

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

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ROBERT L. BROWN, ARTHUR PALMER, JENNY :
MENDEZ, JOWERIA KHALID, MARYANN :
ZAPATA, CONSTANT OUEDRAOGO, UETH :
FRANCE and AMINA HARUNA, on behalf of :
themselves and as representatives of a class of :
similarly-situated individuals, :

Plaintiffs, :

- against - :

THE CITY OF NEW YORK, THE NEW YORK CITY :
POLICE DEPARTMENT, NEW YORK CITY :
POLICE DEPARTMENT SERGEANT LOU :
DEVIRGILIO, NEW YORK CITY POLICE OFFICER :
GEORGE DROESCH, NEW YORK CITY POLICE :
DEPARTMENT SERGEANT DOUGLAS :
CREIGHTON, NEW YORK CITY POLICE OFFICER :
FRANK DIFRANCO, NEW YORK CITY POLICE :
OFFICER ERIC HAYDEN, NEW YORK CITY :
POLICE OFFICER EDSON QUIC, NEW YORK :
CITY POLICE OFFICER MARTUCCIO (FIRST :
NAME UNKNOWN), NEW YORK CITY POLICE :
OFFICER EVERT (FIRST NAME UNKNOWN), :
NEW YORK CITY POLICE OFFICER LYDELL :
BOYD, NEW YORK CITY POLICE OFFICER KEVIN :
BURRITT and UNIDENTIFIED INDIVIDUALS :
BELIEVED TO BE NEW YORK CITY POLICE :
OFFICERS JOHNS DOES # 1 THROUGH # 11, :

Defendants. :

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No.: 13 CV 8094 (LGS) (JCF)

**AMENDED CLASS ACTION
COMPLAINT**

JURY TRIAL DEMANDED

Plaintiffs Robert L. Brown (“Mr. Brown”), Arthur Palmer (“Mr. Palmer”), Jenny Mendez (“Ms. Mendez”), Joweria Khalid (“Ms. Khalid”), Maryann Zapata (“Ms. Zapata”), Constant Ouedraogo (“Mr. Ouedraogo”), Ueth France (“Ms. France”) and Amina Haruna (“Ms. Haruna”) (together “Plaintiffs”), on behalf of themselves and as representatives of a class of similarly-situated individuals, by and through their undersigned counsel, Wigdor LLP, Elefterakis

Elefterakis & Panek, Karasyk & Moschella, LLP, and Imbesi Christensen, as and for their Amended Class Action Complaint against Defendants the City of New York (“the City”), the New York City Police Department (“NYPD”), NYPD Sergeant Lou Devirgilio (“Devirgilio”), NYPD Officer George Drosch (“Drosch”), NYPD Sergeant Douglas Creighton (“Creighton”), NYPD Officer Frank DiFranco (“DiFranco”), NYPD Officer Eric Hayden (“Hayden”), NYPD Officer Edson Quic (“Quic”), NYPD Officer Martuccio (first name unknown) (“Martuccio”), NYPD Officer Evert (first name unknown) (“Evert”), NYPD Officer Lydell Boyd (“Boyd”), NYPD Officer Kevin Burritt (“Burritt”), and Unidentified Individuals Believed to be NYPD Officers Johns Does #1 through # 11 (collectively, “Defendants”), hereby allege as follows:

PRELIMINARY STATEMENT

1. “[The victims of shop-and-frisk] were treated like second-class citizens. It’s absolutely unacceptable.”
2. “A lot of people were put through a very painful experience of being treated like they did something wrong when they were law abiding citizens.”
3. The above two statements were recently made by New York City Mayor Bill de Blasio, in reference to the NYPD’s unlawful practice, widely referred as “Shop and Frisk,” whereby the force implements, enforces, encourages and sanctions policies, practices and/or customs that result in a pattern and practice of unconstitutional stops, searches, seizures, questioning, and false arrests of innocent individuals of color who shop at so-called “high-end” department and retail stores in the City, and are suspected of having engaged in shoplifting, credit card fraud, and other acts of larceny within these stores by the NYPD merely because of the color of their skin.

4. This pattern and practice of unconstitutional stops, searches, seizures, questioning, and false arrests of innocent individuals who shop in “high-end” department and retail stores in the City and are suspected of engaging in shoplifting, credit card fraud, or other acts of larceny by NYPD officers often has used, and continue to use, race and/or national origin, and not reasonable suspicion or probable cause, as the determinative factors in deciding to stop, search, seize, question, and/or arrest, in violation of the Equal Protection Clause of the Fourteenth Amendment. The victims of such racial and/or national origin profiling, such as Plaintiffs, are principally Black, Hispanic and Asian.

5. The NYPD implements and applies these policies, practices and customs in an intentionally discriminatory and race-based manner by focusing suspicion on shoppers of color, particularly on Black, Hispanic and Asian shoppers, who are racially profiled as likely to have engaged in shoplifting, credit card fraud, or other acts of larceny when they shop at and make purchases at “high-end” department and retail stores.

6. The NYPD’s widespread constitutional abuses have flourished as a result of, and are directly and proximately caused by, policies, practices and/or customs devised, implemented and enforced by the City, NYPD, and through input from numerous “high-end” department and retail stores such as Macy’s, Bloomingdales and Barneys New York. The City, NYPD and the “high-end” department and retail stores with whom the City and NYPD have often acted in concert, have acted with deliberate indifference to the constitutional rights of those who would come into contact with NYPD officers by: (a) failing to properly screen, train, and supervise NYPD officers, (b) inadequately monitoring NYPD officers and their practices related to retail store-related crime enforcement and/or prevention, (c) failing to sufficiently discipline NYPD officers who engage in constitutional abuses, and (d) encouraging, sanctioning and failing to

rectify the NYPD's unconstitutional practices.

7. Further, the NYPD has a policy, practice and/or custom whereby, when police officers are "tipped off" or called by security personnel at these "high-end" department or retail stores to come arrest and detain individuals who are suspected of or have already been detained by store personnel for shoplifting, credit card fraud, or other acts of larceny, the responding officers fail to inquire into the factual basis for arrests and detentions, or whether there are objective facts which could establish probable cause to arrest the individual. Rather, the NYPD has a policy, practice and/or custom of summarily relying on the legal conclusions made by the store's security personnel, who lack the proper training to render such conclusions, and who frequently target customers based on the color of their skin. This practice is allowed to occur, however, even though, upon information and belief, the NYPD is aware of the suspect nature of such practices by these "high-end" stores and their personnel.

8. As such, there is a policy, practice and/or custom within the NYPD wherein NYPD officers arrest individuals for shoplifting, credit card fraud, and other acts of larceny committed inside "high-end" department or retail stores without first determining whether there is actually probable cause to arrest the individual.

9. In fact, Roy Richter, an NYPD Deputy Inspector and Head of the Captain Endowment Association, said in an interview with Pix 11 reporter Mario Diaz, "The NYPD is not inside of Macy's unless if Macy's is asking them to come in and help them."

10. The City and the NYPD are deliberately indifferent to the fact that NYPD officers rely upon the legal conclusions of store security personnel in "high-end" department or retail stores when customers are accused or suspected of shoplifting, credit card fraud, or other acts of larceny, rather than inquire whether there are facts known to the security personnel that establish

the existence of probable cause to arrest the customer.

11. As a result of the City's deliberate indifference to the fact that NYPD officers routinely arrest customers of "high-end" department or retail stores accused or suspected of shoplifting, credit card fraud, or other acts of larceny by store personnel without determining whether there actually is probable cause to arrest the individual, there is a policy, practice and/or custom of NYPD officers arresting individuals suspected or accused of shoplifting, credit card fraud or other acts of larceny without probable cause.

12. As a direct and proximate result of Defendants' policies, practices and/or customs, hundreds of innocent City residents, in particular Black, Hispanic and Asian individuals, including Plaintiffs, have been subjected to unconstitutional stops, searches, seizures, questioning, and/or false arrests by NYPD officers.

13. As a direct and proximate result of Defendants' policies, practices and/or customs, hundreds of innocent Black, Hispanic, Asian and other non-White individuals, who have been subjected to false arrests and in turn, with having to defend against baseless criminal prosecutions, find themselves in situations where their livelihoods, reputations and futures are at risk because of the criminal charges they face. Such individuals are often unable to afford private attorneys and/or take the time off from work or school needed to adequately fight against such malicious and baseless prosecutions and clear their names through a trial. Unless these cases are dismissed, either voluntarily by the prosecution or by the court, this inability to afford to fight for an acquittal often leaves such persons with little choice but to either plead guilty to crimes they did not commit, or accept offers of Adjournments in Contemplation of Dismissal, or an ACD. However, pleading guilty to crimes (even those of which one may be innocent) nonetheless results in a permanent criminal record, which can have obvious debilitating effects

on one's future and ability to earn a living. Even an ACD, which technically nullifies an arrest by ultimately dismissing it so long as a defendant subsequently stays out of trouble for a period of time, can still have highly detrimental effects to one's livelihood, as accepting an ACD will, among other things, prevent a person from obtaining a job in the banking industry. See 12 U.S.C. § 1829 (a)(1).

14. As such, Plaintiffs bring the instant civil rights action, on behalf of themselves and on behalf of a class of similar-situated individuals, seeking injunctive, declaratory and monetary relief for Defendants' violation of their rights, privileges, and immunities secured by 42 U.S.C. §1983, 42 U.S.C. § 1981, 42 U.S.C. § 1982, the Fourth and Fourteenth Amendments to the United States Constitution, and the Constitution and laws of the State of New York.

15. Specifically, Plaintiffs seeks a class-wide judgment declaring that the policies, practices and/or customs described herein violate the Fourth and Fourteenth Amendments, a class-wide injunction enjoining Defendants from continuing such policies, practices and/or customs, compensatory and punitive damages for Plaintiffs and class members, an award of attorneys' fees and costs, and such other relief as this Court deems equitable and just.

JURISDICTION AND VENUE

16. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1343 and 1367(a).

17. Venue is proper in the United States District Court for the Southern District of New York pursuant to 28 U.S.C. §§ 1391 (b) and (c).

