

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

----- X
IVIN HARPER,

Plaintiff,

-against-

The CITY OF NEW ROCHELLE, a municipal entity;
Sean Kane; Maria Vasquez; Timothy Adrian, and
Gregory Davis,

Defendants.
----- X

COMPLAINT

Docket No.:

JURY TRIAL DEMANDED

Plaintiff Ivin Harper, by and through his attorneys Fisher & Byrialsen LLP and Beldock Levine & Hoffman LLP, respectfully alleges as follows:

INTRODUCTION

1. This civil rights action seeks redress under 42 U.S.C. § 1983 and New York State law for injuries Plaintiff sustained when the City of New Rochelle, through its police department, perpetuated a culture of rewarding officers for their improper, illegal, and unconstitutional conduct.

2. Plaintiff Ivin Harper was the victim of such conduct.

3. On May 29, 2024, Defendant Officer Sean Kane fabricated evidence by planting drugs near Mr. Harper and pretending the drugs belonged to Harper. Additional officers then knowingly fabricated a police report that claimed to verify that officers observed Mr. Harper throw a bag of drugs. Body worn camera reveals this to be knowingly false.

4. As a result, Plaintiff seeks (i) compensatory damages for, *inter alia*, false imprisonment psychological and emotional distress, and other financial loss caused by the illegal actions of the defendants; (ii) punitive damages to deter such intentional or reckless deviations

from well-settled constitutional law; and (iii) injunctive relief; and (iv) such other and further relief, including costs and attorney's fees, as this Court deems equitable and just.

JURISDICTION AND VENUE

5. Plaintiff brings this civil rights action under federal and New York State law, seeking to recover for injuries caused by the denial of his constitutional and legal rights.

6. Venue is properly laid in the United States District Court, Southern District of New York. This is an action against the City of New Rochelle and its officers, and Westchester County is where the cause of action arose.

JURY DEMAND

7. Pursuant to the Seventh Amendment of the United States Constitution, Plaintiff requests a jury trial on all issues and claims set forth in this Complaint.

COMPLIANCE WITH NOTICE OF CLAIM REQUIREMENTS

8. Plaintiff Mr. Ivin Harper filed Notices of Claim with the Clerk of the City of New Rochelle in accordance with General Municipal Law. These Notices of Claim were deemed timely served. A 50-h hearing was conducted on March 10, 2025.

PARTIES

9. Plaintiff Ivin Harper ("Mr. Harper") is a 46-year-old native of New Rochelle, New York. At all times relevant to this complaint, plaintiff resided in Westchester County, in the State of New York.

10. Defendant City of New Rochelle maintains and operates the New Rochelle Police Department ("NRPD"), which acts as the City's agent in the area of law enforcement and for which the City is ultimately responsible. The City assumes the risks incidental to the maintenance of a

police force and the employment of police officers/state troopers. The City is liable for the actions of its employees, agents, and representatives.

11. Defendants Sean Kane, Maria Vasquez, and Timothy Adrian were police officers and employees of the New Rochelle Police at all relevant times herein. They are sued in their individual and official capacities.

12. Defendant Gregory Davis is a civilian who, at all times relevant to this complaint, acted in concert with Defendant Kane and other NRPD officers to deprive Plaintiff of his constitutional rights. Davis is sued in his individual capacity as a private party who conspired with state actors acting under color of law.

FACTS

Fabrication of Evidence and False Arrest

13. Plaintiff Ivin Harper is a fitness trainer and an actor. He is also a black man.

14. On May 29, 2024, Mr. Harper drove to Bracey Houses, where he parked his car, a black Cadillac Escalade.

15. As Mr. Harper stood near his car, a uniformed, armed officer, Defendant Sean Kane, approached him.

16. Mr. Harper had previously been harassed and threatened by Defendant Kane. Kane also had a reputation in the community for being a corrupt officer. Plaintiff worried that Defendant Kane was approaching him to try to frame him or arrest him for no reason or to otherwise harass him.

17. Specifically, there had been several incidents in the past where Kane had told Harper that he was going to “get” Harper or plant drugs on him.

