

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DAVID TEAL,

Plaintiff,

v.

CITY OF AMSTERDAM, CITY OF
AMSTERDAM POLICE DEPARTMENT,
CITY OF AMSTERDAM POLICE OFFICER
RAYMOND RENZI, CITY OF AMSTERDAM
POLICE OFFICER AURELIO FIORILLO,
AND CITY OF AMSTERDAM POLICE OFFICER
VJAY RATHORE,

Case No. 1:21-cv-1256 (BKS/DJS)

Defendants.

ANSWER TO FIRST AMENDED COMPLAINT

As and for their Answer to Plaintiff's December 13, 2022 Amended Complaint in the above-referenced action (ECF No. 29), Defendants, the City of Amsterdam, (also sued herein as the City of Amsterdam Police Department), Raymond Renzi, Aurelio Fiorillo and Vjay Rathore (hereinafter referred to as "Defendants" or "answering Defendants"), by and through their counsel (Johnson & Laws, LLC), sets forth as follows:

BACKGROUND AND JURISDICTION

1. As to the allegations contained in paragraph "1" of the Complaint herein: acknowledge that Plaintiff purports to invoke the Court's subject matter jurisdiction; refer all questions of law to the Court; and deny all remaining allegations, statements, and inferences contained herein.

2. Deny all allegations, statements, and inferences contained in paragraph "2" of the Complaint herein.

3. Deny all allegations, statements, and inferences contained in paragraph “3” of the Complaint herein.

PARTIES

4. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph “4” of the Complaint herein.

5. Admit the allegations contained in paragraph “5” of the Complaint herein.

6. As to the allegations contained in paragraph “6” of the Complaint, admit that, on July 13, 2021, Raymond Renzi, Aurelio Fiorillo and Vjay Rathore were employed by the City of Amsterdam as police officers with the City of Amsterdam Police Department; refer all questions of law to the Court; and deny all remaining allegations, statements, and inferences contained herein.

FACTS

7. As to the allegations contained in paragraph “7” of the Complaint, admit that each of the three individual defendants encountered Plaintiff at 49 South Mathias Street in the City of Amsterdam on July 13, 2021 after numerous complaints were made regarding Plaintiff’s conduct; and deny knowledge or information sufficient to form a belief as to the allegations, statements and inferences contained in the balance of the allegations.

8. As to the allegations contained in paragraph “8” of the Complaint, admit that each of the three individual defendants responded to multiple complaints of someone loudly revving the engine of a motorcycle at 49 South Mathias Street on July 13, 2021 on or after 9:12 p.m.; and deny in form alleged, all remaining allegations, statements, and inferences contained therein.

9. As to the allegations contained in paragraph “9” of the Complaint, admit that each of the three individual defendants responded to complaints of someone loudly revving the engine

of a motorcycle at 49 South Mathias Street on July 13, 2021 at on or after 9:12 p.m.; and deny in form alleged, all remaining allegations, statements, and inferences contained therein.

10. As to the allegations contained in paragraph “10” of the complaint, admit that each of the three individual defendants responded to complaints of someone loudly revving the engine of a motorcycle at 49 South Mathias Street on July 13, 2021 at approximately 9:12 p.m.; and deny in form alleged, all remaining allegations, statements, and inferences contained therein.

11. Deny all allegations, statements, and inferences contained in paragraph “11” of the Complaint herein.

12. Deny all allegations, statements, and inferences contained in paragraph “12” of the Complaint herein and refer all questions of law to the Court.

13. Deny all allegations, statements, and inferences contained in paragraph “13” of the Complaint herein.

14. Deny all allegations, statements, and inferences contained in paragraph “14” of the Complaint herein.

15. Deny all allegations, statements, and inferences contained in paragraph “15” of the Complaint herein.

16. Deny all allegations, statements, and inferences contained in paragraph “16” of the Complaint herein.

17. Deny all allegations, statements, and inferences contained in paragraph “17” of the Complaint herein.

18. Deny all allegations, statements, and inferences contained in paragraph “18” of the Complaint herein.

19. As to the allegations contained in paragraph “19” of the Complaint, admit that Plaintiff was arrested on July 13, 2021; and deny in form alleged, all remaining allegations, statements, and inferences contained therein.

20. As to the allegations contained in paragraph “20” of the Complaint, admit that Plaintiff was handcuffed on July 13, 2021; and deny all remaining allegations, statements, and inferences contained therein.

21. As to the allegations contained in paragraph “21” of the Complaint, admit that EMS Services were called for Plaintiff and he was immediately removed to St. Mary’s Hospital via ambulance; and deny in form alleged, all remaining allegations, statements, and inferences contained therein.

22. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph “22” of the Complaint herein.

23. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph “23” of the Complaint herein.

24. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph “24” of the Complaint herein.

25. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph “25” of the Complaint herein.

26. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph “26” of the Complaint herein.

27. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph “27” of the Complaint herein.

28. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph "28" of the Complaint herein.
29. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph "29" of the Complaint herein.
30. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph "30" of the Complaint herein.
31. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph "31" of the Complaint herein.
32. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph "32" of the Complaint herein.
33. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph "33" of the Complaint herein.
34. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph "34" of the Complaint herein.
35. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph "35" of the Complaint herein.
36. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph "36" of the Complaint herein.
37. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph "37" of the Complaint herein.
38. Deny all allegations, statements, and inferences contained in paragraph "38" of the Complaint herein.

39. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph “39” of the Complaint herein.

40. As to the allegations contained in paragraph “40” of the Complaint, admit that Plaintiff was arrested and charged on July 13, 2021 with, among other things, resisting arrest; and deny all remaining allegations, statements, and inferences contained therein.

