

SUPREME COURT OF THE STATE OF NEW YORK  
BRONX COUNTY

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ROLANDO FELIZ,

INDEX # \_\_\_\_\_

*Plaintiff***SUMMONS**

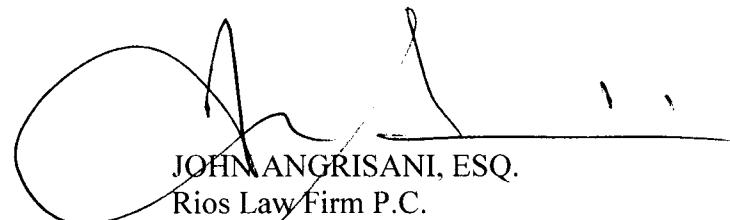
-against-

THE CITY OF NEW YORK,  
THE NEW YORK CITY POLICE DEPARTMENT, &  
NYPD OFFICERS "JOHN & JANE DOE" 1-20Basis of Venue is County of  
Occurrence Pursuant to  
CPLR §504*Defendants.*

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To the above-named defendants:

You are hereby summoned and required to serve upon plaintiff's attorney an answer to the complaint in this action within twenty days after the service of this summons, exclusive of the day of service, or within thirty days of service if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: Bronx, New York  
January 12, 2018

JOHN ANGRISANI, ESQ.  
Rios Law Firm P.C.  
Attorney for Plaintiff  
2560 Matthews Avenue, Suite 1  
Bronx, New York 10467

To: The City of New York  
Office of the Corporation Counsel  
100 Church Street  
New York, NY 10007

The New York City Police Department  
One Police Plaza  
New York, New York 10038

SUPREME COURT OF THE STATE OF NEW YORK  
BRONX COUNTY

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ROLANDO FELIZ,

INDEX # \_\_\_\_\_

*Plaintiff***VERIFIED COMPLAINT**

-against-

THE CITY OF NEW YORK,  
THE NEW YORK CITY POLICE DEPARTMENT, &  
NYPD OFFICERS "JOHN & JANE DOE" 1-20Basis of Venue is County of  
Occurrence Pursuant to  
CPLR §504*Defendants.*

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Plaintiff, by his attorney, JOHN ANGRISANI, ESQ., alleges as follows:

1. At the time of the incident in question, plaintiff was a resident of Bronx County, New York. Plaintiff maintained businesses at 400 East 198th Street, Bronx, New York, where he had a valid New York State Liquor Authority license to sell alcoholic beverages.
2. At all times hereinafter mentioned, defendant, the City of New York (the "City"), was a municipal corporation duly organized and existing pursuant to the laws of the State of New York.
3. At all times hereinafter mentioned, the City maintained a police department, the defendant New York City Police Department (the "NYPD"), which is administered as a department and subdivision of the City.
4. At all times hereinafter mentioned, Police Officers John and Jane Doe 1 through 20 were employees of the NYPD and of the City.
5. This claim arises from an incident which occurred on May 19, 2017, at approximately 7:30 p.m., inside of 400 East 198th Street, Bronx, New York.

6. A Notice of Claim was served upon the City on June 26, 2017. The Claim Number is: 2017PD018945.
7. More than 30 days have elapsed since the presentation of this Notice of Claim and the City has failed to adjust and/or dispose of the claim presented therein.
8. This action is commenced within one year and 90 days of the date of the incident and the accrual of the cause of action.
9. The limitations on liability set forth in N.Y. C.P.L.R. §1601 do not apply to this action.
10. The limitations set forth in N.Y. C.P.L.R. §1601 do not apply to this action by reason of one or more of the exemptions set forth in N.Y. C.P.L.R. §1602.