18. Defendant Kane has a history of misconduct and a lengthy disciplinary record.

19. Defendant Kane did not have reasonable suspicion of wrongdoing.

20. Mr. Harper had previously reported to the police that a relative had taken his Escalade without his consent.

21. However, Mr. Harper had since recovered his car and notified the police and the alert attached to his license plate had been updated to reflect this.

22. Defendant Kane was aware this alert had been resolved and that Harper was the registered owner of the Escalade.

23. No unlawful conduct had been reported to or witnessed.

24. Mr. Harper left the parking lot and hurried away on foot, fearing some wrongdoing by Kane.

25. Defendant Kane ran after Mr. Harper, following him through a parking lot and into a parking garage.

26. While in the parking garage, Defendant Kane was told by his dispatcher that Ivin Harper was the registered owner of the Escalade.

27. Defendant Kane told the dispatcher, "I didn't ask for that information" and then he relayed commands over the radio to have the car searched and impounded despite this information he had just received.

28. Defendant Kane had no legal reason to search or impound the car that was legally parked and was legally registered to Ivin Harper.

29. Kane invented a reason to have the Escalade searched when he radioed that there was an "unauthorized use" of the vehicle, even though he had just been told by dispatch that Ivin Harper was the registered owner.

30. While Defendant Kane was running after Mr. Harper, a man named Gregory Davis walked up to NRPD Officer Samuel Goldman and shook his hand.

31. Davis asked Goldman what the police were doing?

32. Goldman told Davis that they had approached someone and he took off running.

33. Goldman told Davis, “he [Harper] has upset Lt. Kane”.

34. While Defendant Kane was chasing Mr. Harper, Gregory Davis tried to call and text Defendant Kane many times but Kane had left his cell phone in his police vehicle.

35. While Kane was without his cell phone, Davis coordinated with Defendant Timothy Adrian and made a plan to help the police plant drugs.

36. Defendant Adrian continually turned off his body camera and microphone and communicated by cell phone calls and texts in order to keep these communications off the radio and off the camera.

37. At one point, Defendant Adrian told officer Andrade to turn her body camera off as well.

38. When Kane returned to his police car, he saw Defendant Gregory Davis.

39. Davis motioned to Kane and made a signal for Kane to call him.

40. Kane retrieved his phone from his police car and called Davis.

41. Defendant Kane asked Davis, “You have it? . . . alright, just stay there, I’ll be right there.”

42. When Defendant Kane placed this call, he was mere feet away from Defendant Officer Timothy Adrian.

43. After hanging up, Defendant Kane approached Defendant Adrian, and told him, “I’ll tell you in a second. He’s [Harper] wanted for felony drugs.”

44. Seconds later, Defendant Kane turned off his body-worn camera.

45. When the body-worn cameras were off, Defendants Kane and Adrian communicated and discussed how the drugs would be planted and “recovered”.

46. With his body-worn camera off, Defendant Kane met up with Defendant Gregory Davis and Davis gave Kane a baggie of illegal drugs.

47. Davis's conduct throughout the incident—including his repeated attempts to reach Kane by phone while Kane, his immediate availability upon Kane's return, and the efficiency and apparent familiarity with which the handoff was executed—is consistent with a pre-existing arrangement and relationship between Davis and Kane.

48. Upon information and belief, Davis and Kane had a prior relationship and had engaged in similar coordinated conduct on prior occasions.

49. Defendant Kane drove to a parking lot while already holding the baggie of drugs in his hand. This is visible on Kane's body worn camera.

50. Defendant Kane then palmed the drugs in his left hand and hid the drugs from view behind the steering wheel.

51. Defendant Kane pressed a button on his body-worn camera which turned on the audio of the video which had already been recording. Kane thought this was the first time he was turning the video on. Accordingly, he inadvertently filmed himself holding the drugs and palming the drugs, which he subsequently "found" in a parking lot.

52. Defendant Kane then exited his car and walked directly to the front left tire of a parked SUV and planted the baggie of white powder under the tire, and quickly removed it.

53. After he returned to his patrol car, Defendant Kane told officers through radio, “It's going to be one for felony drugs.”

