

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

CHRISTOPHER EICHOLZER

Plaintiff,

-against-

THE CITY OF NEW YORK,

Defendant.

VERIFIED COMPLAINT

Index No. 17139-09

Date Filed: 6-29-09

Plaintiff, CHRISTOPHER EICHOLZER, by his attorneys, FRANZBALU DRATCH, PC, complaining of the defendant, respectfully alleges, upon information and belief as follows:

1. That at all times hereinafter mentioned, Plaintiff, CHRISTOPHER EICHOLZER, was and still is a resident of the State of New York.

2. That at all times hereinafter mentioned, Defendant, THE CITY OF NEW YORK was and still is a domestic municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

3. That heretofore and on or about the 4th day of February, 2009, Plaintiff caused to be served upon Defendant, THE CITY OF NEW YORK, a verified written Notice of Claim for the damages hereinafter set forth. That more than thirty (30) days have elapsed since the date of the said service of the said Notice of Claim and that Defendant, THE CITY OF NEW YORK, has neglected and refused to make payment of the claim. That the aforesaid Notice of Claim was served within ninety (90) days from the date of the occurrence herein, and that this action was commenced within the statutory period applicable in cases such as this.

4. That at all times hereinafter mentioned, Plaintiff, CHRISTOPHER EICHOLZER, was given permission by the CITY to not have to appear at a hearing as provided for in Section 50-h of the General Municipal Law of the State of New York.

5. That at all times hereinafter mentioned, Defendant, THE CITY OF NEW YORK, owned Rikers Island Correctional Facility, George Motchen Detention Center, 15-15 Hazen Street, East Elmhurst, NY, 11370, in the County of Queens, City and State of New York.

6. That at all times hereinafter mentioned, Defendant, THE CITY OF NEW YORK, operated Rikers Island Correctional Facility, George Motchen Detention Center, 15-15 Hazen Street, East Elmhurst, NY, 11370, in the County of Queens, City and State of New York.

7. That at all times hereinafter mentioned, Defendant, THE CITY OF NEW YORK, managed Rikers Island Correctional Facility, George Motchen Detention Center, 15-15 Hazen Street, East Elmhurst, NY, 11370 in the County of Queens, City and State of New York.

8. That at all times hereinafter mentioned, Defendant, THE CITY OF NEW YORK, maintained Rikers Island Correctional Facility, George Motchen Detention Center, 15-15 Hazen Street, East Elmhurst, NY, 11370, in the County of Queens, City and State of New York.

9. That at all times hereinafter mentioned, the defendant, THE CITY OF NEW YORK, controlled Rikers Island Correctional Facility, George Motchen Detention Center, 15-15 Hazen Street, East Elmhurst, NY, 11370, in the County of Queens, City and State of New York.

10. That the aforesaid facility was constructed for the use of inmates incarcerated in the County of Queens, City and State of New York and others.

11. That on or about December 11, 2008, while Plaintiff, CHRISTOPHER EICHOLZER, was detained at the aforesaid location, and while being physically restrained, he sustained serious and severe multiple injuries as a result of the brutal assault and intentional infliction of severe physical and emotional pain by the employees and staff at Rikers Island Correctional Facility.

12. The Defendant, their agents, and employees committed a brutal assault and intentional infliction of physical and emotional pain and distress in that the incident and injuries

to Plaintiff were caused wholly and solely through their intentional actions and the assaults committed by their agent(s), servant(s) and/or employee(s). , in that defendants caused and created the brutal and intentional assault at the aforementioned facility; in that Defendant failed to take proper means and precautions to prevent the aforesaid employees from becoming and remaining dangerous, in negligently hiring brutal and vicious persons and allowing same to commit violent and horrific assaults against other human beings; all of which were in violation of the regulations, statutes, ordinances and promulgations of the County, City and State of New York, and their political subdivisions and entities, in such cases made and provided for, all of which caused Plaintiff to be seriously injured; and in all other ways, the Defendant was reckless, careless and intentional.

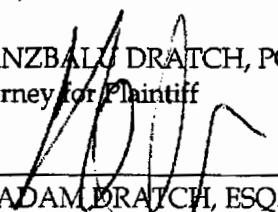
13. That by reason of the foregoing, Plaintiff, CHRISTOPHER EICHOLZER was rendered sick, sore, lame and disabled, including having his ears ripped off his head, and his injuries are of a permanent nature and character, that by reason thereof, Plaintiff has been unable to and will in the future be unable to attend to his usual duties with the same efficiency and ability to the occurrence herein; that he has become obligated and will in the future become further obligated for medical aid, medicines, and attention in an effort to alleviate his pain and suffering; that reason thereof, he has been incapacitated from his usual daily routines, normal activities, vocations, education, vocation and employment for a long period of time, all to his damage in the sum of ONE MILLION (\$1,000,000.00) DOLLARS.

WHEREFORE, Plaintiff demands judgment against the Defendant in the sum of ONE MILLION (\$1,000,000.00) DOLLARS, together with the costs and disbursements of this action.

Dated: New York, New York
June 25, 2009

Yours, etc.

FRANZBALL DRATCH, PC
Attorney for Plaintiff

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