

02-74777

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN DENISE PAGE HOOD
SOUTHERN DIVISION

WALTER BATES,
Plaintiff,

MAGISTRATE JUDGE SCHEER
USDC CASE NO:
HON.

vs.

3rd Circuit Case No. 02-239895 NO
3rd Circuit Judge: Robert Ziolkowski

CITY OF DETROIT, A Municipal Corporation,
POLICE OFFICER REGINA COLEMAN,
SGT. DAVID LEVALLEY, POLICE OFFICER
VICKERS, POLICE OFFICER JORDON and
POLICE OFFICERS JOHN DOES,
Jointly and Severally.

FILED
DEC-3 1P 3:56
U.S. DIST. COURT
EASTERN DISTRICT
OF MICHIGAN
DETROIT

Defendants.

MAJED MOUGHNI (P61087) ✓
Attorney for Plaintiff
16030 Michigan Avenue
Dearborn, MI 48126
(313) 581-0800

YUVONNE R. BRADLEY (P-54885) ✓
Attorney for City of Detroit & Vickers
City of Detroit Law Department
1650 First National Building
Detroit, Michigan 48226
(313) 237-5051

NOTICE OF REMOVAL OF CIVIL ACTION

Pursuant to 28 U.S.C. §§ 1441 and 1443(2), Defendants City of Detroit and Police Officer Daniel Vickers removes this civil action predicated upon the following:

1. On November 12, 2002, Plaintiff initiated this action in the Third Judicial Circuit of Michigan. This action is now pending before that court.
2. On or about November 12, 2002, 2002, Plaintiff served Defendant City of Detroit with his Complaint alleging Assault and Battery, the Constitutional violation of 42 U.S.C. 1983, False Arrest and

CITY OF DETROIT LAW DEPARTMENT 1650 FIRST NATIONAL BUILDING DETROIT MI 48226

Imprisonment, Abuse of Process and Malicious Prosecution.

3. Plaintiff served Defendant Vickers on or about November 13, 2002.
4. Plaintiff's Complaint alleges he resided in Southfield, Michigan at all relevant times but that this incident occurred in the area of Greenfield and Trojan, believed to be in the City of Detroit.
5. This is a civil action in which Plaintiffs seek monetary relief for alleged misconduct by Defendants allegedly arising from a deprivation of certain constitutionally guaranteed rights. Because Plaintiffs base this action in part on the United States Constitution and 42 U.S.C. §1983, Defendants City of Detroit and Daniel Vickers removes this action to this Court, invoking the Court's federal question jurisdiction.
6. The remaining Defendants in this cause of action have yet to be identified or served, but are allegedly officers of the City of Detroit. Provided such officers exist and are served, the undersigned counsel will most likely be assigned to represent said officers, which would concur in this removal action.
7. In accordance with 28 U.S.C. §§1331 and 1334, this Court has original jurisdiction of this civil action. In accordance with 28 U.S.C. §§1441(a) and 1443(2), and this Court's pendent jurisdiction, it is removed in its entirety to this Court.
8. Copies of all process, pleadings, and orders served upon Defendants are attached.
9. This notice is filed within thirty days after service of a copy of the

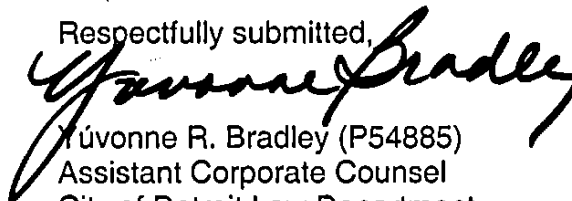
amended complaint upon the defendants.

10. The undersigned has prepared a written notice of the removal of this action. Such notice has been provided to counsel for Plaintiff and the clerk of the court from which this matter is removed. Promptly after filing this Notice of Removal of Civil Action, the undersigned will file a copy with the clerk of the court from which this action is removed, and provide, by first class mail, a copy to Plaintiff's counsel.

WHEREFORE, Defendants City of Detroit and Daniel Vickers removes this action to this court.

Dated: December 2, 2002

Respectfully submitted,



Yvonne R. Bradley (P54885)
Assistant Corporate Counsel
City of Detroit Law Department
1650 First National Building
Detroit, Michigan 48226
(313) 224-4550

STATE OF MICHIGAN
THIRD CIRCUIT COURT

CASE NO.