54. When asked by dispatch, “You found the drugs?” Defendant Kane responded, “Affirmative.”

55. The baggie of drugs Kane held when he returned to his car was the same one he possessed before exiting his car to check behind the tire of the parked SUV.

56. Defendant Kane’s planting of this evidence was captured on his body-worn camera footage.

57. Plaintiff was nowhere in the vicinity when Kane planted the evidence behind the tire of the parked SUV.

58. NRPD's own formal disciplinary charges, signed by Deputy Commissioner Neil Reynolds on April 24, 2025, state that Kane later admitted he did not see Harper throw the bag of drugs and that an informant [Defendant Davis] provided him with the bag of drugs.

NRPD Officers Continued to Fabricate Evidence

59. Officer Vasquez subsequently submitted a police report that contained false information, claiming that, “While running through the upper lot parking lot of 361 Main St., Lt. Kane observed [] Harper toss a plastic bag underneath a parked vehicle”.

60. Officer Vasquez knew that the information in the police report was false.

61. Defendant Kane himself planted the referenced plastic bag underneath the parked vehicle.

62. Defendant Vasquez was present at the scene from the outset of the incident and remained present through its conclusion, including through the moment Defendant Kane claimed to have recovered the narcotics.

63. Defendant Vasquez was also part of the initial chase and knew that when Ivan Harper ran past the SUV where the drugs were "found," defendant Kane had no view of Mr. Harper at that time because both of their views were completely obstructed by stairs and a large brick wall.

64. Throughout the incident, Defendant Vasquez was actively communicating on the police radio and in person with other officers on scene. Some of these communications were captured on body-worn camera footage and some communications occurred while the body cameras were turned off or muted.

65. During the entirety of Defendant Kane's foot pursuit of Mr. Harper, neither Kane nor any other officer ever broadcast over the radio—or stated in any in-person communication captured on body camera—that anyone had observed Harper discard or throw any object near a parked vehicle.

66. No such observation was reported at any point during or after the chase until Kane announced he had recovered narcotics. Defendant Vasquez was present for and privy to all of these communications.

67. Despite this, Defendant Vasquez signed and swore to a felony complaint alleging that, during the foot pursuit, Harper threw a plastic bag containing narcotics underneath a parked vehicle and that Kane recovered it. No officer on scene, including Kane, had ever provided any factual basis for that account over the radio or in any in-person communication captured on body camera. Defendant Vasquez knew when she signed and swore to that account that it was false.

Malicious Prosecution

68. On July 10, 2024, Mr. Harper was charged and arraigned on felony drug possession.

69. The charge was based on a felony complaint drafted by Defendant Vasquez, which contained false information.

70. Defendant Vasquez knowingly made these false statements to the court.

71. In the felony complaint, Defendant Vasquez claimed that Mr. Harper possessed cocaine and crack cocaine with the intent to distribute. To support this, Defendant Vasquez repeated the false claim that Mr. Harper tossed a plastic bag containing the narcotics underneath a parked vehicle.

72. Defendant Vasquez transmitted this false information to the prosecution, who then charged Mr. Harper with one count of Criminal Possession of a Controlled Substance in the Fifth degree and one count of Criminal Possession of a Controlled Substance in the Third degree.

73. Mr. Harper was arrested, placed in a cell, and spent several hours in custody.

74. The charges against Mr. Harper were dismissed on August 23, 2024, nearly three full months after the incident.

75. During these nearly three months, Mr. Harper attended court hearings and feared a guilty finding despite being wholly innocent of the charges of which he was accused.

76. As a result of the charges, Mr. Harper suffered financial damages, reputational damage, and severe emotional distress.

77. Mr. Harper lost employment opportunities and his reputation suffered.

78. On April 24, 2025, Deputy Commissioner Neil Reynolds filed formal disciplinary charges against Kane, documenting Kane's admission that he did *not* observe Harper discard the drugs and that an informant [Davis] supplied or located the drugs for him.

79. While under internal investigation, Defendant Kane filed for accidental disability retirement under the New York State Police and Fire Retirement System on March 10, 2025, seeking a tax-free pension worth three-quarters of his final average salary—the most generous retirement benefit available under New York State law. A hearing was scheduled for May 1, 2026.

