

the Plaintiff's federal constitutional and civil rights grounded in false arrest and for false imprisonment and for being subjected to an intrusive body search. The Plaintiff seeks whatever other relief is appropriate and necessary in order to serve the interests of justice and assure that her remedy is full and complete.

II. JURISDICTION

4. Jurisdiction of this Court is invoked pursuant to and under 28 U.S.C. Sections 1331 and 1343 [3] and [4] in conjunction with the Civil Rights Act of 1871, 42 U.S.C. Section 1983, and the First, Fourth and Fourteenth Amendments to the United States Constitution.

5. The value of the rights in question is in excess of \$100,000.00 exclusive of interest and costs.

6. The Plaintiff also invokes the jurisdiction of this Court in conjunction with the Declaratory Judgment Act, 28 U.S.C. Sections 2201, et seq., this being an action in which the Plaintiff, while seeking monetary damages, also seeks declaratory and injunctive relief if such is deemed necessary and desirable and in the interest of justice in order to provide the Plaintiff with a full and complete remedy for the violation of her rights.

7. This is an action in which the Plaintiff seeks relief for the violation of her rights as guaranteed under the laws and Constitutions of the United States.

III. PARTIES

8. The Plaintiff, Nicole Sarnicola, is an American citizen and resident of the City of New York, the State of New York, the

County of Kings. The Plaintiff is twenty six [26] years of age. The Plaintiff resides with her mother, Zohira Torres, at 3395 Nostrand Avenue, Apt. # 3E, Brooklyn, New York 11229.

9. The County of Westchester is a municipal entity existing under the laws and Constitution of the State of New York.

10. Defendants Beckley, Shield # 189, Vinnie Antonucci, Mark Pierro, and John Does are Westchester County, New York Police Officers. They are agents and employees of the County of Westchester, New York. Notwithstanding the wrongful and illegal nature of their acts and conduct as hereinafter described, they were taken in and during the course of their duties and functions as Westchester County Police Officers and under the policies and practices of the County of Westchester, New York. They are sued in their official and in their individuals capacities.

IV. ALLEGATIONS

11. The Plaintiff is Nicole Sarnicola.

12. The Plaintiff resides in the Sheepshead Bay/Marine Park area of Brooklyn, New York at 3395 Nostrand Avenue, Apt. # 3E, Brooklyn, New York.

13. The Plaintiff resides at the above address with her mother, Zohira Torres, who is divorced and has been divorced for most of the Plaintiff's life. The Plaintiff has resided at the afore-stated address for most of her life.

14. The Plaintiff is single.

15. The Plaintiff is twenty six years of age. The Plaintiff's birth date is: 3/9/75.

16. The Plaintiff attended Fontbonne Hall Academy in Bayridge, Brooklyn, New York. Prior thereto she attended the Good Shepherd School in Marine Park, New York.

17. The Plaintiff attended St. John's University and graduated therefrom in 1996.

18. Thereafter, the Plaintiff worked as an office manager at the Marine Park Funeral Home for approximately one year [just under one year]. Subsequent thereto, the Plaintiff was employed at Cushman and Wakefield in the capacity as an Executive Administrator. She was employed thereat for approximately two years from September, 1998 through September, 2000. Because of downsizing, the Plaintiff was let go from her position.

19. While attending St. John's University the Plaintiff worked at "Downtown", a clothing store located at Bedford Avenue and Avenue U, in Sheepshead Bay/Marine Park, Brooklyn, New York.

20. The incident giving rise to this litigation commenced on Thursday, April 26, 2001 at or about 5:45 P.M. in Tarrytown, New York.

21. The Plaintiff and her boy friend, Michael Tricardo and their mutual friend, Frank Rossi, had traveled from Michael Tricardo's residence in Brooklyn, New York to Tarrytown where the Plaintiff believed that they were going to dinner along with another individual known as "Gabe" [believed to be Gabe ██████████ ██████████ a person whom the Plaintiff did not know.

22. Gabe had been at Michael Tricardo's residence [outside of it] and the Plaintiff, Frank Rossi, and Michael Tricardo had

followed Gabe, in his vehicle, to Tarrytown.

23. Upon their arrival in Tarrytown, the Plaintiff, Michael Tricardo, and Frank Rossi parked the vehicle, in which they were traveling and which the Plaintiff was driving, in a lot and the Plaintiff and Frank Rossi, upon exiting, went to a cafe, about a block away from the parking area, so that the Plaintiff could go to the bathroom. The Plaintiff and Frank Rossi left Michael Tricardo and Gabe, who was in his vehicle, in the parking area.