ADMINISTRATIVE REQUIREMENTS

18. Plaintiff Brown filed a Notice of Claim with the City of New York on July 30, 2013, which was within ninety (90) days from the date his claims accrued. A hearing pursuant to

N.Y. Gen. Mun. Law §50-H was held on October 16, 2013.

19. Plaintiff Palmer filed a Petition to Serve an Untimely Notice of Claim with the City of New York on January 17, 2014. A hearing on Plaintiff Palmer's petition is scheduled for April 24, 2014.

20. Plaintiff Khalid filed a Notice of Claim with the City of New York on January 23, 2014, which was ninety (90) days within the date her claims accrued. A hearing pursuant to N.Y. Gen. Mun. Law §50-H has yet to be held.

21. Plaintiff France will file a Notice of Claim with the City of New York by January 28, 2014, which will be ninety (90) days within the date her claims accrued.

22. This action has been brought within one year and ninety (90) days from the date Plaintiffs Brown, Palmer, Khalid and France's claims accrued.

PARTIES

23. Plaintiff Robert L. Brown, a Black male who resides in Brooklyn, New York, along with the other representative plaintiffs, represents a class of innocent Black, Hispanic, Asian and other non-White shoppers at "high-end" department and retail stores, including, but not limited to, Macy's, Bloomingdales and Barneys New York, who have been or are being unlawfully stopped, searched, seized, questioned and/or falsely arrested by Defendants for shoplifting, credit card fraud and/or other acts of larceny based upon their race, national origin, ethnicity and/or color pursuant to a policy, pattern and practice of racially profiling individuals of color who patronize such stores.

24. Plaintiff Arthur Palmer is a fifty-six (56) year old Black male who resides in Brooklyn, New York.

25. Plaintiff Jenny Mendez is an adult Hispanic female who resides in the Bronx, New York.

26. Plaintiff Joweria Khalid is a thirty (30) year old Asian/Pakistani woman who resides in Brooklyn, New York.

27. Plaintiff Zapata is an adult Hispanic/Puerto Rican woman who resides in Hartsdale, New York.

28. Plaintiff Ouedraogo is a twenty-four (24) year old Black male of African descent who resides in the Bronx, New York.

29. Plaintiff France is an adult African American woman who resides in Brooklyn, New York.

30. Plaintiff Haruna is a forty-two (42) year old Black woman of African descent who resides in Bronx, New York.

31. Defendant City is a municipal entity created and authorized under the laws of the State of New York.

32. The City is authorized under the laws of the State of New York to maintain a police department, Defendant NYPD, which acts as its agent in the area of law enforcement and for which it is ultimately responsible. The City assumes the risks incidental to the maintenance of a police force and the employment of police officers. The NYPD's operations include the operations as described herein.

33. Defendant Devirgilio is, and/or was, at all times relevant herein, an officer, employee and agent of the NYPD, a municipal agency of the City. Devirgilio is sued in his individual capacity.

34. Defendant Droesch is, and/or was, at all times relevant herein, an officer, employee and agent of the NYPD, a municipal agency of the City. Droesch is sued in his individual capacity.

35. Defendant Creighton is, and/or was, at all times relevant herein, an officer, employee and agent of the NYPD, a municipal agency of the City, and is sued in his individual capacity.

36. Defendant DiFranco is, and/or was, at all times relevant herein, an officer, employee and agent of the NYPD, a municipal agency of the City, and is sued in his individual capacity.

37. Defendant Hayden is, and/or was, at all times relevant herein, an officer, employee and agent of the NYPD, a municipal agency of the City, and is sued in his individual capacity.

38. Defendant Quic is, and/or was, at all times relevant herein, an officer, employee and agent of the NYPD, a municipal agency of the City, and is sued in his individual capacity.

39. Defendant Martuccio is, and/or was, at all times relevant herein, an officer, employee and agent of the NYPD, a municipal agency of the City, and is sued in his individual capacity.

40. Defendant Evert is, and/or was, at all times relevant herein, an officer, employee and agent of the NYPD, a municipal agency of the City, and is sued in his individual capacity.

41. Defendant Boyd is, and/or was, at all times relevant herein, an officer, employee and agent of the NYPD, a municipal agency of the City, and is sued in his individual capacity.

42. Defendant Burritt is, and/or was, at all times relevant herein, an officer, employee and agent of the NYPD, a municipal agency of the City, and is sued in his individual capacity.

43. Upon information and belief, Defendants John Does #1 through #11, are, and/or were, at all times relevant herein, officers, employees and agents of the NYPD, a municipal agency of the City. John Does #1 through #11 are sued in their individual capacities.

44. At all times relevant herein, the aforementioned police officer defendants have acted under color of state law in the course and scope of their duties and functions as agents, employees, and officers of the City and/or the NYPD in engaging in the conduct described herein. At all times relevant herein, said Defendants have acted for and on behalf of the City and/or the NYPD with the power and authority vested in them as officers, agents and employees of the City and/or the NYPD and incidental to the lawful pursuit of their duties as officers, employees and agents of the City and/or the NYPD.

45. At all times relevant herein, the aforementioned officer defendants have violated clearly established constitutional standards under the Fourth Amendment and the Equal Protection Clause of the Fourteenth Amendment of which a reasonable person would have known.

CLASS ACTION ALLEGATIONS

46. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiffs seek to represent a certified Plaintiff class consisting of all innocent Black, Hispanic, Asian and non-White persons who have been or will be subjected by NYPD officers to Defendants' policy, practice and/or custom of stopping, searching, seizing, questioning, and falsely arresting while or after shopping in "high-end" department or retail stores in the City for engaging in shoplifting, credit card fraud, or other acts of larceny by NYPD officers in the absence of a reasonable, articulable suspicion that criminal activity is taking place and/or probable cause, in violation of their constitutional and common law rights, during the fullest period permitted by the applicable statutes of limitations.

47. The members of the class are so numerous as to render joinder impracticable. Upon information and belief, hundreds of people have been and continue to be stopped, searched, seized, questioned and/or falsely arrested each year by the NYPD in connection with suspected shoplifting, credit cards fraud, or other acts of larceny while or after shopping in “high-end” department or retail stores, without reasonable, articulable suspicion of criminal conduct and/or probable cause, during the fullest period permitted by the applicable statutes of limitations.

48. In addition, joinder is impracticable because, upon information and belief, many members of the class are not aware of the fact that their constitutional rights have been violated and that they have the right to seek redress in court. Many members of the class are without the means to retain an attorney to represent them in a civil rights lawsuit. Moreover, many class members who have been victimized by the NYPD’s unconstitutional practices do not bring individual claims for fear of retaliation and reprisals by NYPD officers. There is no appropriate avenue for the protection of the class members’ constitutional rights other than a class action.

49. The class members share a number of questions of law and fact in common, including, but not limited to:

(a) whether the NYPD engages in a policy, practice and/or custom of stopping, searching, seizing and/or falsely arresting members of the class in the absence of reasonable, articulable suspicion of criminal conduct and/or probable cause required;

(b) whether the NYPD has a discriminatory policy, practice, and/or custom of unconstitutional stops, searches, seizures, questioning and/or false arrests of individuals who shop in “high-end” department or retail stores for suspected shoplifting, credit card fraud, and other acts of larceny, that is motivated by the class members’ race, ethnicity, and/or national origin;

(c) whether the NYPD engages in profiling on the basis of race and/or national origin in targeting class members for such stops, searches, seizures, questionings and/or arrests in violation of the Equal Protection Clause of the Fourteenth Amendment;

(d) whether the City has failed to adequately and properly screen, train, supervise, monitor and discipline NYPD officers, and whether those failures have caused the constitutional violations inflicted by NYPD officers against class members; and

(e) whether the City has sanctioned and failed to rectify unconstitutional stops, searches, seizures, questionings and/or false arrests by members of the NYPD, and whether such acts and omissions have caused constitutional violations by NYPD officers against class members.

50. Plaintiffs' claims are typical of those of the class. Like the other members of the class, Plaintiffs have been victims of the NYPD's policy, practice and/or custom of unlawfully stopping, searching, seizing, questioning and/or falsely arresting Black, Hispanic, Asian and non-White shoppers of "high-end" department or retail stores for suspected shoplifting, credit card fraud or other acts of larceny while or after shopping.

51. The legal theories under which Plaintiffs seeks declaratory, injunctive and monetary relief are the same or similar to those on which all members of the class will rely, and the harms suffered by Plaintiffs are typical of the harms suffered by the class members.

52. Plaintiffs have strong personal interests in the outcome of this action, have no conflict of interest amongst themselves or with members of the Plaintiff class, and will fairly and adequately protect the interests of the class. Plaintiffs are Black, Hispanic and Asian male and females who have and will continue to shop in "high-end" department or retail stores in New York City. As long as the NYPD engages in its policy, practice and/or custom of unlawfully

stopping, searching, seizing, questioning and arresting individuals of color who shop at “high-end” department or retail stores in connection with suspected shoplifting, credit card fraud and other acts of larceny, Plaintiffs and the Plaintiff class they seeks to represent is and will remain, at high risk of being illegally stopped, searched, seized, questioned and arrested again by the NYPD.

53. Plaintiffs are represented by experienced civil rights counsel who have litigated a wide range of class action lawsuits, have the resources, expertise and experience to prosecute this action, and know of no conflicts among members of the class or between the attorneys and members of the class.

54. The Plaintiff class should be certified pursuant to Rule 23 of the Federal Rules of Civil Procedure because the Defendants have acted on grounds generally applicable to the class, thereby making class-wide declaratory, injunctive and monetary relief appropriate.

55. As a proximate result of the actions of Defendants, their agents, and their employees, as described herein, class members have suffered and continue to suffer irreparable loss and injury, including, but not limited to, economic loss, mental anguish, emotional pain and suffering, humiliation, embarrassment, physical and emotional distress, feelings of paranoia and distrust, depression, low self-esteem, sleep deprivation, loss of enjoyment of life, loss of income, loss of job opportunities, interference with life’s daily activities and a deprivation of their civil rights. For these injuries, members of the class will be seeking compensatory damages to the fullest extent permitted under the law.

56. Because Defendants acted knowingly, intentionally, maliciously and/or with willful, wanton and reckless disregard for the class members and/or their federally protected rights, members of the Class also will be seeking punitive damages.