02-239895 NO



**SUMMONS AND
RETURN OF SERVICE**

COURT
ADDRESS: 2 WOODWARD AVENUE, DETROIT, MICHIGAN 48226

COURT
TELEPHONE NO. (313) 224- 2305

THIS CASE ASSIGNED TO JUDGE: ROBERT L. ZIOLKOWSKI

Bar Number: 22743

PLAINTIFF

DEFENDANT

EMERSON WALTER

PL 01 VS DETROIT CITY OF

OF 002

PLAINTIFF'S ATTORNEY

MASUD A. HOUSHNI
(P-61087)
18000 MICHIGAN AVE
DEARBORN, MI 48123-2932
313-561-0200

CASE FILING FEE PAID		JURY FEE PAID
ISSUED 11/12/02	THIS SUMMONS EXPIRES 02/11/03	DEPUTY COUNTY CLERK EDWARD D HOSENDORF

This summons is invalid unless served on or before its expiration date.

Cathy M. Garrett - Wayne County Clerk

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

You are being sued.

YOU HAVE 21 DAYS after receiving this summons to file an answer with the court and serve a copy on the other party or to take other lawful action (28 days if you were served by mail or you were served outside this state).

If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint. A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.

There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.

An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.

docket number and assigned judge of the civil/domestic relations action are:

Docket no.	Judge	Bar no.

The action remains is no longer pending.

I declare that the complaint information above and attached is true to the best of my information, knowledge, and belief.

12 02

M. M. P. 11057
Signature of attorney/plaintiff



COMPLAINT IS STATED ON ATTACHED PAGES. EXHIBITS ARE ATTACHED IF REQUIRED BY COURT RULE.

If you require special accommodations to use the court because of disabilities, please contact the court immediately to make arrangement.

JO. WC101
98) MC 01 (10/97)

SUMMONS AND RETURN OF SERVICE

MCR 2.102(B)(11), MCR 2.104, MCR 2.107, MCR 2.113(C)(2)(a), (b), MCR 3.206 (A)

DEFENDANT

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

WALTER BATES,
Plaintiff,

02-239895-NO 11/12/2002
JDG: ROBERT L ZIOLKOWSKI
BATES WALTER
vs
DETROIT CITY OF

vs.

CITY OF DETROIT, A Municipal Corporation,
POLICE OFFICER REGINA COLEMAN,
SGT. DAVID LEVALLEY,
POLICE OFFICER VICKERS,
POLICE OFFICER JORDON
AND POLICE OFFICERS JOHN DOES,
Jointly and Severally.

Defendant,

MAJED A. MOUGHNI (P 61087)
Attorney for Plaintiff
16030 Michigan Avenue
Dearborn, MI 48126
(313) 581-0800

There is no other civil action arising out of the same transaction or occurrence as alleged in this Complaint, pending in this Court, nor has any such action been previously filed and dismissed after being assigned to a judge.



MAJED A. MOUGHNI P-61087

COMPLAINT AND JURY DEMAND

Now Comes, WALTER BATES, by and through his attorney, Majed A. Moughni, and for his complaint against the above-named defendants, jointly and severally, states the following:

PARTIES

1. Plaintiff is a resident of the City of Southfield, County of Wayne, State of Michigan.

3. At all times relevant to this action, Defendant, City of Detroit, was and still is a municipal corporation, duly organized, existing and carrying on governmental functions under and by virtue of the laws of the State of Michigan.

3. Defendant Police Officer Regina Coleman, Sgt. David Levalley, Police Officer Vickers, Police Officer Jordon, and John Doe Police Officers (referred to after this point as Defendant Police Officers) were at the time of the incidents, and at all times relevant to this action, employed as police officers under the supervision and control of the Detroit Police Department, in the City of Detroit, and engaged in the operation of Prostitution Stings in the areas of Greenfield and Trojan in Wayne County.

ALLEGATIONS OF FACT

4. On June 3, 2001, Plaintiff Walter Bates, was on his way from the pharmacy to the grocery store, where his father was waiting for him to be picked up.

5. At that time, Plaintiff pulled over and Police Officer Regina Coleman approached Plaintiff's vehicle.

6. Plaintiff and defendant Police Officer Coleman then engaged in a brief conversation, after which Plaintiff drove from the area.