Kane withdrew the application after his demotion was finalized, before any public hearing could create a record of the proceeding.

80. Despite admitting planting drugs on an innocent person, Kane was not fired. Instead, he was demoted to the rank of police officer on March 2, 2026—sixteen days before Commissioner Reynolds publicly announced it on March 18, 2026. Kane accepted the demotion without contest, filing no civil service appeal, no Article 78 proceeding, and no lawsuit, meaning no court record, no transcript, and no public filing in which his admission would have been aired.

81. Kane resigned effective March 29, 2026, after nearly 19 years on the force, and subsequently joined the Putnam County Sheriff's Office.

Monell

82. Long before the events involving Plaintiff, the City of New Rochelle, including Police Commissioner Robert Gazzola had actual knowledge that Defendant Sean Kane had repeatedly engaged in sustained misconduct, including failures to appear for required proceedings, unsafe operation of police vehicles, failures to file required charges, mishandling and improper disposal of evidence, and conduct detrimental to the good order.

83. Despite these sustained violations, the City imposed minimal discipline, most often consisting of the loss of a few leave days, and permitted Kane to remain in active patrol and later promoted him to supervisory rank.

84. In and around this same time period, but before the incident in this case, the City also possessed extensive disciplinary records showing that another officer, Police Officer Michael Vaccaro, had engaged in a decade-long pattern of sustained misconduct, including dishonesty, failure to follow orders, repeated failures to appear for trials, mishandling of property, and making

false statements. The City again responded with minor discipline and retained Vaccaro in active patrol.

85. Before the incident in this case, the City had detailed disciplinary records concerning Police Officer Alec McKenna documenting a pattern of misconduct so extensive that NRPD supervisors themselves initiated a review of McKenna's conduct based on concerns about his traffic stops.

86. That review documented 158 violations by McKenna in a 60-day period. The vast majority related to pretextual and improperly documented traffic stops, failures to activate body cameras and dash cameras, inaccurate narratives, and repeated failures to file required reports.

87. Many of these violations occurred multiple times within a single shift.

88. Rather than impose meaningful discipline or remove McKenna from patrol, the City docked McKenna seven days of leave and returned him to active duty. The City purposely halted its review of McKenna's conduct despite the overwhelming volume of violations it had already documented.

89. In December 2019, McKenna received a formal Command Discipline and forfeited five days of leave. McKenna signed off on that finding.

90. One month later, in January 2020, McKenna conducted another pretextual traffic stop and drew his weapon on a civilian couple who had done nothing wrong. The couple was released without charges. McKenna was not meaningfully disciplined for this incident either.

91. Five months after that, in June 2020, McKenna conducted another pretextual traffic stop. The official narrative offered by the City at a subsequent press conference was that McKenna had stopped the vehicle because NRPD had been looking for “out-of-state agitators” believed to

be in the area following George Floyd protests, and that the vehicle's Virginia license plates had triggered the stop.

92. This narrative was false. Radio traffic from the incident shows that McKenna recognized the occupants of the vehicle, Kamal Flowers and a companion, both of whom McKenna knew personally and had dealt with before but they had done nothing wrong or illegal on that day.

93. McKenna followed the vehicle for approximately one mile, passing NRPD headquarters and other well-lit public areas without conducting the stop, before pulling the vehicle over in a poorly lit back street away from public view. The stop was pretextual. The City knew this and misrepresented the basis for the stop to the public anyway.

94. During the stop, Kamal Flowers fled on foot and was shot and killed by McKenna.

95. Despite his past transgressions and this incident McKenna was not fired. He was placed on paid administrative leave, restored to active duty, and subsequently reassigned to a desk position at the Westchester County real-time crime center in Valhalla, New York. No public findings of wrongdoing were announced. McKenna received multiple NRPD commendation awards following the Flowers shooting.

96. The City's handling of the McKenna matter was well known in the media and within the NRPD, including by Defendant Kane. The message conveyed by the City's repeated pattern of minimal discipline, false public narratives, and continued retention of officers with documented records of serious misconduct was unmistakable: officers who engaged in unconstitutional conduct would be protected by NRPD rather than punished or terminated.