STATEMENT OF FACTS

I. Robert Brown

57. The class is represented by Plaintiff Robert Brown (“Mr. Brown”), who was wrongfully targeted for suspicion of credit card fraud based on his race (African-American) and/or color (Black), and subjected to civil rights violations, discrimination and other unlawful conduct at Macy’s flagship store at Herald’s Square, New York, the self-proclaimed “Largest Department Store in the World.”

58. On June 8, 2013 at about 3:00 p.m., Mr. Brown entered the Macy’s “flagship” store located at Herald’s Square in Manhattan to purchase a present for his mother.

59. After browsing a few designer wrist watches, Mr. Brown decided to purchase a watch which cost approximately thirteen hundred dollars (\$1,300.00).

60. As Mr. Brown waited for the watch to be prepared for purchasing, he decided to browse for a pair of sunglasses, and made his way over to a display of sunglasses.

61. Soon thereafter, Mr. Brown decided to purchase a pair of sunglasses that cost approximately three hundred and fifty dollars (\$350.00).

62. As the Macy’s employee prepared the pair of sunglasses for purchase, Mr. Brown made his way back to the watch counter to complete his purchase of the wrist watch he had chosen for his mother.

63. Mr. Brown proceeded to hand over his American Express credit card to the cashier at the watch counter, who completed the transaction without incident.

64. Mr. Brown then made his way back to the sunglass counter to complete the purchase of the pair of sunglasses, holding his American Express credit card in his hand so that the purchase could be completed.

65. However, Mr. Brown was unable to complete his desired purchase, as he was suddenly confronted by Defendant Droesch and John Does #1 and #2, who immediately accused him of using a fake credit card. Within seconds, the men grabbed Mr. Brown's arms and placed him into handcuffs.

66. Mr. Brown pleaded with these men that his credit card was not a fake, and could easily be verified by cross-referencing the name on the credit card with the identification he had on his person.

67. However, said Defendants refused to listen to Mr. Brown, and instead began to forcefully parade him through the store like an already convicted common criminal. Mr. Brown asked the officers why he was being arrested, but they refused to provide any legitimate reason for the arrest.

68. Mr. Brown was then led to a room within the store containing a number of holding cells enclosed by metal bars, all of which were occupied by individuals of color.

69. Mr. Brown was then placed into one of these holding cells, and told to remove his belt, wallet, and a backpack he had on, and also had his cell phone confiscated. Defendants Droesch and John Does #1 and #2 proceeded to search through Mr. Brown's possessions.

70. By this time, Defendant Devirgilio had joined the other three officers. Although said Defendants came across Mr. Brown's passport, New York driver's license, as well as his Louisiana residency card, all of which matched the name on the American Express card that Defendants vehemently accused Mr. Brown of being a fake, Defendants continued to accuse Mr. Brown of engaging in credit card fraud, convinced that a Black person like Mr. Brown could not legitimately afford such an expensive item as the watch he purchased.

71. After much time had elapsed during this confinement, Mr. Brown was asked to identify himself. Mr. Brown proceeded to inform Defendants that he was an actor, and had appeared in numerous films and television shows. Hearing this appeared to jar Defendants, who apparently realized that they had falsely arrested, accused and imprisoned someone who would have both the means and notoriety to hold them accountable for their discriminatory and unlawful conduct.

72. As it became readily apparent that Mr. Brown was not just innocent, but that he was also a notable actor, Mr. Brown was finally released by Defendants. Defendant Devirgilio, in an attempt to curry favor with Mr. Brown, even gave Mr. Brown a ride in a police vehicle to his mother's graduation ceremony.

73. The arrest report regarding this incident issued by Defendants would state that Defendant Droesch had purportedly been informed that Mr. Brown was using a possible fraudulent credit card, but that after further investigation, the credit card was found to be real, and the arrest was voided.

74. As such, Defendants' own words demonstrate the lack of justification for stopping, searching, seizing, questioning, and particularly handcuffing, parading and arresting Mr. Brown by Defendants. Rather, Mr. Brown's race and/or national origin, and the fact that he was purchasing expensive items in a "high-end" department or retail served as the basis for Defendants' unlawful conduct against him.

75. The conduct engaged in, authorized, directed, acquiesced in and/or ratified by Defendants and their employees and agents, as described above, denied Mr. Brown, on the basis of his race, national origin, ethnicity and/or color, the right to make and enforce contracts, including the right to enjoy all of the benefits, privileges, terms and conditions of a contractual

relationship as is available to white citizens, denied him the full and equal benefits of all laws and proceedings for the security of persons and property as enjoyed by White citizens, denied him the same right enjoyed by White citizens to hold property afforded to him under federal civil rights laws; and conspired to deprive him of the equal protection and/or equal privileges and immunities of the laws as are enjoyed by White citizens.

76. Through the actions described above, Defendants acted knowingly, intentionally, maliciously, and/or with willful, wanton and reckless disregard for Mr. Brown' federally and state protected civil rights.

77. Defendants' actions, as described above, constitute a continuing violation and have been an ongoing pattern and practice of unlawful conduct. Defendants knew or should have known that their actions, as described above, were in violation of law.

78. As a proximate result of the actions of Defendants, their agents and employees, as described above, Mr. Brown has suffered and continues to suffer irreparable loss and injury, including but not limited to economic loss, mental anguish, emotional pain and suffering, humiliation, embarrassment, physical and emotional distress, feelings of paranoia and distrust, depression, low self-esteem, sleep deprivation, loss of enjoyment of life, interference with life's daily activities and a deprivation of his civil rights. For these injuries, Mr. Brown seeks compensatory damages to the fullest extent permitted under the law.

79. Because Defendants acted knowingly, intentionally, maliciously and/or with willful, wanton and reckless disregard for Mr. Brown and/or his federally protected rights, Mr. Brown also seeks punitive damages.

II. Arthur Palmer

80. On the late afternoon of April 24, 2013, Mr. Palmer went to the Macy's Herald's Square location to lawfully complete a purchase of several articles of clothing which he had previously paid for but had the store set aside so that he could later take advantage of a Macy's "Friends and Family" sale.

81. After picking up merchandise, Mr. Palmer exited Macy's through an exit which led out onto the corner of 34th Street and 7th Avenue.

82. Mr. Palmer proceeded to walk several blocks. As he was on 33rd Street approaching 5th Avenue, he was suddenly, and without any justification, stopped by four (4) plain-clothed NYPD officers who he later learned to be NYPD Sergeant Douglas Creighton, Officer Frank DiFranco, Officer Eric Hayden, and Officer Edison Quic (referred to collectively as "the Palmer Officers").

83. The Palmer Officers immediately referenced the shopping bags Mr. Palmer was holding, which contained merchandise that Mr. Palmer had just legally purchased from Macy's, and demanded that they look inside the shopping bags.

84. The Palmer Officers also demanded, without any probable cause or other justification, that Mr. Palmer produce identification and receipts for the items in the shopping bags he was holding.

85. The Palmer Officers then seized the shopping bags, and proceeded to search through the bags.

86. The Palmer Officers did not permit Mr. Palmer to leave during this time.

87. The Palmer Officers falsely accused Mr. Palmer of having obtained the merchandise in the shopping bags through unlawful means, which was heard by numerous

individuals, damaging, inter alia, Mr. Palmer's reputation.

88. Upon information and belief, after the Palmer Officers were unable to find any grounds by which to continue to detain and/or formally arrest Mr. Palmer, the Palmer Officers allowed Mr. Palmer to leave their custody.

89. The Palmer Officers informed Mr. Palmer that he had been followed from the time he was shopping within the Macy's department store on store surveillance cameras, and was stopped on the street, blocks away from Macy's, because he had purportedly temporarily stood in an area within Macy's that was outside of the purview of Macy's' surveillance cameras.

90. The Palmer Officers unlawfully stopped, seized, detained, imprisoned and defamed Mr. Palmer in violation of his constitutional, civil and other rights.

91. The incident occurred due to the carelessness, negligence, and recklessness of the City and the NYPD in their control and supervision of the Palmer Officers, negligence in the hiring and retaining of unfit police officers, negligence in the training and instruction of its police officers, and negligence in the performance of its police officers.

92. The conduct engaged in, authorized, directed, acquiesced in and/or ratified by Defendants and their employees and agents, as described above, denied Mr. Palmer, on the basis of his race, national origin, ethnicity and/or color, the right to make and enforce contracts, including the right to enjoy all of the benefits, privileges, terms and conditions of a contractual relationship as is available to white citizens, denied him the full and equal benefits of all laws and proceedings for the security of persons and property as enjoyed by White citizens, denied him the same right enjoyed by White citizens to hold property afforded to him under federal civil rights laws; and conspired to deprive him of the equal protection and/or equal privileges and immunities of the laws as are enjoyed by White citizens.

93. Through the actions described above, Defendants acted knowingly, intentionally, maliciously, and/or with willful, wanton and reckless disregard for Mr. Palmer's federally and state protected civil rights.

94. Defendants' actions, as described above, constitute a continuing violation and have been an ongoing pattern and practice of unlawful conduct. Defendants knew or should have known that their actions, as described above, were in violation of law.

95. As a proximate result of the actions of Defendants, their agents and employees, as described above, Mr. Palmer has suffered and continues to suffer irreparable loss and injury, including but not limited to economic loss, mental anguish, emotional pain and suffering, humiliation, embarrassment, physical and emotional distress, feelings of paranoia and distrust, depression, low self-esteem, sleep deprivation, loss of enjoyment of life, interference with life's daily activities and a deprivation of his civil rights. For these injuries, Mr. Palmer seeks compensatory damages to the fullest extent permitted under the law.

96. Because Defendants acted knowingly, intentionally, maliciously and/or with willful, wanton and reckless disregard for Mr. Palmer and/or his federally protected rights, Mr. Palmer also seeks punitive damages.

III. Jenny Mendez

97. On November 23, 2012, Plaintiff Mendez, an adult Hispanic female, was shopping at the Macy's flagship store located at Herald's Square in New York City.

98. Because this day was Black Friday, a day when stores such as Macy's place much of their merchandise on sale, Ms. Mendez intended to purchase a number of items from the store.

99. While shopping, Ms. Mendez asked a sales clerk for an empty shopping bag so that she could place items she intended to purchase inside of it while she shopped throughout the

store.