7. Plaintiff's vehicle was then pulled over by the defendant police officers, at which time Plaintiff was pulled out of his vehicle at gunpoint, handcuffed, arrested, and his car was impounded.

8. Plaintiff was then transported to the 8th precinct.

9. Plaintiff was then charged with the crime of "offering to engage the services of another for an act of prostitution" without probable cause of having committed that crime.

10. As a proximate result of the Defendant's assault and battery upon Plaintiff, the false imprisonment and Deprivation of his constitutional rights, Plaintiff suffered injuries including but not limited to mental anguish, mental anxiety, humiliation, embarrassment, depression and damage to his reputation.

11. These injuries may or could aggravate physical and mental conditions not presently known to Plaintiff, which could be permanent.

12. Prior to this incident, Plaintiff enjoyed good health and was able to enjoy the recreational and social activities which were normal for a person of his age group; however, the injuries sustained in this incident have caused a cessation of these pleasures and in the future his participation may continue to be limited due to the permanency of his injuries.

13. The amount in controversy exceeds TWENTY-FIVE THOUSAND (\$25,000.00 DOLLARS and is within the jurisdiction of this court.

14. The wrongful acts of the individually named police officers constitutes gross negligence as is contemplated by M.C.L.A. Sec. 691.1407.

COUNT I

ASSAULT AND BATTERY

15. Plaintiff incorporates paragraphs 1 through 14.

16. On or about June 3, 2001, the individual defendant police officers intentionally and without provocation assaulted and battered Plaintiff, and as a proximate result of the battery, Plaintiff suffered the damages described in full above.

17. As a proximate result of such neglect, failure and refusal of the individual defendants, Plaintiff suffered the injuries set forth above, and Plaintiff is entitled to the relief and damages set forth above.

18. Plaintiff did not resist the defendant police officers who assaulted, battered and/or arrested him, and the use of such excessive force against him was unnecessary and excessive; defendant City of Detroit is liable for its employees actions and inaction's.

19. Plaintiff alleges that in their conduct described in full above, defendants acted maliciously and willfully and with the design of causing the Plaintiff to suffer fear, physical pain and injuries, mental anguish and losses described in full above.

THEREFORE, Plaintiff respectfully requests this Honorable Court enter judgment against

the defendant, jointly and severally, as follows:

(1) Awarding compensatory damages in whatever amount in excess of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS that is found to be fair.

(2) Granting such other relief as may be just and equitable.

COUNT II

DEPRIVATION OF CIVIL RIGHTS

20. Plaintiff incorporates paragraphs 1 through 19.

21. Pursuant to 42 U.S.C. Section 1983:

Every person who, under color of any statute, ordinance, regulation, custom or usage of any State or territory, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof, to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in any action at law, suit and equity, or other proper proceeding for redress.

22. This action arises under the United States Constitution, particularly under the provision of the Fourth and Fourteenth Amendments to the Constitution of the United States and under Federal law, particularly the Civil Rights Act, Title 42 of the United States Code, Section

1983, and under the Constitution of the State of Michigan, Article 1, Section II.

23. All the Defendants herein are persons within the meaning of 42 U.S.C. Section 1983.

24. Defendant City of Detroit, had certain policies, rules and regulations, and Defendant's police officers underwent training in police procedures that police officers are mandated to follow.

25. That Defendant City of Detroit has recklessly and intentionally failed to train its police officers in proper arrest procedures.

26. All the Defendants were at all times relevant to this action, acting under color of Michigan statute, ordinance, regulations, custom and usage within the meaning of 42 U.S.C. Section 1983, in the arrest and imprisonment of Plaintiff, all under the direction, support, knowledge, and authority of the Defendants and Defendant City of Detroit.

27. Prior to the commission of the wrongful acts in furtherance of the actions to deprive Plaintiff of equal protection under the laws, and of equal privileges and immunities under the laws, each of the individual defendants knew of the existence of the intended events.

28. Each of the Defendants knew that the Defendants were about to effectuate the events by the commission of the wrongful acts described above.

29. Each of the individual Defendants possessed the power to prevent, or aid in preventing, the commission of such wrongful acts, and accordingly owed a duty to Plaintiff to prevent, aid in preventing and or attempt to prevent the commission of such wrongful acts.

30. Notwithstanding such knowledge and power the individual Defendants breached their duties by neglecting, failing and refusing to prevent, aid in preventing or attempt to prevent the commission of such wrongful acts.