97. McKenna kept his job, his pay, and his pension. NRPD showed a willingness to lie on his behalf if necessary.

98. Defendant Kane acted against this institutional backdrop. His decision to plant narcotics on Plaintiff and to coordinate with a civilian and fellow officers to fabricate evidence was not an aberration. It was the foreseeable product of a departmental culture that had consistently communicated to its officers that misconduct would be tolerated, covered up, and ultimately excused.

99. Kane had every reason to believe, based on the City's demonstrated response to comparable misconduct by other officers, that he would face no meaningful consequences even if his conduct were discovered.

100. And in fact, he was right. Even though he was caught on video tape planting drugs on an innocent person, Kane was not arrested, not criminally prosecuted, and not terminated. Instead he was suspended with pay for a year and then he was demoted and allowed to resign, keeping his pension and his record largely intact, and subsequently obtained employment at another law enforcement agency.

Rewarding Misconduct

101. Despite NRPD's knowledge of Defendant Kane's repeated rule violations, the department repeatedly celebrated him and elevated him as if he were a model officer.

102. After Kane falsified felony drug evidence to frame Plaintiff in May 2024, NRPD awarded him commendations "for a member who performs an outstanding act in the performance of duty or conduct."

103. In 2011, Kane received NRPD's "Cop of the Year" award, even though earlier that same year he had been disciplined and lost two days of leave.

104. The City routinely rewarded many officers following well-documented incidents of wrongdoing.

105. In 2023, Detective Steven Conn fatally shot New Rochelle resident Jarrel Garriss and received three commendation awards in 2024.

106. Officer Alec McKenna received a commendation award in 2021 following his fatal shooting of New Rochelle resident Kamal Flowers the previous year.

107. Despite Detective Vaccaro's vast documented misconduct discussed above as well as his well publicized 2021 assault of Malik Fogg, NRPD publicly recognized him with multiple unit citations and commendation awards in that same period.

108. The City's pattern of rewarding misconduct extended to the officers who assisted Kane.

109. On October 16, 2025—while Kane remained under active suspension and the Internal Affairs investigation into the Harper incident was ongoing—the NRPD promoted Officer Maria Vasquez, who wrote the false police report in this case, to the rank of Detective.

110. Officer Stephen Correale, who was present at the scene during the incident, was promoted to Sergeant at the same ceremony.

111. Commissioner Reynolds presided and praised the officers' dedication, professionalism, and service. City Manager Wilfredo Melendez personally thanked them. No disciplinary action against Vasquez, Correale, or Adrian has ever been announced.

Failure to Train

112. NRPD issues periodic training reports and internal summaries of its training offerings.

113. From 2007 through the present—the entirety of Defendant Kane's employment—NRPD did not publish any training curriculum specifically devoted to ethics, officer integrity, or

the constitutional requirements related to evidence creation, documentation, charging decisions, or prosecutions.

114. Publicly accessible records do not reflect that NRPD provided specific training on evidence falsification, false arrest, or malicious prosecution during that period.

115. Internal Affairs (“IA”) records indicate that officers routinely confronted decisions relating to evidence handling, charging, and arraignments. Yet no publicly available training materials have been identified that directly address these constitutional issues.

116. At the quarterly meeting of Citizens for a Better New Rochelle on September 25, 2024, Police Commissioner Robert Gazzola stated that the suspension with pay of Defendant Kane would serve as "serious training for everyone else" and that "just that alone is going to be enough," demonstrating the City's deliberate decision not to implement improved training despite longstanding notice of officer misconduct. This was after Defendant Kane, who was a supervisory lieutenant within NRPD, was captured on his own body camera planting drugs on an innocent civilian.

117. Commissioner Gazzola is empowered under City and departmental authority to make final decisions regarding officer discipline, including the discipline of Defendant Kane. His public statements and decisions regarding Kane's suspension and the City's training response therefore reflect the official policy of the City of New Rochelle and constitute the acts of a final municipal policymaker for purposes of municipal liability.

118. Following the incident involving Plaintiff, Police Commissioner Gazzola was made aware of Defendant Kane's specific conduct. This awareness is confirmed by the City's decision to suspend Kane with pay following the incident.