100. However, after purchasing some of the items she intended to purchase, Ms. Mendez was suddenly detained by Macy's security, searched and falsely accused of shoplifting.

101. Plaintiff Mendez repeatedly denied these allegations and never admitted in any way that she attempted to steal/shoplift any of those items.

102. Nonetheless, she was arrested by NYPD Officers Defendants John Does #3 and #4, and charged with Petit Larceny and Criminal Possession of Stolen Property in the Fifth Degree.

103. Plaintiff Mendez made no attempt to conceal any unpaid-for items she had in her possession when she was stopped, nor was any allegation made that, while she was apparently under observation by security, she engaged in any pattern of conduct associated with a person engaged in shoplifting.

104. It is apparent that the sole reason for stopping Plaintiff Mendez was due to her Hispanic heritage, and that the subsequent arrest, detainment, and prosecution were racially motivated.

105. Nevertheless, NYPD Officers Defendants John Does #3 and #4 failed to independently determine whether probable cause existed to arrest Ms. Mendez, relying instead merely on the word of Macy's agents.

106. Most significantly, Plaintiff Mendez was terminated from her employment with the New York City Police Department due solely to this false arrest and false accusation.

107. Plaintiff Mendez's criminal trial on these charges took place on September 19 and 20, 2013 in New York County Criminal Court before the Honorable Larry Stephen, J.S.C. As a prosecution tactic to deny Ms. Mendez a jury trial, the New York County District Attorney's

Office reduced the charges of Petit Larceny and Criminal Possession of Stolen Property in the Fifth Degree to Attempted Petit Larceny and Attempted Criminal Possession of Stolen Property in the Fifth Degree.

108. After a two day trial, Plaintiff Mendez was found not guilty of both Attempted Petit Larceny and Attempted Criminal Possession of Stolen Property in the Fifth Degree, and the case was dismissed and sealed.

109. But for the false arrest made by Officers John Does #3 and #4, which was not grounded in probable cause, Ms. Mendez would not have had to go through this harrowing ordeal.

110. As a result of the foregoing conduct by Defendants, Plaintiff Mendez has suffered physical and psychological harm, and severe financial harm as a result of her termination from the New York City Police Department.

111. The conduct engaged in, authorized, directed, acquiesced in and/or ratified by Defendants and their employees and agents, as described above, denied Ms. Mendez, on the basis of her race, national origin, ethnicity and/or color, the right to make and enforce contracts, including the right to enjoy all of the benefits, privileges, terms and conditions of a contractual relationship as is available to White citizens, denied her the full and equal benefits of all laws and proceedings for the security of persons and property as enjoyed by White citizens, denied her the same right enjoyed by White citizens to hold property afforded her under federal civil rights laws, and conspired to deprive her of the equal protection and/or equal privileges and immunities of the laws as are enjoyed by White citizens.

112. Through the actions described above, Defendants acted knowingly, intentionally, maliciously, and/or with willful, wanton and reckless disregard for Ms. Mendez's federally

protected civil rights.

113. Defendants' actions, as described herein, constitute a continuing violation and have been an ongoing pattern and practice of unlawful conduct. Defendants knew or should have known that their actions, as described above, were in violation of law.

114. As a proximate result of the actions of Defendants, their agents and employees, as described above, Ms. Mendez has suffered and continues to suffer irreparable loss and injury, including, but not limited to, economic loss, mental anguish, emotional pain and suffering, humiliation, embarrassment, physical and emotional distress, feelings of paranoia and distrust, depression, low self-esteem, sleep deprivation, loss of enjoyment of life, interference with life's daily activities and a deprivation of her civil rights. For these injuries, Ms. Mendez seeks compensatory damages to the fullest extent permitted under the law.

115. Because Defendants acted knowingly, intentionally, maliciously and/or with willful, wanton and reckless disregard for Ms. Mendez and/or her federally protected rights, Ms. Mendez also seeks punitive damages.

IV. Joweria Khalid

116. On October 26, 2013, Joweria Khalid, a 30-year old Asian/Pakistani woman, visited the Macy's flagship store in Herald's Square, New York, looking to purchase a number of items for herself and her family.

117. After completing one purchase, and picking out a number of other items she intended to later purchase once she completed the remainder of her shopping, Ms. Khalid approached an ascending escalator which would take her from the second floor to the third floor. She was then suddenly stopped by Macy's security personnel, who proceeded to detain and falsely accuse her of shoplifting.

118. Macy's employees took Ms. Khalid to a back room with jail-like cells and held her there for approximately 3 hours.

119. The Macy's employees also took her belongings, turned off her cell phone, refused to allow her to make a phone call to inform her family of her whereabouts and to check on her young child, took her photograph, coerced her into signing forms under the false promise that she would be allowed to leave if she did so, and coerced her into paying a purported "fine" under the false promise that she would be allowed to leave their custody if she did so.

120. After all the aforementioned actions were taken against Ms. Khalid, Macy's employees called the NYPD to come and arrest her.

121. Two New York City Police Department officers, Defendants Officers Martuccio and Evert, at the direction of Defendant Officer Lydell Boyd (Officers Martuccio, Evert and Boyd will be referred together as the "Khalid Officers"), arrived on the scene.

122. The Khalid Officers did not conduct any investigation into the shoplifting allegations made against Ms. Khalid, but rather merely took the word of the Macy's employees who had falsely imprisoned, falsely accused, harassed and lied to Ms. Khalid for the past three hours, and placed her immediately under arrest.

123. This was done in spite of Defendants' awareness that Macy's has a penchant for unlawfully racially profiling innocent shoppers of color such as Ms. Khalid, falsely accusing such innocent customers of stealing, wrongfully detaining and questioning such customers under menacing conditions, coercing such customers into signing documents under false pretenses, and then informing the NYPD that the customers were caught committing a crime so that the customers would be arrested and subject to criminal prosecution.

124. Defendants were also aware that Macy's and employees of Macy's routinely submit false and perjured documents in support of such false arrests.

125. Indeed, after an investigation into unlawful racial profiling and related practices at Macy's by the New York State Attorney General in 2005, Macy's entered into a Consent Decree, wherein Macy's agreed to implement new policies to address the allegations of civil rights violations and other wrongdoing made against Macy's.

126. Given Macy's' public history of wrongfully suspecting, accusing, and detaining shoppers of color for theft and other larcenies, the Khalid Officers should have known that there was a need to conduct their own independent investigation into the allegations made against Mr. Khalid by Macy's.

127. Accordingly, because no investigation was launched, Ms. Khalid's arrest lacked any probable cause or reasonable basis, and amounted to a false arrest, and subsequent wrongful imprisonment and other unlawful conduct.

128. Ms. Khalid was arrested and then taken to the NYPD Midtown South Police Precinct, and once at the station, was fingerprinted and photographed.

129. One New York City Police Officer, whose identity is uncertain but is believed to be Defendant Officer Lydell, even accosted Ms. Khalid by asking how she could be "stealing things while pregnant."

130. Ms. Khalid was then placed in a jail cell and detained for approximately one and one half (1.5) hours, until she was released at or about 9:00p.m., and given a desk appearance ticket.

131. The Khalid Officers unlawfully stopped, seized, detained, imprisoned and defamed Ms. Khalid in violation of her constitutional, civil and other rights.

132. As a result of the severe stress and anxiety Ms. Khalid suffered as a result of Defendants' actions, Ms. Khalid suffered serious physical and emotional injuries.

133. Ms. Khalid must also now defend herself against false criminal charges, which could lead to serious and adverse repercussions to her livelihood, career, immigration status, and family.

134. Disturbingly, despite attempts by Ms. Khalid to obtain Macy's surveillance footage depicting her stop – video which would clearly contradict the false statements made by the Macy's personnel who stopped her – Ms. Khalid has been unable to obtain this footage, both because of Macy's' policy of recycling surveillance footage after 30 days, and also because of the Manhattan District Attorney's apparent failure to ensure preservation of the footage because Ms. Khalid was not arraigned before the footage was destroyed.

135. The unlawful conduct committed against Ms. Khalid accrued as a result of the carelessness, negligence, and recklessness of the City and the NYPD in their control and supervision of the Khalid Officers, negligence in the hiring and retaining of unfit police officers, negligence in the training and instruction of its police officers, and negligence in the performance of its police officers.

136. The conduct engaged in, authorized, directed, acquiesced in and/or ratified by Defendants and their employees and agents, as described above, denied Ms. Khalid, on the basis of her race, national origin, ethnicity and/or color, the right to make and enforce contracts, including the right to enjoy all of the benefits, privileges, terms and conditions of a contractual relationship as is available to white citizens, denied her the full and equal benefits of all laws and proceedings for the security of persons and property as enjoyed by White citizens, denied her the same right enjoyed by White citizens to hold property afforded to him under federal civil rights

laws; and conspired to deprive her of the equal protection and/or equal privileges and immunities of the laws as are enjoyed by White citizens.

137. Through the actions described above, Defendants acted knowingly, intentionally, maliciously, and/or with willful, wanton and reckless disregard for Ms. Khalid's federally and state protected civil rights, and have also subjected her to false imprisonment and harm resulting from Defendants' negligent hiring, training and supervision of security and other personnel.

138. Defendants' actions, as described herein, constitute a continuing violation and have been an ongoing pattern and practice of unlawful conduct. Defendants knew or should have known that their actions, as described above, were in violation of law.

139. As a proximate result of the actions of Defendants, their agents and employees, as described above, Ms. Khalid has suffered and continues to suffer irreparable loss and injury, including, but not limited to, economic loss, mental anguish, emotional pain and suffering, humiliation, embarrassment, physical and emotional distress, feelings of paranoia and distrust, depression, low self-esteem, sleep deprivation, loss of enjoyment of life, interference with life's daily activities and a deprivation of her civil rights. For these injuries, Ms. Khalid seeks compensatory damages to the fullest extent permitted under the law.

140. Because Defendants acted knowingly, intentionally, maliciously and/or with willful, wanton and reckless disregard for Ms. Khalid's and/or her federally protected rights, Ms. Khalid also seeks punitive damages.

V. Maryann Zapata

141. On February 19, 2011, Plaintiff Zapata, a Puerto Rican woman, was shopping at Macy's located in Herald's Square. Ms. Zapata had already purchased a number of items that day, including a suit for work, but also wanted to purchase a blouse to match the suit.