24. As the Plaintiff and Frank Rossi were returning to the parking area, where they had left Michael Tricardo and Gabe, the Plaintiff and Frank Rossi were stopped by Police Officers, believed to be in the employ of Westchester County. Both the Plaintiff and Frank Rossi had cups of tea [coconut vanilla] and each was directed to place the cups of tea on the sidewalk. The Plaintiff was handcuffed. There was an officer present who displayed a gun. The Plaintiff believes that his name was "Ray" [known as Ramon and believed to be Cuban because he later informed the Plaintiff that he was Cuban]. She was asked her name and where she was from. The Plaintiff identified herself and indicated that she was from Brooklyn. The Plaintiff asked why she was being stopped and the Plaintiff was tapped on the shoulder by one of the officers then present and informed by that officers that it was because "today must be your unlucky day, sweetheart".

25. The Plaintiff was transported to a location which is believed to be a law enforcement facility. At that facility, the Plaintiff was placed in a room separate from Frank Rossi and from

Michael Tricardo whom the Plaintiff saw was then present when she entered the facility to which she had been transported. The Plaintiff had been transported to the facility separate from Frank Rossi and from Michael Tricardo whom the Plaintiff did not see being arrested. The Plaintiff did not see the individual known as "Gabe" when she first entered the law enforcement facility.

26. The Plaintiff was at that Facility for perhaps ten minutes when she and Frank Rossi were then taken to a second law enforcement facility. Michael Tricardo was transported to that Facility separate from the Plaintiff and Frank Rossi.

27. When Frank Rossi and the Plaintiff entered that second facility, the Plaintiff heard the facility referred to as "Central Booking" when the telephone was answered by an Officer Doyle.

28. Frank Rossi and the Plaintiff were first placed in a cell and remained handcuffed. Michael Tricardo was brought into the facility and the Plaintiff was removed from the cell and placed in a chair and handcuffed to the chair.

29. The Plaintiff could see Frank Rossi and Michael Tricardo.

30. The Plaintiff observed that both Frank Rossi and Michael Tricardo were taken, separately, from that room to another location and returned. The Plaintiff learned that each had been strip searched.

31. The Plaintiff was informed that she would be strip searched when a female officer was available.

32. At the facility, the Plaintiff was subjected to a strip search by a female Officer Beckley. Before she was strip searched,

Officer Beckley took into her possession the Plaintiff's jewelry [three rings, two pairs of earrings, a watch and an ankle bracelet]. The Plaintiff was made to take off all her outer and under garments and was forced to bend over.

33. The Plaintiff was returned to a room and placed in a chair outside of a cell [handcuffed]. The Plaintiff believes that Michael Tricardo and Frank Rossi were placed in separate cells [one in a holding cell and one in cell in another room]. The Plaintiff was then taken into another room and the handcuffs removed. Eventually, the Plaintiff was taken upstairs and into a room and questioned by a Police Officer Mark Pierro. Present at the time were Police Officers Beckley and Vinnie Antonucci. Other officers were also present.

34. The Plaintiff was informed in that room that Michael Tricardo had been arrested for a drug offense involving ecstasy and that Gabe had been followed for some period of time prior to that date. The Plaintiff was informed that the drug bust had a value of one hundred thousand dollars. The Plaintiff was informed that the quantity of ecstasy was five thousand tabs or pills [the Plaintiff cannot recall the specific word used to describe the substance].

35. The Plaintiff had no knowledge of such and, when questioned, made such known to the Officer[s]. When questioned about a bag in which some ecstasy was apparently seized, the Plaintiff indicated that she did not know what bag the Officers were speaking about. The Plaintiff was asked whether, if they "dusted the bag", her fingerprints would be found on it. The