119. Rather than taking meaningful corrective action, Commissioner Gazzola publicly characterized Kane's suspension with pay as sufficient and declined to implement any additional training or disciplinary measures in response to Kane's conduct.

120. The City further ratified Kane's conduct by awarding him commendations following the incident, affirmatively recognizing him for outstanding performance in the same period.

121. The City further ratified Kane's conduct by demoting him two ranks but letting him keep his job after being caught on video planting illegal drugs on an innocent person.

122. By consciously choosing to approve an inadequate response to known unconstitutional conduct, Commissioner Gazzola, as the City's final policymaker for officer discipline, ratified that conduct on behalf of the City.

123. The City further demonstrated its pattern of protecting officers from accountability when, while Kane remained under internal investigation, he filed for accidental disability retirement that would have provided him a tax-free pension worth three-quarters of his final salary.

124. The City allowed this proceeding to advance for over a year without public disclosure. Kane withdrew the application only after his demotion was finalized and before any public hearing could create a record of the proceeding.

125. The City then permitted Kane to resign rather than terminating him, ensuring that his admission—documented in the City's own charging specifications—would not be aired in any public forum.

The Civilian Complaint Review Board

126. In response to public outrage following the June 2020 killing of Kamal Flowers by NRPD Officer McKenna, the City publicly committed to establishing civilian oversight of the

police department. After years of delay, the City established the Civilian Complaint Review Board by ordinance in October 2024.

127. However, the City structured the CCRB in a manner that ensured it could not function. The City made police-controlled training—administered by NRPD itself—a mandatory prerequisite before board members could review any cases. The City then failed to offer that training, leaving the board unable to act.

128. The CCRB was seated in July 2025. As of the filing of this complaint, it has never held a single meeting.

129. The Kane disciplinary matter was the most significant NRPD misconduct case since the CCRB was created.

130. Under Section 9-121 of the New Rochelle City Code, the CCRB was required to review the internal affairs investigation and issue its opinion to the Commissioner before any final disciplinary determination was made. This never happened.

131. Instead, Commissioner Reynolds “investigated”, decided, and announced the outcome of Kane’s case entirely without civilian input at any stage.

132. Kane's admission to NRPD investigators that he did not see Harper throw the drugs—documented in the City's own formal charging specifications—sat in an internal file, unpublished and unexamined by any civilian body, until it was obtained by a journalist through a Freedom of Information Law request.

133. Had the CCRB been operational as required by law, it would have reviewed that admission before discipline was imposed, would have had the opportunity to recommend termination rather than demotion, and would have made the admission part of the public record through its required semi-annual report.

134. The City's creation of a nominally independent oversight body—which it then rendered inoperable through structural design—while simultaneously handling the most significant officer misconduct case in years entirely in secret, is further evidence of deliberate indifference to constitutional violations and of a persistent custom of suppressing accountability for officer misconduct.

FIRST CAUSE OF ACTION
Violations of the United States Constitution
Through 42 U.S.C. § 1983
Against Individual Defendants

135. Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

136. Individual defendants, under color of state law, subjected the Plaintiff to the foregoing acts and omissions, thereby depriving plaintiff of his rights, privileges and immunities secured by the Fourth and Fourteenth Amendments to the United States Constitution, including, without limitation, deprivation of the following constitutional rights: (a) freedom from unreasonable seizure of his person; (b) freedom from arrest without probable cause; (c) freedom from false imprisonment; (d) freedom from the lodging of false charges against him by police officers; (e) freedom from having police officers fabricate evidence against him; (f) freedom from malicious prosecution; and (g) freedom from abuse of process.

137. Individual defendants' misconduct—including planting narcotics, fabricating evidence, submitting false documentation, and omitting material facts—directly caused Plaintiff's arrest, prosecution, loss of liberty, emotional distress, and economic harm.

138. Defendant Davis, though a private citizen, is liable under 42 U.S.C. § 1983 as a willful participant in joint action with state actors.

139. As alleged herein, Davis conspired with Defendant Kane to plant narcotics on Plaintiff, supplying the drugs used in the fabrication and coordinating with Kane and Adrian during the incident.