31. Defendants, Police Officers failed to take any actions to correctly determine the status of the Plaintiff situation.

32. The conduct of Defendants, and each of them, deprived Plaintiffs of the following rights, privileges and immunities secured by the Constitution of the United States:

- (a) The right of Plaintiff not to be deprived of life, liberty, or property without due process of law secured by the Fourteenth Amendment to the Constitution of the United States.
- (b) The right of Plaintiff not to be subjected to unreasonable search and seizure provided by the Fourth Amendment to the Constitution of the United States.
- (c) The right of Plaintiff to be guaranteed equal protection under the laws secured by the Fourteenth Amendment to the Constitution of the United States.

33. By reason of the conduct of the Defendants, including Plaintiff's arrest, imprisonment and the injuries sustained by the acts, Plaintiff was wrongfully and deliberately denied the right to his immediate release of his vehicle.

34. The acts, conduct and behavior of Defendants, were performed knowingly, intentionally and with reckless disregard of Plaintiff's safety and continued life, and Defendant City of Detroit, failed to discipline these officers despite their use of excessive force and improper arrest procedures, and their incidents of misconduct and thus ratified and impliedly approved of said conduct, therefore, Plaintiff is entitled, by virtue of 42 U.S.C. Section 1983, to compensatory damages in whatever amount in excess of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS which is found to be fair and just, and by virtue of 42 U.S.C. Section 1988, to punitive damages in an amount in excess of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS.

THEREFORE, (1) Plaintiff respectfully request that this Honorable Court enter

judgment for compensatory damages against the Defendants, jointly and severally, in whatever amount in excess of TWENTY-FIVE THOUSAND(\$25,000.00) DOLLARS which Plaintiff is found to be entitled, plus interest, costs and attorney fees; and (2) Plaintiff respectfully request that this Honorable Court enter judgment for punitive damages under 42 U.S. C. Section 1983 against the individual Defendant Police Officers in whatever amount in excess of TWENTY-FIVE THOUSAND(\$ 25,000.00) DOLLARS which is found to be just.

COUNT III

FALSE ARREST AND IMPRISONMENT

35. Plaintiff incorporates paragraphs 1 through 34.

36. Plaintiff was held by Defendant, City of Detroit, for a period of time, after the arrest, in the Defendants police car/ police station.

37. As a proximate cause of the acts and omissions of the individual Defendant Police Officers and other agents and employees of the City of Detroit not presently identifiable:

- (a) Plaintiff was arrested without probable cause; and
- (b) The individual Defendant, Police Officers and other agents and employees for the City of Detroit not presently identifiable, negligently or intentionally failed to ascertain and investigate the facts and circumstances surrounding the Plaintiff's false arrest and false imprisonment.

38. As a proximate result of the wrongful conduct describe above, Plaintiff was deprived of his freedom, privacy, rights of society, capacity to earn a livelihood, and Plaintiff suffered great mental and bodily distress, and was greatly humiliated and injured in his reputation.

THEREFORE, Plaintiff respectfully request that this Honorable Court enter judgment

against the Defendants, jointly and severally, in whatever amount in excess of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS this court finds to be equitable, plus interest, costs and attorney fees.

COUNT IV

ABUSE OF PROCESS

39. Plaintiff incorporate paragraphs 1 through 38.

40. Defendants, City of Detroit Police Officers unlawfully, wrongfully, and acting together with other unknown employees of Defendant City of Detroit, maliciously combined and confederated to bring false accusations and charges against Plaintiff.

41. In furtherance of this unlawful, wrongful, and malicious actions, Defendants arrested Plaintiff, not to vindicate the law or to arrest and punish Plaintiff for the charged offense, but for wrongful, unlawful, and malicious purposes.

42. Defendants did seek personal, ulterior vengeance by an abuse of a legal process, wrongfully brought, which caused Plaintiff to suffer mental distress, and damage to Plaintiff's reputation.

43. Defendants acting individually and within the scope of their authority, as employees of the City of Detroit Police Department, an agency of the Defendant, City of Detroit, under both State and Federal Law, have caused Plaintiff to be injured in his good name, wounded in his feelings and subjected to oppression.