Plaintiff indicated "no" because she had no idea what bag it was that they were discussing. The Plaintiff was asked about why she was in Tarrytown and the Plaintiff indicated that she and her boyfriend and Frank Rossi were going out to dinner. The Officers indicated, in substance, that such was unusual and questioned the Plaintiff about such particularly that she and her boyfriend were going out to dinner with a third person, Frank Rossi. The Plaintiff responded that it was not unusual and that it was "like 'Three's Company', backwards". The Plaintiff has known Frank Rossi and Michael Tricardo for many years as persons in the general neighborhood where they grew up. It has only been in the last year and one half or thereabouts that the Plaintiff and Michael Tricardo have been dating. The Officers asked the Plaintiff about \$466.00 which was in her wallet. The Plaintiff indicated that she needed to buy a birthday gift for Michael Tricardo and she had that money for that purpose. The Plaintiff had just stopped receiving unemployment as a consequence of the loss of her position at Cushman and Wakefield [because of down sizing]. The Plaintiff had been receiving \$385.00 per week. The Officers also asked the Plaintiff where Michael Tricardo got his money and the Plaintiff indicated that, as far as she knew, Michael Tricardo had received some monies when his father had passed away approximately three years ago. The Plaintiff was asked if Michael Tricardo bought her extravagant jewelry and the Plaintiff responded that at holidays Michael Tricardo has bought her jewelry. The Plaintiff was asked if she and Michael Tricardo went on a lot of trips and the

Plaintiff indicated that they had just gone on a trip to Acapulco. When asked who paid for the trip, the Plaintiff indicated that Michael Tricardo had paid for the trip but that she had brought her own monies, as well. The Officer[s] indicated that they wanted to let the Plaintiff go and would she sign a statement. The Plaintiff indicated she would. The Plaintiff asked did it have to be written or typed. The Officers, in a joking manner, said, "you can type?" The Officer[s] indicated the statement must be handwritten. The Plaintiff then wrote a statement out which was dictated to the Plaintiff. During the dictation, the Officers made reference to the bag, again, and the Plaintiff refused to write something about the bag which would have suggested, the way it was being dictated, that she had knowledge of some bag [which she did not]. The Officer[s], again in somewhat of a jovial manner, stated, with respect to the dictation at that point, "we're kidding, we're kidding". The Plaintiff responded that she did not have time for jokes.

36. After the statement was dictated to, and written by, the Plaintiff, she re-read it and signed it and she was required to place a time on it. The Plaintiff recalls and believes that the time was approximately 8:45 P.M.

37. Thereafter, the Plaintiff asked if she could use the bathroom and was permitted to do so although a female Officer observed the Plaintiff in the bathroom.

38. The Plaintiff asked if she could leave. The Plaintiff was placed in a room and was informed that she would be able to

leave "soon".

39. The Plaintiff was placed in the room with an Officer known as Roman, the individual whom the Plaintiff previously saw on the street and who, on the street, was observed by the Plaintiff with a gun.

40. During the course of the period that the Plaintiff was with Ramon, it was then that she learned from him that he was Cuban.

41. He also indicated to the Plaintiff that she did not meet the "profile" because of his observation of how the Plaintiff was shaking when she was handcuffed on the street.

42. The Plaintiff was held from 8:45 P.M. to approximately midnight or 12:30 A.M. The Plaintiff would periodically ask when she could leave and was continuously told "soon". The Plaintiff asked where the nearest train station was so that she could travel back to New York City.

43. The Plaintiff did not, however, feel that she was free to leave until she was told that she could leave and she was never told that she could leave when she continued to ask when she could leave.

44. The Plaintiff asked whether Frank Rossi had been arrested. The Plaintiff was informed by the Officer that he did not think so.

45. Prior thereto, when the Plaintiff had been in the room being questioned by Officer Pierro and others, the Plaintiff had been informed that: "your boy friend is going away".

46. Prior to the Plaintiff's release, all of her property was

vouchered/invoiced.

47. The Plaintiff's pocketbook was returned⁴ as was her jewelry [the latter at a different point of time prior to the release].

48. The Plaintiff was asked to ascertain whether all of her property was accounted for and the Plaintiff, after a thorough search, indicated that a check book insert was missing. As result, the Plaintiff was taken out of the facility and brought to the impounded vehicle [the vehicle in which the Plaintiff had driven to Tarrytown]. After a serach of the vehicle, the insert could not be located. There was further discussion in which the Officers indicated that, if and when they found the insert, they would mail it to the Plaintiff. The Plaintiff rejected such offer and wanted to continue to look for it. Eventually, the insert was found on a desk. The insert contained the Plaintiff's birth certificate and such was the reason that she was particularly concerned about it because she needed her birth certificate to look for employment and because her birth certificate was an otherwise valued document.

49. In the process of leaving, the Plaintiff saw Michael Tricardo. Having apparently seen the Plaintiff, Michael Tricardo asked if he could say goodbye to the Plaintiff. He was permitted to do so. In addition and with this consent, the Plaintiff was permitted to take his possessions. It was at this time that the Plaintiff received her jewelry back into her possession.