140. Davis's conduct—including his repeated attempts to reach Kane during the foot pursuit, his signal to Kane upon Kane's return, and his physical handoff of the narcotics—reflects a knowing agreement to deprive Plaintiff of his Fourth and Fourteenth Amendment rights.

141. The nature of this coordination—including Kane's expectation, before returning to Davis, that Davis would already have narcotics ready for him—reflects a prior agreement between Davis and Kane to plant drugs on Harper, without which the arrest and prosecution of Plaintiff could not have occurred.

142. Davis acted in concert with, and at the direction of or in coordination with, uniformed NRPD officers and NRPD command staff exercising state authority, and is therefore subject to liability under § 1983.

SECOND CAUSE OF ACTION
Violations of the United States Constitution
Through 42 U.S.C. § 1983
Against The City of New Rochelle

143. Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs.

144. The constitutional violations committed by Defendants Kane, Vasquez, and Adrian were undertaken pursuant to the policies, practices, customs, and usages of the City of New Rochelle and the New Rochelle Police Department.

145. These policies, practices, and customs included, but were not limited to:

- a. A longstanding pattern of failing to supervise and discipline officers who engaged in repeated misconduct, including Defendant Kane, whose sustained violations

over more than a decade involved dishonesty, evidence mishandling, failures to appear, and procedural violations, yet who remained in active duty and was promoted and awarded commendations.

- b. A widespread custom of retaining officers with known histories of misconduct, including Officers Vaccaro McKenna and Kane, despite repeated sustained findings of dishonesty, evidence mishandling, non-documentation, disabling of recording systems, and other violations of core policing standards.
- c. A persistent failure to train officers in basic constitutional requirements relating to evidence integrity, documentation, truthfulness, ethics, charging decisions, and malicious prosecution—despite policymakers’ knowledge that officers regularly confronted such situations.
- d. A departmental culture that rewarded officers involved in misconduct—including commendations awarded to Kane after he planted narcotics on Plaintiff, and awards given to other officers following fatal shootings or documented misconduct—thereby reinforcing and ratifying unconstitutional behavior.
- e. A pattern of officers disabling body-worn cameras or failing to document vehicle stops, including in the disciplinary records of McKenna and in the actions of Defendants Kane and Adrian during the incident involving Plaintiff.
- f. A custom of tolerating dishonesty in official paperwork, including the submission of false statements and knowingly false criminal complaints.
- g. The ratification of Defendant Kane's unconstitutional conduct by Police Commissioner Robert Gazzola, the City's final policymaker for officer discipline, who had actual knowledge of the specific conduct at issue.

- h. Commissioner Gazzola publicly declined to implement corrective training or meaningful discipline in response, stating that Kane's suspension with pay alone was sufficient.
- i. Commissioner Gazzola further approved the award of commendations to Kane following the incident, thereby consciously adopting and approving the unconstitutional conduct as consistent with City policy.

146. These practices and customs were known to City policymakers, including Police Commissioner Robert Gazzola, who is empowered to make final decisions regarding officer discipline and who publicly rejected implementing training reforms even after acknowledging Kane's conduct.

147. The City's deliberate indifference to these longstanding patterns of misconduct was a moving force behind the violation of Plaintiff's constitutional rights, resulting in his arrest, prosecution, and associated damages.

THIRD CAUSE OF ACTION
False Arrest, False Imprisonment, Malicious Prosecution
Violations of the New York State Constitution
Against All Individual Defendants

148. Plaintiff realleges and incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein. Such conduct breached the protections guaranteed to plaintiff by the New York State Constitution, including but not limited to, Article 1, §§ 1, 6, 8, 11, and 12, and including the following rights:

- a. freedom from unreasonable search and seizure of his person and property;
- b. freedom from arrest without probable cause;

- c. freedom from false imprisonment, that being wrongfully detained without good faith, reasonable suspicion, or legal justification, and of which wrongful detention plaintiff was aware and did not consent;
- d. freedom from the lodging of false charges against him by police officers and prosecutors, including on information and belief, by some or all of the individual defendants;
- e. freedom from the denial of a fair trial by the presentation of fabricated evidence; and
- f. freedom from deprivation of liberty without due process of law.