THEREFORE, Plaintiff respectfully request this Honorable Court enter judgment against the Defendants, jointly and severally, in whatever amount in excess of TWENTY-FIVE THOUSAND (\$ 25,000.00) DOLLARS which is found to be just, plus interest, costs and attorney fees so wrongfully sustained, with the Court to treble the amount of damages awarded.

COUNT V

MALICIOUS PROSECUTION

44. Plaintiff incorporates paragraphs 1 through 43.

45. On or about June 3, 2001, defendant police officers, acting in their individual capacities as employees and agents of defendant City of Detroit, did arrest Plaintiff, and did bring false charges against Plaintiff, and by action with other City of Detroit police officers, defendants maliciously, without probable cause, and with intent of harassing Plaintiff and injuring Plaintiff's good name and reputation, and bringing him into public disgrace, instituted one or more criminal actions against Plaintiff by having defendants swear to a complaint charging Plaintiff with the crimes described above.

46. Plaintiff was charged with "offering to engaged the services of another for an act of prostitution", and Plaintiff was later arraigned on the charge which was falsely and maliciously made by defendants.

47. The accusations, complaints made and legal proceedings brought against Plaintiff were and are false, malicious and without probable cause.

48. On November 6, 2002, a bench trial took place and Plaintiff was found not guilty.

49. Defendants caused the criminal charge to be brought against the Plaintiff and repeatedly harassed Plaintiff despite the fact that there were no facts nor probable cause to believe that Plaintiff was guilty of the crime charged nor of any other crime.

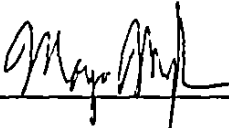
50. By reason of Plaintiff's false arrest, harassment and imprisonment under the above warrants, Plaintiff has suffered grievous loss and damage to his good name, reputation, and credit, and suffered the injuries specified above.

THEREFORE, Plaintiff respectfully request this Honorable Court enter judgment against the Defendants, jointly and severally, in whatever amount in excess of TWENTY-FIVE THOUSAND (\$ 25,000.00) DOLLARS which is found to be just, plus interest, costs and attorney fees so wrongfully sustained, with the Court to treble the amount of damages awarded.

JURY DEMAND

Demand for trial by jury is made.

LAW OFFICES OF MAJED A. MOUGHNI, P.C.

BY: 

MAJED A. MOUGHNI (P 61087)
Attorney for Plaintiff

Dated: November 12, 2002

CASE NO.
 Rec. Cent mail 11/13/02 GB
 In Law Dept 11/15/02 GB

SUMMONS AND RETURN OF SERVICE

COURT ADDRESS: 2 WOODWARD AVENUE, DETROIT, MICHIGAN 48226

COURT TELEPHONE NO. (313) 224- 2365

THIS CASE ASSIGNED TO JUDGE: ROBERT L ZIOLKOWSKI

Bar Number: 22745

PLAINTIFF

DEFENDANT

BATES WALTER

PL 01 VS VICKERS POLICE OFFICER

DF 005

PLAINTIFF'S ATTORNEY

MAJED A. DOUGHNI
(P-61027)
16030 MICHIGAN AVE
DEARBORN, MI 48126-2938
313-561-0800

CASE FILING FEE PAID		JURY FEE PAID
ISSUED 11/12/02	THIS SUMMONS EXPIRES 02/11/03	DEPUTY COUNTY CLERK EDWARD D HOSENDORF

*This summons is invalid unless served on or before its expiration date.

Cathy M. Garrett - Wayne County Clerk

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

- You are being sued.
 - YOU HAVE 21 DAYS after receiving this summons to file an answer with the court and serve a copy on the other party or to take other lawful action (28 days if you were served by mail or you were served outside this state).
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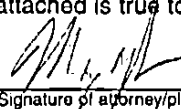
The docket number and assigned judge of the civil/domestic relations action are:

Docket no.	Judge	Bar no.

The action remains is no longer pending.

I declare that the complaint information above and attached is true to the best of my information, knowledge, and belief.

Date 11-17 02

Signature of attorney/plaintiff 



COMPLAINT IS STATED ON ATTACHED PAGES. EXHIBITS ARE ATTACHED IF REQUIRED BY COURT RULE.

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STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

WALTER BATES,
Plaintiff,

02-239895-NO 11/12/2002
JDG: ROBERT L ZIOLKOWSKI
BATES WALTER
VS
DETROIT CITY OF

vs.