50. it was at this point that the Officer Pierro indicated that he would take the Plaintiff and Frank Rossi, who was then being released, to New York since he had to do something in

Brooklyn.

51. Accordingly, the Plaintiff and Frank Rossi went with Officer Pierro and Officer Antonucci in a police vehicle and were transported to Brooklyn.

52. Shortly after leaving the law enforcement facility, the Officers stopped to get a six pack of Corona beer. Frank Rossi paid for such. It occurred in the context of the Officers providing Frank Rossi and the Plaintiff cigarettes and Frank Rossi indicating that, if they stopped, he would get a package of cigarettes so that he could return them to the Officers. At that point, Officer Pierro indicated that he "could sure use a Corona" and eventually, the Officer[s] stopped the vehicle and Frank Rossi purchased cigarettes and a six pack of the Corona beer.

53. On the trip to Brooklyn, the Plaintiff and Frank Rossi each had one beer and each of the two Officers had two beers.

54. During the ride, the Officers made several comments including, from Officer Antonucci, that the way the Plaintiff was speaking it sounded as if she was in a "battering relationship". Officer Pierro indicated that Michael Tricardo was a bad guy, a "piece of shit" and an "anti-Christ". Officer Pierro indicated: "how could he bring his 'old lady' to a drug deal".

55. The officers indicated that, before they took the Plaintiff and Frank Rossi home, Frank Rossi was going to show them where Michael Tricardo lived. Frank Rossi indicated to them that they already had Michael Tricardo's address because they had his license.

56. The officers went to the location where Michael Tricardo lived. Michael Tricardo resides with his mother [at his grandmother's house], at 2051 East 18th Street, Brooklyn, New York 11229.

57. At about 1;30 A.M., the Officers arrived at the residence and, when at the door, informed Michael Tricardo's grandmother, that they had a consent from Michael Tricardo to search his room and only his room at the premises. The Officers entered and the Plaintiff and Frank Rossi remained with the grandmother who lived on the middle floor of this three floor premises. Michael Tricardo and his mother lived on the third floor; and an aunt lived in the basement level. The Officers had a key and believed that the key was to the door to the premises where Michael Tricardo and his mother lived. However that key was not the key to the premises and the Officers asked the grandmother or the aunt whether the individual had key. The door was opened and the Officers entered.

58. The aunt and the aunt's boyfriend went into the premises with the Officers. In addition, two officers from the 61st Precinct went into the premises as well apparently having been notified of the same.

59. Eventually, approximately one hour later, the Officers exited. At that time they asked the Plaintiff what she was going to do and the Plaintiff indicated that she was going to stay with the grandmother who was particularly shaken by the matter. The Officers indicated that the Plaintiff would be arrested if she gave Michael Tricardo money for bail and if they saw her in Court and

if she went to visit Michael Tricardo.

60. The Plaintiff was subjected to false arrest, false imprisonment, excessive and unnecessary seizure and an unjustified and an improper and unreasonable intrusive body search. There was no probable cause for the stop, detention, seizure, imprisonment; and there was no other reasonable suspicion or basis for such. There was absolutely no reasonable justification for the intrusive body search.

61. The actions and conduct of the law enforcement officers were taken in the course of their duties and functions as law enforcement officers. Although illegal, unconstitutional, and wrongful, the actions and conduct were taken incidental to the otherwise lawful performance of their duties and functions.

62. The actions and conduct of the Officers were taken pursuant to and implementation of policies and practices of the municipal entity which policies and practices are grounded in the philosophy that the "ends justifies the means" and, therefore, crossing the line is permissible in order to obtain arrests and prosecutions of those whom law enforcement officers believe have engaged in otherwise wrongful conduct. Fortunately, the Constitution of the United States prohibits the "ends justifies the means" approach to law enforcement which, as is the situation herein, caused the law enforcement officers to cross the line and engage in impermissible and unlawful conduct toward the Plaintiff in the context of the law enforcement agents' efforts to deal with the suspicions that they possessed with respect to Michael

Tricardo, there bring no existent reasonable suspicions regarding the Plaintiff except and only for the fact that the Plaintiff was in the proximity of Michael Tricardo.

63. The Plaintiff suffered injuries and damages including humiliation, anger, mental distress, emotional anguish, and psychological trauma, the residual effects of which still continue.