142. Plaintiff Zapata, who had worked at that Macy's location from September 2010 to December 2010, wanted to ask a former colleague of hers for her opinion regarding which blouse she should select for her suit.

143. Ms. Zapata proceeded to select a number of blouses from the women's section on the 4th floor and move to the escalator to descend to the 1st floor, where her former coworker was working.

144. However, Ms. Zapata was suddenly stopped by a Macy's employee as she attempted to enter the escalator that led from the 4th floor to the 3rd floor, who proceeded to accuse her of stealing and demanded that she come with her.

145. Plaintiff Zapata was physical led to the holding cell of Macy's and detained for approximately 8 hours, during which time Macy's employees insulted and demeaned her, and made several references to her race.

146. Ms. Zapata was coerced to pay a \$500 fine and sign documents under the false pretenses that she would not be released if she refused.

147. Soon thereafter, two NYPD officers, Defendants John Does #5 and #6, arrived to arrest Ms. Zapata.

148. Ms. Zapata attempted to explain why she was innocent of the charges made against her by the Macy's employees, the John Does #5 and #6 simply stated, "We can't do anything – it's up to Macy's to let you go."

149. Plaintiff Zapata was then handcuffed and brought to the precinct, and eventually released with a desk appearance ticket.

150. Ms. Zapata's arrest was clearly not supported by probable cause.

151. Ms. Zapata, who had aspired to and actually did apply to become an NYPD police officer, fought the false charges against her for month, but eventually accepted an ACD after prosecutors stubbornly refused to drop the case, in order to put this ugly ordeal behind her.

152. Nevertheless, Ms. Zapata, who had never been arrested nor has been arrested since the incident at Macy's, learned in November 2013 that her application to become an NYPD officer was disqualified purportedly because of her arrest record.

153. The conduct engaged in, authorized, directed, acquiesced in and/or ratified by Defendants and their employees and agents, as described above, denied Ms. Zapata, on the basis of her race, national origin, ethnicity and/or color, the right to make and enforce contracts, including the right to enjoy all of the benefits, privileges, terms and conditions of a contractual relationship as is available to white citizens, denied her the full and equal benefits of all laws and proceedings for the security of persons and property as enjoyed by White citizens, denied her the same right enjoyed by White citizens to hold property afforded to her under federal civil rights laws; and conspired to deprive her of the equal protection and/or equal privileges and immunities of the laws as are enjoyed by White citizens.

154. Through the actions described above, Defendants acted knowingly, intentionally, maliciously, and/or with willful, wanton and reckless disregard for Ms. Zapata's federally protected civil rights.

155. Defendants' actions, as described above, constitute a continuing violation and have been an ongoing pattern and practice of unlawful conduct. Defendants knew or should have known that their actions, as described above, were in violation of law.

156. As a proximate result of the actions of Defendants, their agents and employees, as described above, Ms. Zapata has suffered and continues to suffer irreparable loss and injury,

including but not limited to economic loss, mental anguish, emotional pain and suffering, humiliation, embarrassment, physical and emotional distress, feelings of paranoia and distrust, depression, low self-esteem, sleep deprivation, loss of enjoyment of life, interference with life's daily activities and a deprivation of her civil rights. For these injuries, Ms. Zapata seeks compensatory damages to the fullest extent permitted under the law.

157. Because Defendants acted knowingly, intentionally, maliciously and/or with willful, wanton and reckless disregard for Ms. Zapata and/or her federally protected rights, Ms. Zapata also seeks punitive damages.

VI. Constant Ouedraogo

158. On July 9, 2012, Plaintiff Ouedraogo, a 24 year old Black male of African origin, travelled to the Macy's store in Herald's Square intending to return merchandise he had purchased days earlier, and to make additional purchases. Mr. Ouedraogo was carrying three shirts and a pair of pants in a Macy's bag, which he was provided with when he made the initial purchases.

159. Upon entering the store, Mr. Ouedraogo realized that a Macy's employee was following him as he shopped. Nevertheless, Mr. Ouedraogo continued to shop.

160. After completing several transactions, Mr. Ouedraogo proceeded to walk towards the escalator located on the second floor in order to continue shopping. While walking towards the escalator, he saw that the same Macy's employee he had noticed following him previously when he entered the store was continuing to follow him.

161. Upon reaching the escalator entrance on the second floor, Mr. Ouedraogo was pushed by a large male employee of Macy's. The employee physically prevented Mr. Ouedraogo from entering the escalator on the second floor.

162. Despite the fact that Mr. Ouedraogo was on the second floor of the store with no access to an exit, the employee asked him, “Why are you attempting to leave the store?”

163. Thereafter, other Macy’s employees came over and together demanded that Mr. Ouedraogo travel with them to a stairway entrance located on the second floor. Mr. Ouedraogo was forced to walk several flights down the windowless stairwell, surrounded by the Macy’s employees.

164. At the bottom of the stairwell, Mr. Ouedraogo was forced to walk into a room that contained several jail-like cells, equipped with metal bars and a door that could be locked.

165. While standing in the room with the jail-like cells, Mr. Ouedraogo was deprived of his personal property, including his cellular telephone and identification card. Mr. Ouedraogo was also forced to remove his shoes.

166. Mr. Ouedraogo questioned the Macy’s employees about why they were detaining him. In response, the Macy’s employees told him that he was “shoplifting.”

167. Mr. Ouedraogo was then forced into one of the windowless, jail-like cells, which contained only a small bench. A Macy’s employee locked the cell door.

168. While locked in the cell, Mr. Ouedraogo asked to speak to a Macy’s supervisor to explain why he was being detained. A Macy’s employee told him that “it’s assumed you are shoplifting if you go more than two floors without paying.”

169. This false representation of the law frightened Mr. Ouedraogo because he did not know the actual law and believed the employee’s representation.

170. During the first hour of his imprisonment, a Macy’s employee attempted to have Mr. Ouedraogo sign a document which appeared to contain an admission that he stole items. Mr. Ouedraogo initially refused to sign the document.

171. After being imprisoned for over an hour, a Macy's employee falsely told Mr. Ouedraogo that under New York law, he was required to make a \$500.00 cash payment to Macy's. Confused and scared, Mr. Ouedraogo informed the employee that he only had \$80 in cash in his wallet. The Macy's employee took the \$80 and informed Mr. Ouedraogo that he needed to pay the balance of \$420 within two weeks or he would be arrested.

172. After making the \$80 cash payment, a Macy's employee told Mr. Ouedraogo that if he signed the document that he had previously refused to sign, he could leave the store. Frightened after being assaulted, battered and falsely imprisoned for several hours, and relying upon the representation that he would be immediately released, Mr. Ouedraogo signed his name on a document prepared by a Macy's employee.

173. The document was written in English and Mr. Ouedraogo did not understand everything in the document. He was not provided with a translator, translation or a copy of the document he signed.

174. He was not immediately released. Instead, approximately four hours into his detention, agents, servants and/or employees of Macy's had Mr. Ouedraogo handcuffed and arrested by NYPD police officers, Defendants Burritt and John Doe #7. The police officers arrived at the store, searched and handcuffed Mr. Ouedraogo and restrained him of his liberty.

175. While in handcuffs, the police forced Mr. Ouedraogo to walk through the retail store and publicly humiliated him in front of the individuals present within the store.

176. The Police acted without conducting their own investigation as to the claims against Plaintiff Ouedraogo. As a result, Mr Ouedraogo was falsely arrested by Defendants Burritt and John Doe #7.

177. After being arrested, Mr. Ouedraogo was held in custody at a police precinct and restrained of his liberty for the next two hours, when he was released and charged with petit larceny and criminal possession of stolen property in the fifth degree. While under arrest and deprived of his liberty, Mr. Ouedraogo was fingerprinted and his name was entered into the state's database as a person that was arrested for larceny.

178. All criminal charges were subsequently dismissed after Mr. Ouedraogo, unable to afford the resources to fight these charges through trial, accepted of an offer of an ACD.

179. Prior to his arrest on July 9, 2012, Mr. Ouedraogo had never been arrested or accused of committing any crime.

180. The conduct engaged in, authorized, directed, acquiesced in and/or ratified by Defendants and their employees and agents, as described above, denied Mr. Ouedraogo, on the basis of his race, national origin, ethnicity and/or color, the right to make and enforce contracts, including the right to enjoy all of the benefits, privileges, terms and conditions of a contractual relationship as is available to White citizens, denied him the full and equal benefits of all laws and proceedings for the security of persons and property as enjoyed by White citizens, denied him the same right enjoyed by White citizens to hold property afforded him under federal civil rights laws, and conspired to deprive him of the equal protection and/or equal privileges and immunities of the laws as are enjoyed by White citizens.

181. Through the actions described above, Defendants acted knowingly, intentionally, maliciously, and/or with willful, wanton and reckless disregard for Mr. Ouedraogo's protected civil rights.

182. Defendants' actions, as described herein, constitute a continuing violation and have been an ongoing pattern and practice of unlawful conduct. Defendants knew or should

have known that their actions, as described above, were in violation of law.

183. As a proximate result of the actions of Defendants, their agents and employees, as described above, Mr. Ouedraogo has suffered and continues to suffer irreparable loss and injury, including, but not limited to, economic loss, mental anguish, emotional pain and suffering, humiliation, embarrassment, physical and emotional distress, feelings of paranoia and distrust, depression, low self-esteem, sleep deprivation, loss of enjoyment of life, interference with life's daily activities and a deprivation of his civil rights. For these injuries, Mr. Ouedraogo seeks compensatory damages to the fullest extent permitted under the law.

184. Because Defendants acted knowingly, intentionally, maliciously and/or with willful, wanton and reckless disregard for Mr. Ouedraogo and/or his federally protected rights, Mr. Ouedraogo also seeks punitive damages.

VII. Ueth France

185. On or about January 28, 2014, Plaintiff France, an African American female, was attempting to exit the Macy's store at Herald's Square after having browsed merchandise and deciding not to select any items to purchase.

186. Suddenly, Ms. France was confronted by Macy's employees who stopped her and led her to Macy's' detention area.

187. Plaintiff France was incredibly accused of stealing a jumpsuit she was wearing under her clothes, which she had purchased years prior from a non-Macy's store, and was forced to enter a bathroom and remove her jumpsuit.