CITY OF DETROIT, A Municipal Corporation,
POLICE OFFICER REGINA COLEMAN,
SGT. DAVID LEVALLEY,
POLICE OFFICER VICKERS,
POLICE OFFICER JORDON
AND POLICE OFFICERS JOHN DOES,
Jointly and Severally.

Defendant,

MAJED A. MOUGHNI (P 61087)
Attorney for Plaintiff
16030 Michigan Avenue
Dearborn, MI 48126
(313) 581-0800

There is no other civil action arising out of the same transaction or occurrence as alleged in this Complaint, pending in this Court, nor has any such action been previously filed and dismissed after being assigned to a judge.



MAJED A. MOUGHNI P-61087

COMPLAINT AND JURY DEMAND

Now Comes, WALTER BATES, by and through his attorney, Majed A. Moughni, and for his complaint against the above-named defendants, jointly and severally, states the following:

PARTIES

1. Plaintiff is a resident of the City of Southfield, County of Wayne, State of Michigan.

3. At all times relevant to this action, Defendant, City of Detroit, was and still is a municipal corporation, duly organized, existing and carrying on governmental functions under and by virtue of the laws of the State of Michigan.

3. Defendant Police Officer Regina Coleman, Sgt. David Levalley, Police Officer Vickers, Police Officer Jordon, and John Doe Police Officers (referred to after this point as Defendant Police Officers) were at the time of the incidents, and at all times relevant to this action, employed as police officers under the supervision and control of the Detroit Police Department, in the City of Detroit, and engaged in the operation of Prostitution Stings in the areas of Greenfield and Trojan in Wayne County.

ALLEGATIONS OF FACT

4. On June 3, 2001, Plaintiff Walter Bates, was on his way from the pharmacy to the grocery store, where his father was waiting for him to be picked up.

5. At that time, Plaintiff pulled over and Police Officer Regina Coleman approached Plaintiff's vehicle.

6. Plaintiff and defendant Police Officer Coleman then engaged in a brief conversation, after which Plaintiff drove from the area.

7. Plaintiff's vehicle was then pulled over by the defendant police officers, at which time Plaintiff was pulled out of his vehicle at gunpoint, handcuffed, arrested, and his car was impounded.

8. Plaintiff was then transported to the 8th precinct.

9. Plaintiff was then charged with the crime of "offering to engage the services of another for an act of prostitution" without probable cause of having committed that crime.

10. As a proximate result of the Defendant's assault and battery upon Plaintiff, the false imprisonment and Deprivation of his constitutional rights, Plaintiff suffered injuries including but not limited to mental anguish, mental anxiety, humiliation, embarrassment, depression and damage to his reputation.

11. These injuries may or could aggravate physical and mental conditions not presently known to Plaintiff, which could be permanent.

12. Prior to this incident, Plaintiff enjoyed good health and was able to enjoy the recreational and social activities which were normal for a person of his age group; however, the injuries sustained in this incident have caused a cessation of these pleasures and in the future his participation may continue to be limited due to the permanency of his injuries.

13. The amount in controversy exceeds TWENTY-FIVE THOUSAND (\$25,000.00 DOLLARS and is within the jurisdiction of this court.

14. The wrongful acts of the individually named police officers constitutes gross negligence as is contemplated by M.C.L.A. Sec. 691.1407.

COUNT I

ASSAULT AND BATTERY

15. Plaintiff incorporates paragraphs 1 through 14.

16. On or about June 3, 2001, the individual defendant police officers intentionally and without provocation assaulted and battered Plaintiff, and as a proximate result of the battery, Plaintiff suffered the damages described in full above.

17. As a proximate result of such neglect, failure and refusal of the individual defendants, Plaintiff suffered the injuries set forth above, and Plaintiff is entitled to the relief and damages set forth above.

18. Plaintiff did not resist the defendant police officers who assaulted, battered and/or arrested him, and the use of such excessive force against him was unnecessary and excessive; defendant City of Detroit is liable for its employees actions and inaction's.

19. Plaintiff alleges that in their conduct described in full above, defendants acted maliciously and willfully and with the design of causing the Plaintiff to suffer fear, physical pain and injuries, mental anguish and losses described in full above.

THEREFORE, Plaintiff respectfully requests this Honorable Court enter judgment against

the defendant, jointly and severally, as follows:

(1) Awarding compensatory damages in whatever amount in excess of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS that is found to be fair.

