

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

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OTIS TAYLOR

Plaintiff,

-against-

Index No:
Date Purchased:

SUMMONS

Plaintiff designates Bronx as the place
of trial pursuant to CPLR 504(3)

THE CITY OF NEW YORK, and
SERGEANT MARTIN TOCZEK,

Defendants.
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TO THE ABOVE NAMED DEFENDANTS:

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, exclusive of the day of service (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: December 13, 2021
New York, New York

Defendants’ addresses:

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

To: SERGEANT MARTIN TOCZEK
NYPD Autocrime Division
500 Abbot Street
Bronx, NY 10470

/s/

Fred Lichtmacher
The Law Office of Fred Lichtmacher PC
Attorney for Plaintiff Otis Taylor
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF THE BRONX

-----X Index No:

OTIS TAYLOR

Plaintiff,

-against-

COMPLAINT

Plaintiff designates Bronx as the place
of trial pursuant to CPLR 504(3)

THE CITY OF NEW YORK, and
SERGEANT MARTIN TOCZEK,

Defendants.

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Plaintiff, by his attorney, The Law Office of Fred Lichtmacher P.C., complaining of the
Defendants herein, respectfully alleges as follows:

Nature of the Action

1. This civil rights action arises from the ongoing, continuing acts of discrimination against the Plaintiff premised on his identity as a black male, and said discrimination was committed against the Plaintiff in his employment as a detective with the New York City Police Department (NYPD) and such acts were committed by his supervisor, Defendant Sergeant Martin Toczek and allowed to continue by the Defendant the City of New York (NYC).
2. The acts of discrimination committed against the Plaintiff were committed in violation of NYC HRL 8-107 (1)&(13).

Parties and Jurisdiction

3. Jurisdiction and venue for this action are appropriate pursuant to C.P.L.R. §504(3) because the series of incidents giving rise to this action occurred in Bronx County, in the City and State of New York.

4. That the amount of damages sought by Plaintiff exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.
5. Plaintiff Otis Taylor is retired former member of the NYPD and he identifies as a black male.
6. At all times relevant, Defendant Sergeant Martin Toczek, a white male, was a Sergeant in the NYPD working out of the NYPD Autocrime Division where he he was an employee of NYC and at all times relevant he was one of Plaintiff's supervisors with control over the terms and conditions of Plaintiff's employment and he is sued herein in his capacity as an individual.
7. All the acts committed against Plaintiff complained of herein came during the course of his employment with the NYPD and constituted acts committed intentionally, and willfully, by the individual Defendant while Plaintiff and the individual Defendant were acting in the course of their employment with the NYPD.
8. Defendant, the City of New York (NYC) is a Municipal Corporation within New York State.
9. Pursuant to §431 of its Charter, NYC established and maintains the NYPD as a constituent department or agency.
10. The individual Defendant involved in the incidents giving rise to this litigation was at all times relevant an agent, servant, and employee acting within the scope of his employment with NYC.
11. New York CPLR § 1601 does not apply pursuant to the exception provided by CPLR § 1602(1)(b).
12. This action seeks redress for the deprivation of rights, privileges, and immunities secured to Plaintiff by the Administrative Code of the City of New York § 8-107 et seq.

13. This Court has subject matter jurisdiction over this matter as the amount in question, exceeds the jurisdictional maximums of all other New York State Courts.
14. Venue is appropriate in this Court pursuant to CPLR § 504(3) as this is an action against NYC brought in the County in which the acts occurred.

FACTS UNDERLYING PLAINTIFF'S CLAIMS FOR RELIEF

15. Plaintiff Otis Taylor entered the NYPD Police Academy in July of 2006.
16. After he graduated from the Academy Plaintiff worked at the 46th precinct in the Bronx and later at OCCB.
17. Plaintiff was promoted to detective in January of 2012.
18. On September of 2015 Plaintiff was transferred to the elite unit Auto Crimes working out of the Bronx.
19. The elite unit Auto Crimes is comprised almost entirely of white officers.
20. Defendant Sergeant Martin Toczek was Plaintiff's direct supervisor from the first day he arrived at Auto Crimes until Plaintiff retired.
21. Defendant Sergeant Martin Toczek frequently and publically made it known, that he did not like black people.
22. Sergeant Martin Toczek openly commented at work that he had a first amendment right to not like black people.
23. Sergeant Martin Toczek placed posters on the walls of the Auto Crimes Unit which were insulting to black people.
24. Sergeant Martin Toczek openly made derogatory statements about black icons of the civil rights movement in Plaintiff's presence.

25. Defendant Sergeant Martin Toczec treated his black subordinate officers differently and worse than the white officers in his unit.
26. Defendant Sergeant Martin Toczec made it known he did not like minorities generally and he made racist comments about his direct supervisor and another Sergeant in the unit who were both Hispanic.
27. Defendant Sergeant Martin Toczec created an oppressive work environment due to his prejudice and disparate treatment of the few black officers in his Unit.
28. Plaintiff was subjected to hearing incessant, negative comments about black people from his direct supervisor, which created an oppressive, depressing and emotionally harmful work environment for the Plaintiff.
29. Defendant Sergeant Martin Toczec's treatment of Plaintiff was continuous and ongoing from the date he entered Auto Crimes until his retirement from the NYPD.