188. Ms. France was held for hours before NYPD officers, Defendants John Does #8 and #9, arrived on the scene and immediately arrested her, without conducting any independent investigation concerning whether there was probable cause for the arrest.

189. Ms. France was detained for several hours, before being charged with petit larceny and possession of stolen goods.

190. Plaintiff France is currently fighting these false charges, which are being criminally prosecuted by the Manhattan District Attorney.

191. The conduct engaged in, authorized, directed, acquiesced in and/or ratified by Defendants and their employees and agents, as described above, denied Ms. France, on the basis of her race, national origin, ethnicity and/or color, the right to make and enforce contracts, including the right to enjoy all of the benefits, privileges, terms and conditions of a contractual relationship as is available to white citizens, denied her the full and equal benefits of all laws and proceedings for the security of persons and property as enjoyed by White citizens, denied her the same right enjoyed by White citizens to hold property afforded to her under federal civil rights laws; and conspired to deprive her of the equal protection and/or equal privileges and immunities of the laws as are enjoyed by White citizens.

192. Through the actions described above, Defendants acted knowingly, intentionally, maliciously, and/or with willful, wanton and reckless disregard for Ms. France's federally and state protected civil rights. They have also subjected her to false imprisonment, assault and battery, intentional and negligent infliction of emotional distress, defamation and harm resulting from Defendants' negligent hiring, training and supervision of security and other personnel.

193. Defendants' actions, as described above, constitute a continuing violation and have been an ongoing pattern and practice of unlawful conduct. Defendants knew or should have known that their actions, as described above, were in violation of law.

194. As a proximate result of the actions of Defendants, their agents and employees, as described above, Ms. France has suffered and continues to suffer irreparable loss and injury,

including but not limited to economic loss, mental anguish, emotional pain and suffering, humiliation, embarrassment, physical and emotional distress, feelings of paranoia and distrust, depression, low self-esteem, sleep deprivation, loss of enjoyment of life, interference with life's daily activities and a deprivation of her civil rights. For these injuries, Ms. France seeks compensatory damages to the fullest extent permitted under the law.

195. Because Defendants acted knowingly, intentionally, maliciously and/or with willful, wanton and reckless disregard for Ms. France and/or her federally protected rights, Ms. France also seeks punitive damages.

VIII. Amina Haruna

196. On October 18, 2010, Ms. Haruna went to Macy's Herald's Square hoping to take advantage of a Macy's coupon she had.

197. Because Ms. Haruna wanted to take full advantage of the coupon, she browsed for a number of items and traveled between different floors of the store, with the intention of paying for all the merchandise she picked out at once.

198. As Ms. Haruna travelled with some items she had chosen between floors, she was suddenly stopped by Macy's personnel, who told her to come with them.

199. Ms. Haruna was then led to a holding cell within the store, and falsely accused of shoplifting, where she was held for the next 5 to 6 hours.

200. During this time, Ms. Haruna begged and pleaded Macy's personnel to allow her to call home to check on her young children, but was shockingly not permitted to do so.

201. Ms. Haruna was even not allowed to use the bathroom during her lengthy confinement.

202. Hours into her confinement, Ms. Haruna was coerced into signing a false confession, and into paying a \$500 fine (which was many times the amount of the merchandise which she was falsely accused of stealing), based on the promise that she would be allowed to leave and go home if she did so.

203. However, Ms. Haruna was not given her freedom.

204. Rather, Macy's placed a call to the NYPD.

205. An NYPD officer, Defendant John Doe #10, arrived thereafter and, without conducting any independent investigation into whether probable cause existed to arrest Ms. Haruna, nor even speaking to Ms. Haruna to get her side of the story, placed Ms. Haruna into handcuffs and arrested her.

206. Ms. Haruna was eventually processed by Defendant John Doe #11 and charged with shoplifting based upon Macy's' false accusations.

207. Resolved to clear her name, Ms. Haruna retained a private attorney, to whom she paid many thousands of dollars in order to prove her innocence.

208. However, Macy's and the New York County District Attorney's office refused to drop the charges against Ms. Haruna, leaving Ms. Haruna no choice but to accept an offer of an Adjournment in Contemplation of Dismissal (ACD) after she could no longer afford to keep paying her criminal attorney.

209. As a result of Macy's baseless accusations and unwillingness to drop meritless charges, Ms. Haruna now has a criminal record which disqualifies her from many jobs, including jobs in the banking industry.

210. The conduct engaged in, authorized, directed, acquiesced in and/or ratified by Defendants and their employees and agents, as described above, denied Ms. Haruna, on the basis

of her race, national origin, ethnicity and/or color, the right to make and enforce contracts, including the right to enjoy all of the benefits, privileges, terms and conditions of a contractual relationship as is available to white citizens, denied her the full and equal benefits of all laws and proceedings for the security of persons and property as enjoyed by White citizens, denied her the same right enjoyed by White citizens to hold property afforded to her under federal civil rights laws; and conspired to deprive her of the equal protection and/or equal privileges and immunities of the laws as are enjoyed by White citizens.

211. Through the actions described above, Defendants acted knowingly, intentionally, maliciously, and/or with willful, wanton and reckless disregard for Ms. Haruna's federally protected civil rights.

212. Defendants' actions, as described above, constitute a continuing violation and have been an ongoing pattern and practice of unlawful conduct. Defendants knew or should have known that their actions, as described above, were in violation of law.

213. As a proximate result of the actions of Defendants, their agents and employees, as described above, Ms. Haruna has suffered and continues to suffer irreparable loss and injury, including but not limited to economic loss, mental anguish, emotional pain and suffering, humiliation, embarrassment, physical and emotional distress, feelings of paranoia and distrust, depression, low self-esteem, sleep deprivation, loss of enjoyment of life, interference with life's daily activities and a deprivation of her civil rights. For these injuries, Ms. Haruna seeks compensatory damages to the fullest extent permitted under the law.

214. Because Defendants acted knowingly, intentionally, maliciously and/or with willful, wanton and reckless disregard for Ms. Haruna and/or her federally protected rights, Ms. Haruna also seeks punitive damages.

IX. Allegations and Evidence of Other Victims of the Pattern and Practice

215. Like Plaintiffs, scores of other Black, Hispanic, Asian and non-White customers of “high-end” department or retail stores have been victimized by the NYPD’s policies, practices, and/or customs of racially profiling shoppers at these stores for suspected shoplifting, credit card fraud or other acts of larceny and subjecting them to unlawful stops, searched, seizures, questionings and/or false arrests. The accounts of some of these individuals are detailed below.

A. Trayon Christian

216. As alleged in the complaint in the action entitled Trayon Christian v. Barneys New York Inc., The City of New York, et al., No. 159654/2013 (N.Y. Sup. Ct.), filed on October 21, 2013, on the afternoon of April 29, 2013, Trayon Christian, a 19 year old Black male college student, exited the Barneys New York store located on the Upper East Side of Manhattan after lawfully purchasing a \$350 belt with his debit card. After walking several blocks, Mr. Christian was suddenly confronted by undercover NYPD officers, who told him someone at the Barneys store had raised concerns over his purchase. Specifically, Mr. Christian was accused of making the purchase with a fraudulent and/or unauthorized debit/credit card.

217. Even though Mr. Christian showed the officers his identification, his debit card, as well as his receipt, the officers nonetheless told him that his identification was false and that a young black man like he could not afford to make such an expensive purchase.

218. Mr. Christian was then searched, placed into handcuffs and arrested, put into a police car, and driven to the 19th Precinct.

219. There, Mr. Christian was placed in a holding cell for over two hours. Officers at the precinct even asked Mr. Christian how a young Black man such as himself could afford to

purchase such an expensive belt. Mr. Christian was ultimately released without any criminal charges filed against him.

B. Kayla Phillips

220. As alleged in numerous publically accessible media reports, on February 28, 2013, Kayla Phillips, a 21 year old Black female nursing student, also went to Barneys New York located on the Upper East Side of Manhattan and lawfully purchased a twenty-five hundred dollar (\$2,500) handbag with a debit.

221. After she exited the store, Ms. Phillips was confronted by undercover NYPD officers several blocks away. One of the detectives, a female Caucasian officer, demanded to know where Ms. Phillips lived. When Ms. Phillips told the officers that she lived in Brooklyn, the female Caucasian officer responded, “What are you doing here?”

222. The officers proceeded to demand to know how Ms. Phillips was able to purchase the bag, and accused her of using a fraudulent debit card. The officers eventually released Ms. Phillips after she was able to show them the receipt, the debit card she used and her identification.

C. Abeer Almaalouf

223. As alleged in the complaint in the action entitled Abeer Almaalouf, et al. v. Federated Department Stores, Inc., at al., 115826/2008 (N.Y. Sup. Ct.), filed on November 20, 2008, on the evening of December 20, 2007, Abeer Almaalouf, an adult female of Syrian descent, went to Macy’s’ Herald’s Square location. While waiting in line at the in-store McDonald’s restaurant, was suddenly confronted by Macy’s security personnel who immediately confiscated Ms. Almaalouf’s belongings, accused her of shoplifting, and physically forced her into a holding cell located in the store, where she was held for three hours.

224. Thereafter, despite finding no evidence of any shoplifting or other criminal activity, NYPD police officers, at the direction of Macy's security personnel, arrested Ms. Almaalouf and charged her with petit larceny and possession of stolen property.

D. Assetou Toure

225. As alleged in the Complaint in the action entitled Assetou Toure v. The City of New York, et al., 11-cv-01122 (DAB) (S.D.N.Y.), filed February 18, 2011, on the evening of June 3, 2008, Assetou Toure, a Black female, was shopping in Macy's' Herald's Square location when she was suddenly confronted by Macy's security personnel and pushed into an elevator. She was then brought to a room containing holding cells, placed inside one of the cells and accused of shoplifting.

226. Macy's security personnel then seized her belongings, including her money, cell phone, and diabetes medication, and refused to tell her why she was being detained. Ms. Toure at one point became unconscious as a result of a drop in her blood sugar level due to her apprehension and fear.

