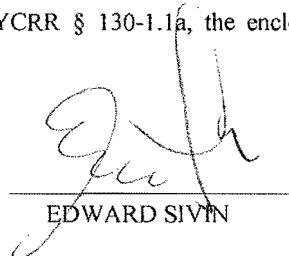
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**SIVIN & MILLER, LLP**

Attorneys for Plaintiff  
20 Vesey St., Suite 1400  
New York, NY 10007  
(212) 349-0300  
FAX (212) 406-9462

Certification Pursuant to 22 NYCRR §130-1.1a

Edward Sivin hereby certifies that, pursuant to 22 NYCRR § 130-1.1a, the enclosed papers are not frivolous nor frivolously presented.

  
EDWARD SIVIN

Dated: New York, New York  
December 26, 2013