64. The Plaintiff's rights under the First, Fourth and Fourteenth Amendment to the United States Constitution and the Civil Rights Act of 1871, 42 U.S.C. Section 1983, were violated. The Plaintiff's right under the laws and Constitution of the State of New York were violated.

65. The Plaintiff was otherwise subjected to negligence actions on the part of the Defendants which negligence actions were the proximate cause of the injuries and damages which she suffered.

66. The Plaintiff seeks yet to be calculated compensatory and punitive damages.

67. The Plaintiff has no other adequate remedy at law.

FIRST CAUSE OF ACTION

68. The Plaintiff reiterates Paragraph #'s 1 through 67 and incorporates such by reference herein.

69. The actions, conduct and policies and practices violated the Plaintiff's rights under the First, Fourth and Fourteenth Amendments to the United States Constitution and the Civil Rights Act of 1871, 42 U.S.C. Section 1983.

70. The Plaintiff suffered injuries and damages.

SECOND CAUSE OF ACTION

71. The Plaintiff reiterates Paragraph # 's 1 through 70 and incorporates such by reference herein.

72. The Plaintiff was subjected to false arrest and imprisonment in violation of her rights under the Fourth Amendment to the United States Constitution and the Civil Rights Act of 1871, 42 U.S.C. Section 1983.

73. The Plaintiff suffered injuries and damages.

THIRD CAUSE OF ACTION

74. The Plaintiff reiterates Paragraph #'s 1 through 73 and incorporates such by reference herein.

75. The Plaintiff was subjected to an intrusive body search. Such violated the Plaintiff's rights under the Fourth Amendment to the United States Constitution and the Civil Rights Act of 1871, 42 U.S.C. Section 1983.

76. The Plaintiff suffered injuries and damages.

FOURTH CAUSE OF ACTION

77. The Plaintiff reiterates Paragraph #'s 1 through 76 and incorporates such by reference herein.

78. The actions and conduct of the Defendant Officers were propelled by the policies and practices of the County of Westchester which policies and practices violated the Plaintiff's rights under the First, Fourth and Fourteenth Amendments to the United States Constitution and the Civil Rights Act of 1871, 42 U.S.C. Section 1983.

79. The Plaintiff suffered injuries and damages.

FIFTH CAUSE OF ACTION

80. The Plaintiff reiterates Paragraph # 's 1 through 79 and incorporates such by reference herein.

81. The Plaintiff was subjected to false arrest and false imprisonment and an unnecessary and excessive seizure [intrusive body search] in violation of her rights under the laws and Constitution of the State of New York.

82. The Plaintiff was injured and damaged.

SIXTH CAUSE OF ACTION

83. The Plaintiff reiterates Paragraph #'s 1 through 82 and incorporates such by reference herein.

84. Independent of the federal law claim against the Defendant County of Westchester arising out of the Monell policy and practice construct, the Plaintiff possesses a respondeat superior claim over and against the Defendant County of Westchester under pendent party and pendent State law jurisdiction.

85. The Plaintiff suffered injuries and damages.

SEVENTH CAUSE OF ACTION

86. The Plaintiff reiterates Paragraph # 's 1 through 85 and incorporates such by reference herein.

87. The actions and conduct of the Defendant parties were negligent and the proximate cause of injuries and damages suffered by the Plaintiff.

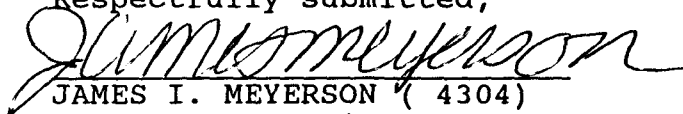
88. The Plaintiff suffered injuries and damages.

WHEREFORE and in light of the foregoing, it is respectfully requested that the Court assume jurisdiction herein and thereafter:

- [a] Assume pendent party and pendent claim jurisdiction.
- [b] Enter appropriate declaratory and injunctive relief.
- [c] Award appropriate compensatory and punitive damages in an amount to be defined and determined.
- [d] Award reasonable costs and attorney's fees.
- [e] Award such other and further relief as the Court deems appropriate and just.
- [f] Convene and empanel a jury.

DATED: New York, New York
July 5, 2001

Respectfully submitted,



JAMES I. MEYERSON (4304)
396 Broadway-Suite # 601
New York, New York 10013
[212] 226-3310
ATTORNEY FOR PLAINTIFF
BY: _____

Sarnicola v. County of Westchester



PN-NY-002-004