Plaintiff's Injured Shoulder

30. Plaintiff's right shoulder became injured in the course of his employment requiring him to undergo surgery in October of 2016.
31. Plaintiff again had to undergo surgery on his right shoulder in May of 2018.
32. On January 30, 2019 Plaintiff was on restricted duty, he was not permitted to carry a gun, and he was not allowed to conduct enforcement activities; i.e., he could not make arrests.
33. These limitations were due to the injury to his shoulder, as well as due to the medications he was prescribed for said injuries.
34. Despite having several white detectives available to make an arrest who were not injured and who were allowed to carry their guns, Sergeant Martin Toczec intentionally subjected

- Plaintiff to danger by ordering him to go make an arrest.
35. Plaintiff became seriously injured in the course of making said arrest with a combative arrestee, an arrestee Defendant Sergeant Martin Toczec knew had a history of fighting with cops.
36. After he became injured making the arrest Plaintiff should not have been ordered to make, high ranking members of the NYPD urged Plaintiff to cover up that Sergeant Martin Toczec illegally and against NYPD mandates had sent Plaintiff out to make the arrest which subjected him to the serious permanent injury he incurred.
37. Plaintiff refused to comply with his supervisors' requests that he conspire with them to create a false narrative about how he became injured.
38. Plaintiff was forced to retire from the NYPD on May 31, 2020.

**AS AND FOR A FIRST CAUSE OF ACTION
ON BEHALF OF PLAINTIFF, VIOLATION OF
THE ADMINISTRATIVE CODE § 8-107(1)**

39. Plaintiff repeats, reiterates and realleges each and every allegation contained in the prior paragraphs with the same force and effect as is more fully and at length set forth herein.
40. By the actions described *supra*, the Plaintiff was deprived of rights secured by the New York City Administrative Code§8-107 (1)(a) et seq., including, but not limited to his right to be free from discrimination based on race.
41. Due to his race, the Plaintiff, was discriminated against as set forth *supra* including but not limited to in the terms, conditions and privileges of his employment by the Defendant Sergeant Martin Toczec.
42. Initially, Plaintiff was subjected to three years of an ongoing hostile work environment in

which black officers were treated differently and worse than white officers.

43. Ultimately, Plaintiff was severely physically injured by intentionally being sent into a dangerous situation without his firearm, while in a physically impaired state.
44. As a direct consequence thereof, the Plaintiff has been damaged; he was forced to endure a hostile discriminatory work environment; he was emotionally harmed; he was intentionally and maliciously subjected to extreme physical danger which did result in a permanent physical injury; he was treated differently and worse than similarly situated white officers and he was otherwise harmed.
45. The Plaintiff is entitled to compensatory damages in the amount of FIVE MILLION (\$5,000,000.00) DOLLARS and punitive damages in the amount of TWO MILLION (\$2,000,000.00) DOLLARS and he is entitled to an award of reasonable attorneys' fees and costs pursuant to New York City Administrative Code §8-502(a & g).

**AS AND FOR A SECOND CAUSE OF ACTION
ON BEHALF OF PLAINTIFF, VIOLATION OF
THE ADMINISTRATIVE CODE §8-107 (13) (b)**

46. Plaintiff repeats, reiterates and realleges each and every allegation contained in the prior paragraphs with the same force and effect as is more fully and at length set forth herein.
47. The Defendant NYC is liable to the Plaintiff for the discriminatory conduct engaged in by its employee, Defendant Sergeant Martin Toczek.
48. Defendant Sergeant Martin Toczek exercised managerial and supervisory responsibility over the Plaintiff and his employer NYC knew of or should have known of its employee's discriminatory conduct, and acquiesced in such conduct and failed to take immediate and

appropriate corrective action.

49. The demographics of the members of the NYPD alone should have alerted NYC to its problem of discriminating against black officers, not only in Auto Crimes, but in all the NYPD's elite units whose members are overwhelmingly and disproportionately white.
50. Plaintiff's employer should be deemed to have knowledge of its employee's discriminatory conduct because that conduct was open and notorious as Defendant Sergeant Martin Toczek made no effort to hide his dislike for minorities.
51. The Plaintiff is therefore entitled to compensatory damages in an amount not to exceed FIVE MILLION (\$5,000,000.00) DOLLARS and he is entitled to an award of reasonable attorneys' fees and costs pursuant to New York City Administrative Code §8-502(a & g).

Request for Relief

WHEREFORE, Plaintiff respectfully requests that judgment be entered as follows:

- (A) Compensatory damages be awarded in an amount not to exceed FIVE MILLION (\$5,000,000.00) DOLLARS; and
- (B) By reason of the wanton, willful and malicious character of the conduct complained of herein, punitive damages be awarded from the Defendant Defendant Sergeant Martin Toczek in the amount of TWO (\$2,000,000.00) MILLION DOLLARS; and
- (C) Plaintiff should be granted an award for the costs and disbursements herein;
- (D) And, an award of attorneys' fees pursuant to New York City Administrative Code §8-502(f) is appropriate; and
- (E) This Court should grant such other and further relief as this Court may deem just and proper.

Dated: New York, New York
December 13, 2021

/ s /

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