41. Deny all allegations, statements, and inferences contained in paragraph “41” of the Complaint herein.

42. Deny knowledge or information sufficient to form a belief as to the allegations, statements, and inferences contained in paragraph “42” of the Complaint herein.

43. As to the allegations contained in paragraph “43” of the Complaint, deny in form alleged, all allegations, statements and inferences contained therein.

44. As to the allegations contained in paragraph “44” of the Complaint, deny in form alleged, all allegations, statements and inferences contained therein.

45. Deny all allegations, statements, and inferences contained in paragraph “45” of the Complaint herein.

46. As to the allegations contained in paragraph “46” of the Complaint, admit that the City of Amsterdam has certain lawful municipal polies or customs; and deny all remaining allegations, statements and inferences contained therein.

47. Deny all allegations, statements, and inferences contained in paragraph “46” of the Complaint herein.

48. As to the allegations contained in paragraph “48” of the Complaint, deny in form alleged, all allegations, statements, and inferences contained therein.

49. As to the allegations contained in paragraph “49” of the Complaint, deny in form alleged, all allegations, statements, and inferences contained therein.

50. Deny all allegations, statements, and inferences contained in paragraph “50” of the Complaint herein.

51. Deny all allegations, statements, and inferences contained in paragraph “51” of the Complaint herein.

52. Deny all allegations, statements, and inferences contained in paragraph “52” of the Complaint herein.

53. Deny all allegations, statements, and inferences contained in paragraph “53” of the Complaint herein.

54. Deny all allegations, statements, and inferences contained in paragraph “54” of the Complaint herein including subparagraphs “a” through “d” thereunder.

55. Deny all allegations, statements, and inferences contained in paragraph “55” of the Complaint herein including subparagraphs “a” through “d” thereunder.

COUNT ONE

56. As to the allegations contained in or incorporated into paragraph “56” of the Complaint herein: Answering defendants repeat and reallege each of the foregoing responses as if more fully set forth herein.

57. Deny all allegations, statements, and inferences contained in paragraph “57” of the Complaint herein.

58. Deny all allegations, statements, and inferences contained in paragraph “58” of the Complaint herein.

59. As to the allegations contained in paragraph “59” of the Complaint, admit that the City of Amsterdam has certain lawful municipal policies or customs; and deny all remaining allegations, statements and inferences contained therein.

60. Deny all allegations, statements, and inferences contained in paragraph “60” of the Complaint herein.

61. Deny all allegations, statements, and inferences contained in paragraph “61” of the Complaint herein.

COUNT TWO

62. As to the allegations contained in or incorporated into paragraph “62” of the Complaint herein: Answering defendants repeat and reallege each of the foregoing responses as if more fully set forth herein.

63. Deny all allegations, statements, and inferences contained in paragraph “63” of the Complaint herein.

64. Deny all allegations, statements, and inferences contained in paragraph “64” of the Complaint herein.

65. Deny all allegations, statements, and inferences contained in paragraph “65” of the Complaint herein.

COUNT THREE

66. As to the allegations contained in or incorporated into paragraph “66” of the Complaint herein: Answering defendants repeat and reallege each of the foregoing responses as if more fully set forth herein.

67. Deny all allegations, statements, and inferences contained in paragraph “67” of the Complaint herein.

68. Deny all allegations, statements, and inferences contained in paragraph “68” of the Complaint herein.

69. Deny all allegations, statements, and inferences contained in paragraph “69” of the Complaint herein.

70. As to the allegations contained in paragraph “70” which is misnumbered as paragraph “57” in the Complaint herein, Answering Defendants acknowledge that Plaintiff demands a trial by jury for this action.

71. Answering Defendants deny all allegations, claims, statements, prayers for relief, and inferences contained in the “WHEREFORE paragraph” of the Complaint herein, including subparagraphs “a” through “e” thereunder.

72. Answering Defendants deny all allegations, claims, statements and inferences which have not been specifically responded to by the foregoing paragraphs.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

73. Some or all of the allegations contained in the Complaint herein fail to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

74. Some or all of the claims asserted by Plaintiff are barred by virtue of the *Monell* doctrine.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

75. Plaintiff’s claims must be dismissed as against all or some of the Defendants under the doctrine of qualified immunity, since the actions of Richard Renzi, Aurelio Fiorillo and Vjay

Rathore, if any, were discretionary, made in good faith, and/or did not violate clearly established law as of July 13, 2021.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

76. To the extent that the Complaint seeks punitive or exemplary damages as against the City of Amsterdam (or the City's police department), such claims should be dismissed as the City of Amsterdam is immune from such liability.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

77. Answering Defendants did not deprive Plaintiff of any rights, privileges, or immunities secured under the Constitution or the Laws of the United States.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

78. All damages suffered by Plaintiff, if any, were caused in whole or in part by Plaintiff's culpable conduct.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

79. Any harm which came, or may come, to Plaintiff was not the direct or proximate result of any action by the Answering Defendants.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

80. Some or all of the claims asserted by Plaintiff are barred by virtue of Plaintiff's failure to mitigate Plaintiff's damages, if any.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

81. The arrest, detention and/or imprisonment of the Plaintiff was legitimate, lawful, privileged and/or constitutional.

WHEREFORE, Answering Defendants request that the Complaint be dismissed and for such other and further relief in favor of the Answering Defendants as the Court deems appropriate.

DATED: February 21, 2023

JOHNSON & LAWS, LLC

s/ Gregg T. Johnson

Gregg T. Johnson

Attorney for Defendants, *City of Amsterdam, City of Amsterdam Police Department, City of Amsterdam Police Officer Raymond Renzi, City of Amsterdam Police Officer Aurelio Fiorillo, and City of Amsterdam Police Officer Vjay Rathore*
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