149. As a direct and proximate result of defendants' deprivations of plaintiff's rights, privileges, and immunities guaranteed by the New York State Constitution, plaintiff suffered the injuries and damages set forth above.

FOURTH CAUSE OF ACTION
Negligent Supervision, and Retention
Violations of the Laws of the State of New York
Against The City of New Rochelle

150. Plaintiff incorporates by reference the allegations set forth in all preceding paragraphs as if fully set forth herein.

151. Defendant City negligently retained, supervised, and trained (failed to retrain) the individual defendant officers.

152. The acts and conduct of the individual defendants were the direct and proximate cause of injury and damage to the Plaintiff and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New York.

FIFTH CAUSE OF ACTION
Intentional, Reckless, or Negligent Infliction of Emotional Distress
Violations of the Laws of the State of New York

Against the Individual Defendants

153. Plaintiff realleges and incorporates by reference the allegations set forth in the foregoing paragraphs as fully set forth herein. As police officers acting in the performance of their duties, Defendants Kane, Vasquez, Davis, and Adrian owed the plaintiff a duty of care.

154. Defendants Kane, Vasquez, Davis, and Adrian breached that duty of care by fabricating evidence, committing perjury under oath that caused serious injury to the plaintiff; actively suppressing or deliberately withholding material exculpatory evidence; and otherwise acting to deny plaintiff his constitutional rights.

155. The foregoing acts and conduct of the defendants were the direct and proximate cause of injury and damage to the plaintiff and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New York.

SIXTH CAUSE OF ACTION
Abuse of Process
Violations of the New York State Constitution
Against All Defendants

156. Plaintiff realleges and incorporates by reference the allegations set forth in the foregoing paragraphs as if fully set forth herein.

157. By the conduct and actions described above, the individual defendants caused regularly issued process to be issued against Mr. Harper compelling the performance or forbearance of prescribed acts, including but not limited to causing criminal process to issue. The purpose of activating the process was intent to harm Mr. Harper without economic or social excuse or justification, and the individual defendants were seeking a detriment to Mr. Harper, causing him to be charged with crimes, a goal which was outside the legitimate ends of the process. The acts and conduct of the individual defendants were the direct and proximate cause of injury and damage

to Mr. Harper and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New York.

158. The conduct of the individual defendants alleged herein occurred while they were on duty and/or in and during the course and scope of their duties and functions as NRPD officers, and/or while they were acting as agents and employees of Defendant City, clothed with and/or invoking state power and/or authority. As a result, Defendant City is liable to Mr. Harper pursuant to the state common law doctrine of *respondeat superior*.

159. As a result of the foregoing, Mr. Harper was deprived of his liberty and property, suffered emotional distress, humiliation, and was otherwise damaged and injured.

SEVENTH CAUSE OF ACTION
Respondeat Superior
Violations of the New York State Constitution
Against City of New Rochelle

160. Plaintiff realleges and incorporates by reference the allegations set forth in the foregoing paragraphs as if fully set forth herein.

161. The individual defendants were, at all times relevant to this Count, employees and agents of the City of New Rochelle. Each of those defendants was acting within the scope of his or her employment, and their acts and omissions, as alleged above, are therefore directly chargeable to the City of New Rochelle under the state law doctrine of *respondeat superior*.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff demands the following relief against the Defendants, jointly and severally:

- (a) compensatory damages in an amount just and reasonable and in conformity with the evidence at trial;
- (b) injunctive relief;

- (c) punitive damages to the extent allowable by law;
- (d) attorney's fees;
- (e) the costs and disbursements of this action;
- (f) pre and post judgment interest;
- (g) such other and further relief as the court deems just and proper.

Dated: July 13, 2026
New York, New York

FISHER & BYRIALSEN, PLLC

By: /s/ David Fisher

David N. Fisher, Esq.

4600 S. Syracuse St.

Denver, CO 80237

303.256.6345

BELDOCK LEVINE & HOFFMAN LLP

By: 

Luna Droubi

Tala Alfoqaha

99 Park Avenue, PH/26th Fl.

New York, New York 10016

Attorneys for Plaintiff Ivin Harper