227. After being treated by paramedics, Macy's personnel turned Ms. Toure over to police officers who, rather than investigate whether there was any probable cause to arrest Ms. Toure, refused to listen to Ms. Toure when she tried to speak to them and told her to "shut the f*** up," and that they "were here for Macy's—not for her."

228. Over the next two years, Ms. Toure fought against the baseless criminal charges levied against her, ultimately obtaining a dismissal of her case.

E. Ayla Gursoy

229. As alleged in the complaint in the action entitled Ayla Gursoy v. Macy's Inc., et al., No. 110665/2011 (N.Y. Sup. Ct.), filed September 19, 2011, on the afternoon of September

18, 2010, Ayla Gursoy, a female of Turkish descent, was shopping in Macy's' Herald's Square location when she was suddenly approached by Macy's security personnel and falsely accused of theft. Ms. Gursoy was then forced into the store's basement, where she was ordered to pay five hundred dollars (\$500) to secure her release.

230. After Ms. Gursoy' refused, she was detained by Macy's security personnel for over four hours, until she was handed over to NYPD police officers. The officers did not independently investigate the situation, and relied solely upon the word of Macy's security personnel to handcuff and arrest Ms. Gursoy. Ms. Gursoy was later charged with petit larceny and criminal possession of stolen property. Although Ms. Gursoy was offered the option of accepting an Adjournment in Contemplation of Dismissal ("ACD") by the prosecution, Ms. Gursoy refused the ACD, and instead demanded to have a trial on the merits. The criminal case against Ms. Gursoy was ultimately dismissed almost a year later.

F. Rene Hughes

231. As alleged in the complaint in the action entitled Rene Hughes v. Macy's East, LLC, City of New York, et al., 09-cv-04710 (JGK) (S.D.N.Y.), filed January 11, 2010, on May 24, 2008, Rene Hughes, an African-American woman, exited Macy's' Herald's Square location and attempted to enter a subway station. She was then suddenly stopped and arrested by an NYPD police officer who brought her back into the store.

232. Ms. Hughes was then falsely accused of shoplifting and subjected to a search. Macy's personnel and the NYPD officer both also attempted to coerce Ms. Hughes into signing an agreement never to return to the store.

233. Upon realizing that there were no stolen items in Ms. Hughes' possession, she was released with any charges.

G. Carmen Caba and Marlene Anthony

234. As alleged in the complaint in the action entitled Carmen Caba and Marlene Anthony v. The City of New York, et al., 12-cv-02381 (KAM) (JMA) (E.D.N.Y.), filed May 14, 2012, on the evening of May 14, 2011, Carmen Caba and Marlene Anthony, two Hispanic women, were shopping at a Macy's store in Brooklyn, New York. After purchasing approximately thirteen hundred dollars (\$1300) in merchandise, Ms. Anthony and Ms. Caba were suddenly approached by eight Macy's security personnel who falsely accused them of shoplifting, and proceeded to detain them.

235. Although Ms. Caba and Ms. Anthony were able to produce receipts that confirmed that their purchases were legal, Macy's security personnel nonetheless called NYPD police officers to come and arrest the two women. The responding NYPD officers failed to conduct any independent investigation, nor form any probable cause to continue to detain the two women. Rather, the NYPD officers instead simply relied on the information provided to them by the Macy's personnel.

236. The charges brought against Ms. Caba and Ms. Anthony were eventually dismissed a year later.

H. Maria Cora Bacalao Paez

237. As alleged in the complaint in the action entitled Maria Cora Paez Bacalao, et al. v. Federated Department Stores, Inc., et al., No. 13 CV 8653 (SAS), filed December 5, 2013, on or about September 12, 2013, Maria Paez, a Hispanic/Venezuelan woman, was selecting items to purchase at Macy's' Herald's Square location while shopping with her 12-year-old son when Macy's personnel approached Ms. Paez, accused her of shoplifting, and detained her for many hours without access to a phone to contact her infant son.

238. Eventually, the NYPD arrived and arrested Ms. Paez, without conducting any independent investigation into the claims against Ms. Paez and without any probable cause, and still did not allow her to contact her child.

239. On March 31, 2014, Ms. Paez was found acquitted of the charges against her after a two-day bench trial.

X. The NYPD's Pattern of Violating the Constitutional Rights of Individuals of Color Who Shop at "High-End" Department or Retail Stores is a Direct and Proximate Result of Defendants' Policies, Practices and/or Customs

240. The Fourth Amendment prohibits police officers from conducting stops without a reasonable, articulable suspicion of criminal conduct and searching, seizing or arresting persons without probable cause.

241. Additionally, the Equal Protection Clause of the Fourteenth Amendment bars police officers from targeting individuals for stops on the basis of race or national origin.

242. The pervasive unconstitutional practices of the NYPD detailed herein are a direct and proximate result of policies, practices and/or customs devised, implemented, enforced and sanctioned by the City, with the knowledge that such policies, practices and/or customs would lead to violations of the Fourth and Fourteenth Amendments. Those policies, practices and/or customs include: (a) failing to properly screen, train and supervise NYPD officers, (b) failing to adequately monitor and discipline NYPD officers, and (c) encouraging, sanctioning and failing to rectify the NYPD's custom and practice of unlawful stops, searches, seizures and arrests.

A. Failure to Properly Screen, Train and Supervise NYPD Officers

243. Although fully aware that the work of the NYPD demands extensive training, superior judgment and close supervision, the City failed to properly screen, train and supervise NYPD officers, knowing that such failures would result in Fourth and Fourteenth Amendment

violations.

244. Upon information and belief, Defendants have failed to properly train and supervise NYPD officers, including supervisors, concerning the legal and factual bases for conducting stops, searches, seizure and/or attests that comply with the Fourth and Fourteenth Amendments in an effective manner.

245. The inadequate screening, training and supervision of the NYPD is a direct and proximate cause of the NYPD's rampant unconstitutional stops, searches, seizures and/or arrests. As a direct and proximate result of the Defendants' failure to screen, train and supervise NYPD officers, thousands of people of color have been subjected to unlawful stops, searches, seizures and/or false arrests in connection with suspected shoplifting, credit card fraud, or other acts of larceny taking place inside "high-end" department or retail stores simply because of their race and/or national origin. By failing to properly screen, train and supervise NYPD officers, the City has acted recklessly and with deliberate indifference to the constitutional rights of those who would come into contact with the NYPD.

B. Failure to Monitor and Discipline NYPD Officers

246. The NYPD's widespread abuses are also a direct and proximate result of the failure of the City to properly and adequately monitor, discipline and take necessary corrective action against NYPD officers who engage in, encourage or conceal unconstitutional practices. Among other things, the City has knowingly, deliberately and recklessly failed:

- (a) to take appropriate disciplinary action and corrective measures against NYPD officers who have engaged in suspicionless stops;
- (b) to conduct adequate auditing to determine if the stop conducted by NYPD officers comply with the NYPD's written policy prohibiting stops that are not based upon reasonable suspicion and use race and/or national origin as the determinative factor in initiating police action;

- (c) to take sufficient corrective and remedial action against NYPD officers who provide fabricated, false, or impermissible justifications for stops; and
- (d) to take sufficient corrective, disciplinary and remedial action to combat the so-called “blue wall of silence,” wherein NYPD officers regularly conceal or fail to report police misconduct.

247. The City failed to properly and adequately monitor, discipline and take necessary corrective action against NYPD officers, knowing that such omissions would lead to Fourth and Fourteenth Amendment violations. By such acts and omissions, the City has acted recklessly and with deliberate indifference to the constitutional rights of those who would come into contact with the NYPD.

FIRST CLAIM
(Violation of 42 U.S.C. §1983 - Fourth Amendment)

248. Plaintiffs repeat and re-allege paragraphs 1 through 247 above as if fully set forth herein.

249. Defendants have implemented, enforced, encouraged and sanctioned a policy, practice and/or custom of stopping, searching, seizing and/or arresting Plaintiffs and members of the Plaintiff class without the reasonable articulable suspicion of criminality or probable cause required by the Fourth Amendment.

250. The NYPD’s constitutional abuses and violations were, and are, directly and proximately caused by policies, practices and/or customs devised, implemented, enforced, encouraged and sanctioned by the City, including: (a) the failure to adequately and properly screen, train, and supervise NYPD officers, and (b) the failure to properly and adequately monitor and discipline NYPD officers.

251. Defendants have acted with deliberate indifference to the Fourth Amendment rights of Plaintiffs and other members of the class. As a direct and proximate result of the acts

and omissions of Defendants, the Fourth Amendment rights of Plaintiffs and other class members have been violated. By acting under color of state law to deprive Plaintiffs and other class members of their rights under the Fourth Amendment, Defendants are in violation of 42 U.S.C. § 1983, which prohibits the deprivation under color of state law of rights secured under the United States Constitution.

252. The NYPD targets Black, Hispanic Asian and other non-White individuals who shop at “high-end” department or retail stores in New York City for illegal stops, searches, seizures and arrests. Thus, a real and immediate threat exists that the Fourth Amendment rights of Plaintiffs and other class members will be violated by NYPD officers in the future. Moreover, because Defendants’ policies, practices and/or customs subject Plaintiffs and other class members to stops, searches, seizures and arrests without any reasonable, articulable suspicion of criminality or probable cause, but rather on the basis of race and/or national origin, Plaintiffs and other class members cannot alter their behavior to avoid future violations of their constitutional and civil rights at the hands of the NYPD.

253. Plaintiffs and other members of the class will suffer serious and irreparable harm to their constitutional rights unless Defendants are enjoined from continuing the NYPD’s policy, practice and/or custom of unconstitutional stops, searches, seizures and arrests, and the policies, practices and/or customs that have directly and proximately caused such constitutional abuses.