(2) Granting such other relief as may be just and equitable.

COUNT II

DEPRIVATION OF CIVIL RIGHTS

20. Plaintiff incorporates paragraphs 1 through 19.

21. Pursuant to 42 U.S.C. Section 1983:

Every person who, under color of any statute, ordinance, regulation, custom or usage of any State or territory, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof, to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in any action at law, suit and equity, or other proper proceeding for redress.

22. This action arises under the United States Constitution, particularly under the provision of the Fourth and Fourteenth Amendments to the Constitution of the United States and under Federal law, particularly the Civil Rights Act, Title 42 of the United States Code, Section

1983, and under the Constitution of the State of Michigan, Article 1, Section II.

23. All the Defendants herein are persons within the meaning of 42 U.S.C. Section 1983.

24. Defendant City of Detroit, had certain policies, rules and regulations, and Defendant's police officers underwent training in police procedures that police officers are mandated to follow.

25. That Defendant City of Detroit has recklessly and intentionally failed to train its police officers in proper arrest procedures.

26. All the Defendants were at all times relevant to this action, acting under color of Michigan statute, ordinance, regulations, custom and usage within the meaning of 42 U.S.C. Section 1983, in the arrest and imprisonment of Plaintiff, all under the direction, support, knowledge, and authority of the Defendants and Defendant City of Detroit.

27. Prior to the commission of the wrongful acts in furtherance of the actions to deprive Plaintiff of equal protection under the laws, and of equal privileges and immunities under the laws, each of the individual defendants knew of the existence of the intended events.

28. Each of the Defendants knew that the Defendants were about to effectuate the events by the commission of the wrongful acts described above.

29. Each of the individual Defendants possessed the power to prevent, or aid in preventing, the commission of such wrongful acts, and accordingly owed a duty to Plaintiff to prevent, aid in preventing and or attempt to prevent the commission of such wrongful acts.

30. Notwithstanding such knowledge and power the individual Defendants breached their duties by neglecting, failing and refusing to prevent, aid in preventing or attempt to prevent the commission of such wrongful acts.

31. Defendants, Police Officers failed to take any actions to correctly determine the status of the Plaintiff situation.

32. The conduct of Defendants, and each of them, deprived Plaintiffs of the following rights, privileges and immunities secured by the Constitution of the United States:

- (a) The right of Plaintiff not to be deprived of life, liberty, or property without due process of law secured by the Fourteenth Amendment to the Constitution of the United States.
- (b) The right of Plaintiff not to be subjected to unreasonable search and seizure provided by the Fourth Amendment to the Constitution of the United States.
- (c) The right of Plaintiff to be guaranteed equal protection under the laws secured by the Fourteenth Amendment to the Constitution of the United States.

33. By reason of the conduct of the Defendants, including Plaintiff's arrest, imprisonment and the injuries sustained by the acts, Plaintiff was wrongfully and deliberately denied the right to his immediate release of his vehicle.

34. The acts, conduct and behavior of Defendants, were performed knowingly, intentionally and with reckless disregard of Plaintiff's safety and continued life, and Defendant City of Detroit, failed to discipline these officers despite their use of excessive force and improper arrest procedures, and their incidents of misconduct and thus ratified and impliedly approved of said conduct, therefore, Plaintiff is entitled, by virtue of 42 U.S.C. Section 1983, to compensatory damages in whatever amount in excess of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS which is found to be fair and just, and by virtue of 42 U.S.C. Section 1988, to punitive damages in an amount in excess of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS.

THEREFORE, (1) Plaintiff respectfully request that this Honorable Court enter

judgment for compensatory damages against the Defendants, jointly and severally, in whatever amount in excess of TWENTY-FIVE THOUSAND(\$25,000.00) DOLLARS which Plaintiff is found to be entitled, plus interest, costs and attorney fees; and (2) Plaintiff respectfully request that this Honorable Court enter judgment for punitive damages under 42 U.S. C. Section 1983 against the individual Defendant Police Officers in whatever amount in excess of TWENTY-FIVE THOUSAND(\$ 25,000.00) DOLLARS which is found to be just.

COUNT III

FALSE ARREST AND IMPRISONMENT

35. Plaintiff incorporates paragraphs 1 through 34.

36. Plaintiff was held by Defendant, City of Detroit, for a period of time, after the arrest, in the Defendants police car/ police station.