SECOND CLAIM
(Violations of 42 U.S.C. § 1983 - Equal Protection Clause)

254. Plaintiffs repeat and re-allege paragraphs 1 through 253 as if fully set forth herein.

255. Defendants have implemented and enforced a policy, practice and/or custom of stopping, searching, seizing and/or arresting Plaintiffs and members of the Plaintiff class without the reasonable, articulable suspicion of criminality and/or probable cause required by the Fourth

Amendment, and based solely on their race and/or national origin. These unconstitutional stops, searches, seizures and arrests have and are being conducted predominantly on Black, Hispanic, Asian and other non-White individuals who shop at “high-end” department and retail stores on the basis of racial and/or national origin profiling. As a result, the NYPD’s policy, practice and/or custom of unlawful stops searches, seizures and/or arrests violate the Equal Protection Clause of the Fourteenth Amendment. The NYPD’s constitutional abuses were and are directly and proximately caused by policies, practices and/or customs devised, implemented, enforced, encouraged, and sanctioned by the City, including: (a) the failure to adequately and properly screen, train, and supervise NYPD officers, and (b) the failure to adequately and properly monitor and discipline the NYPD and its officers.

256. Defendants have acted with deliberate indifference to the Fourteenth Amendment rights of Plaintiffs and class members. As a direct and proximate result of the aforesaid acts and omissions of Defendants, the Fourteenth Amendment rights of Plaintiffs and class members have been violated. By their acts and omissions, Defendants have acted under color of state law to deprive Plaintiffs and class members of their Fourteenth Amendment rights in violation of 42 U.S.C. § 1983.

257. Due to the NYPD’s targeting of Black, Hispanic, Asian and other non-White persons for suspected shoplifting, credit card fraud, and other acts of larceny committed inside “high-end” department and retail stores in which Plaintiffs and other class members shop, a real and immediate threat exists that the Fourteenth Amendment rights of Plaintiffs and other class members will be violated by NYPD officers in the future. Moreover, because Defendants’ policies, practices and/or customs subject Plaintiffs and other class members to repeated stops, searches, seizures and arrests without any reasonable, articulable suspicion of criminality and/or

probable cause, but on the basis of race and/or national origin, Plaintiffs and other class members cannot alter their behavior to avoid future violations of their constitutional and civil rights at the hands of the NYPD.

258. Plaintiffs and other class members have no adequate remedy at law and will suffer serious and irreparable harm to their constitutional rights unless Defendants are enjoined from continuing the NYPD's policy, practice and/or custom of unconstitutional race and/or national origin-based stops, searches, seizures and arrests, and the policies, practices and/or customs that have directly and proximately caused such constitutional abuses.

THIRD CLAIM

(Plaintiffs' Claims Pursuant to 42 U.S.C. §1983 Against Defendants Devirgilio, Droesch, Creighton, DiFranco, Hayden, Quic, Martuccio, Evert, Boyd, Burrirt and John Does #1 through #11)

259. Plaintiff repeats and re-alleges paragraphs 1 through 258 as if fully set forth herein.

260. The conduct of Defendants Devirgilio, Droesch, Creighton, DiFranco, Hayden, Quic, Martuccio, Evert, Boyd, Burrirt and John Does #1 through #11, in stopping, searching, seizing and/or falsely arresting Plaintiffs, were performed under color of law and without any reasonable suspicion of criminality or other constitutionally required grounds. Moreover, these stops, searches, seizures, detentions and/or arrests were performed on the basis of racial and/or national origin profiling.

261. As a direct and proximate result of such acts, Defendants Devirgilio, Droesch, Creighton, DiFranco, Hayden, Quic, Martuccio, Evert, Boyd, Burrirt and John Does #1 through #11 deprived Plaintiffs of their Fourth and Fourteenth Amendment rights in violation of 42 U.S.C. § 1983.

262. As a direct and proximate result of those constitutional abuses, Plaintiffs have has suffered, and will continue to suffer, physical, mental and emotional pain and suffering, mental anguish, embarrassment and humiliation.

263. The acts of Defendants Devirgilio, Droesch, Creighton, DiFranco, Hayden, Quic, Martuccio, Evert, Boyd, Burritt and John Does #1 through #11 were intentional, wanton, malicious, reckless and oppressive, thus, entitling Plaintiffs to an award of punitive damages.

FOURTH CLAIM
(Violations of 42 U.S.C. §1981)

264. Plaintiffs repeat and re-allege paragraphs 1 through 263 as if fully set forth herein.

265. By the actions described above, Defendants have continually denied Plaintiffs and the members of the Plaintiff class, the same right to make and enforce contracts as is enjoyed by White citizens of the United States, in violation of 42 U.S.C. § 1981. Plaintiffs have been denied the enjoyment of the benefits, privileges, terms and conditions of their contractual relations with Macy's due to Defendants' discriminatory and unlawful policies, practices and/or customs.

266. By the actions described above, Defendants have also denied Plaintiffs and the members of the Plaintiff class, the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by White citizens.

267. By the actions described above, Defendants have engaged in and continue to engage in a policy, pattern and practice of discrimination against Black, Hispanic, Asian and other non-White shoppers at "high-end" department or retail stores in New York City due to their race in violation of 42 U.S.C. §§ 1981 and 1983.

268. The past and continuing acts and conduct of Defendants described above were and are intentional, and have been carried out with deliberate indifference to the federally protected rights of Plaintiffs and the member of the Plaintiff class.

FIFTH CLAIM
(Violations of 42 U.S.C. Section 1982)

269. Plaintiffs repeat and re-allege paragraphs 1 through 268 as if fully set forth herein.

270. By the actions described above, among others, Defendants have denied Plaintiffs and members of the Plaintiff class, on the basis of their race, national origin, ethnicity and/or color, the same right to hold personal property as is enjoyed by White citizens of the United States, in violation of 42 U.S.C. § 1982.

SIXTH CLAIM
(Violations of Rights Under New York Law (as to Plaintiffs Brown, Palmer, Khalid and France))

271. Plaintiffs repeat and re-allege paragraphs 1 through 270 as if fully set forth herein.

272. By the actions described above, Defendants, jointly and severally, have committed the following wrongful acts against Plaintiffs Brown, Palmer, Khalid, France and other class members, which are tortious under the Constitution and laws of the State of New York:

- a) assault and battery;
- b) false imprisonment/false arrest;
- c) negligence and negligent hiring, screening, training, supervision and retention;
- d) defamation;
- e) intentional and/or negligent infliction of emotional distress;
and
- f) violation of rights otherwise guaranteed under the Constitution and the laws of the State of New York

273. The foregoing acts and conduct of Defendants were a direct and proximate cause of injury and damage to Plaintiffs Brown, Palmer, Khalid, France and other class members and

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

SEVENTH CLAIM

(Respondent Superior Claim Against the City Under New York Common Law (as to Plaintiffs Brown, Palmer, Khalid and France))

274. Plaintiffs repeat and re-allege paragraphs 1 through 273 as if fully set forth herein.

275. The conduct of Defendants Devirgilio, Droesch, Creighton, DiFranco, Hayden, Quic, Martuccio, Evert, Boyd, and John Does #8 and #9 occurred while they were on duty, in and during the course and scope of their duties and functions as New York City police officers, and while they were acting as agents and employees of Defendant City. As a result, Defendant City is liable to Plaintiffs Brown, Palmer, Khalid and France under the doctrine of respondent superior.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and members of the class pray that the Court will:

- (a) Issue an order certifying this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure in the manner described above herein, with Plaintiffs as class representatives;
- (b) Issue a class-wide judgment declaring that the NYPD's policy, practice and/or custom of unlawful stops, searches, seizures and arrests concerning suspected shoplifting, credit card fraud and other acts of larceny committed inside "high-end" department and retail stores within New York City challenged herein is unconstitutional in that it violates the Fourth and Fourteenth Amendments to the United States Constitution and the Constitution and laws of the State of New York, and that its implementation, enforcement and sanctioning by NYPD officers is a direct and proximate result of the following

policies, practices and /or customs of the City:

- (i) failing to adequately screen, train and supervise officers; and
 - (ii) failing to adequately monitor the NYPD and its officers and discipline those NYPD officers who violate the constitutional rights of residents of the communities they patrol.
- (c) Issue an order for the following injunctive relief:
- (i) enjoining the NYPD from continuing its policy, practice and/or custom of unlawful stops, searches, seizures and arrests concerning suspected shoplifting, credit card fraud, and other acts of larceny committed inside “high-end” department and retail stores in New York City;
 - (ii) enjoining the NYPD from continuing its policy, practice and/or custom of conducting stops, searches, seizures and arrests concerning suspected shoplifting, credit card fraud, and other acts of larceny committed inside “high-end” department and retail stores in New York City based on racial and/or national origin profiling;
 - (iii) enjoining members of the NYPD from relying on the legal conclusions made by “high-end” department or retail store security personnel in determining whether there is probable cause to arrest the individual
 - (iv) requiring the City to institute and implement improved policies and programs with respect to training, discipline, and promotion designed to eliminate the NYPD’s policy, practice and/or custom of unlawful stops, searches, seizures and arrests concerning suspected shoplifting, credit card

fraud, and other acts of larceny committed inside “high-end” department and retail stores in New York City;

- (v) requiring the City to develop and implement immediate remedial training on the proper and legal grounds for probable cause related to retail store-related crime enforcement;
- (vi) requiring members of the NYPD to inquire into the factual basis for arrests and detentions to determine whether there are objective facts which could establish probable cause to arrest the individual;
- (vii) requiring the City to deploy NYPD officers with appropriate and adequate supervision;
- (viii) requiring the City to establish a system for tracking and monitoring the arrests of individuals at “high-end” department and retail stores and the legal basis for their arrests to determine whether the arrests have comported with legal requirements, including whether the arrests were based on probable cause, so that charges issued based on arrests made without probable cause can be immediately dismissed;
- (ix) requiring the City to establish a system for tracking and monitoring the arrests of individuals at “high-end” department and retail stores to determine whether the arrests are being made in a discriminatory manner;
and
- (x) requiring the City to establish a system for reporting to the Plaintiff, members of the class, and the Court about all steps taken to cure the violations of the Plaintiff and all class members’ rights.

- (d) Award Plaintiffs and the members of the class compensatory and punitive damages in amounts that are fair, just and reasonable, to be determined at trial;
- (e) Award Plaintiffs and the members of the class reasonable attorneys' fees;
- (f) Award Plaintiffs and the members of the class reasonable costs of suit; and
- (g) Award such other and further relief as this Court may deem appropriate and equitable, including injunctive and declaratory relief as may be required in the interests of justice.

JURY DEMAND

Plaintiff demands a trial by jury on all issues of fact and damages.

New York, New York
Dated April __, 2014

Respectfully Submitted,

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