37. As a proximate cause of the acts and omissions of the individual Defendant Police Officers and other agents and employees of the City of Detroit not presently identifiable:

- (a) Plaintiff was arrested without probable cause; and
- (b) The individual Defendant, Police Officers and other agents and employees for the City of Detroit not presently identifiable, negligently or intentionally failed to ascertain and investigate the facts and circumstances surrounding the Plaintiff's false arrest and false imprisonment.

38. As a proximate result of the wrongful conduct describe above, Plaintiff was deprived of his freedom, privacy, rights of society, capacity to earn a livelihood, and Plaintiff suffered great mental and bodily distress, and was greatly humiliated and injured in his reputation.

THEREFORE, Plaintiff respectfully request that this Honorable Court enter judgment

against the Defendants, jointly and severally, in whatever amount in excess of TWENTY-FIVE THOUSAND (\$25,000.00) DOLLARS this court finds to be equitable, plus interest, costs and attorney fees.

COUNT IV

ABUSE OF PROCESS

39. Plaintiff incorporate paragraphs 1 through 38.

40. Defendants, City of Detroit Police Officers unlawfully, wrongfully, and acting together with other unknown employees of Defendant City of Detroit, maliciously combined and confederated to bring false accusations and charges against Plaintiff.

41. In furtherance of this unlawful, wrongful, and malicious actions, Defendants arrested Plaintiff, not to vindicate the law or to arrest and punish Plaintiff for the charged offense, but for wrongful, unlawful, and malicious purposes.

42. Defendants did seek personal, ulterior vengeance by an abuse of a legal process, wrongfully brought, which caused Plaintiff to suffer mental distress, and damage to Plaintiff's reputation.

43. Defendants acting individually and within the scope of their authority, as employees of the City of Detroit Police Department, an agency of the Defendant, City of Detroit, under both State and Federal Law, have caused Plaintiff to be injured in his good name, wounded in his feelings and subjected to oppression.

THEREFORE, Plaintiff respectfully request this Honorable Court enter judgment against the Defendants, jointly and severally, in whatever amount in excess of TWENTY-FIVE THOUSAND (\$ 25,000.00) DOLLARS which is found to be just, plus interest, costs and attorney fees so wrongfully sustained, with the Court to treble the amount of damages awarded.

COUNTY

MALICIOUS PROSECUTION

44. Plaintiff incorporates paragraphs 1 through 43.

45. On or about June 3, 2001, defendant police officers, acting in their individual capacities as employees and agents of defendant City of Detroit, did arrest Plaintiff, and did bring false charges against Plaintiff, and by action with other City of Detroit police officers, defendants maliciously, without probable cause, and with intent of harassing Plaintiff and injuring Plaintiff's good name and reputation, and bringing him into public disgrace, instituted one or more criminal actions against Plaintiff by having defendants swear to a complaint charging Plaintiff with the crimes described above.

46. Plaintiff was charged with "offering to engaged the services of another for an act of prostitution", and Plaintiff was later arraigned on the charge which was falsely and maliciously made by defendants.

47. The accusations, complaints made and legal proceedings brought against Plaintiff were and are false, malicious and without probable cause.

48. On November 6, 2002, a bench trial took place and Plaintiff was found not guilty.

49. Defendants caused the criminal charge to be brought against the Plaintiff and repeatedly harassed Plaintiff despite the fact that there were no facts nor probable cause to believe that Plaintiff was guilty of the crime charged nor of any other crime.

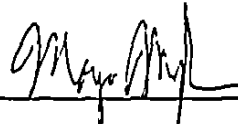
50. By reason of Plaintiff's false arrest, harassment and imprisonment under the above warrants, Plaintiff has suffered grievous loss and damage to his good name, reputation, and credit, and suffered the injuries specified above.

THEREFORE, Plaintiff respectfully request this Honorable Court enter judgment against the Defendants, jointly and severally, in whatever amount in excess of TWENTY-FIVE THOUSAND (\$ 25,000.00) DOLLARS which is found to be just, plus interest, costs and attorney fees so wrongfully sustained, with the Court to treble the amount of damages awarded.

JURY DEMAND

Demand for trial by jury is made.

LAW OFFICES OF MAJED A. MOUGHNI, P.C.

BY: 

MAJED A. MOUGHNI (P 61087)
Attorney for Plaintiff

Dated: November 12, 2002