### **FACTUAL ALLEGATIONS**

11. Plaintiff, Rolando Feliz operates a bar and restaurant, with a New York State Liquor Authority License, at 400 East 198th Street, Bronx, New York.
12. Plaintiff also operates a multi-service center in an adjacent storefront at 400 East 198th Street, Bronx, New York. The multi-service center provides clients with tax return preparation services, international money orders, telephone and computer repair, and fax and photocopying services.
13. A search warrant was issued by a Bronx County Criminal Court Judge on May 11, 2017, which authorized the police to search the premises at 400-A East 198th Street, Bronx, New York and to seize property constituting evidence of a crime, to wit: including but not limited to firearms, ammunition, and paraphernalia related to the possession of a firearm including holsters and magazine cartridges. The plaintiff has never received a copy of the search warrant affidavit or the transcript of any testimony provided by a

confidential informant or an undercover police officer before the warrant-issuing magistrate. In any event, the search warrant, on its face, is overbroad in that it authorized the police to seize property constituting evidence of a crime, which includes, but is not limited to, firearms, ammunition, holsters, magazine cartridges and firearm-related paraphernalia. The warrant, in effect, authorizes the police to seize any property constituting evidence of a crime.

Assuming, for the sake of argument only, that the search warrant application [affidavit coupled with any testimony provided by a confidential informant or undercover police officer] established probable cause to believe that a firearm was present in the target location, a warrant which authorized the police to search for, and seize, a firearm would have been proper. While contraband observed by police in plain view during the course of their execution of such search warrant may also be seized, non-contraband items of property in plain view may not be seized.

The seizure of other items of property not particularized in the search warrant [where probable cause for their seizure was not established in the search warrant application] is prohibited. See, People v. Brown, 96 N.Y.2d 80 (2001).

14. On May 19, 2017, at 7:30 p.m., at 400 East 198th Street, Bronx, New York, the New York City Police Department executed the aforesaid search warrant. During the execution of said warrant, the police allegedly recovered a gambling device [a video poker machine], and gambling records inside the location. Per misdemeanor complaint docket

#2017BX020743, the video poker machine was observed in plain view inside the target premises. The receipts, alleged to be either sports betting wager slips or Dominican Lottery receipts were allegedly observed on a desk inside the target premises.

Furthermore, during the course of the execution of the search warrant:

- (a) the police seized and destroyed a three computers removed from the premises;
- (b) the police seized and destroyed the money transmittal safe removed from the premises;
- (c) the police seized and stole over \$29,000.00 in beer, wine and liquor that they removed from the premises. The beer, wine and liquor were never vouchered by the New York City Police Department. In light of the fact that plaintiff had a valid New York State Liquor Authority License to sell alcoholic beverages at his bar and restaurant at 400 East 198th Street, Bronx, New York, there was no lawful authority under the search warrant to even seize such non-contraband items.

In addition to the beer, wine and liquor that were never vouchered, the New York City Police department seized computers, electronics, a money transmittal safe and an amount of currency that was vouchered. However, when Mr. Feliz's case was disposed, a sum of \$10,000.00 was never returned to him. Additionally, all the seized electronics and computers were not functional, in addition to damages to the store surveillance system, damages which amount to a sum believed to be no less than \$6,000.00.

The seizure of the three computers, the money transmittal safe and the \$29,000.00 worth of beer, wine, and liquor, exceeded the scope of the lawful component of the search warrant. The search warrant did not authorize the seizure or the destruction of the three computers and the money transmittal safe. The overbroad search warrant did not authorize the seizure of the \$29,000.00 worth of beer, wine and liquor, which is neither contraband nor evidence of any crime. The New York City Police Department did not voucher the \$29,000.00 worth of beer, wine and liquor.

This act of not preparing a property invoice to document the seizure of the beer, wine and liquor facilitated the criminal theft of the beer, wine and liquor by the police.

While the three destroyed computers and electronics, and the destroyed money transmittal safe were eventually returned to the plaintiff, the \$29,000.00 worth of beer, wine and liquor were never returned to plaintiff. They were stolen by the NYPD. Nor were the \$10,000.00 in currency.

15. On May 20, 2017, plaintiff was arraigned in Criminal Court, Bronx County, Part AR-3, on misdemeanor complaint docket #2017BX029743, which charged plaintiff with violating Penal Law §225.15(1) [possession of gambling records-2nd degree], §225.15(2) [possession of gambling records-2nd degree], and §225.30(2) [possession of a gambling device]. Plaintiff entered a plea of not guilty and was released on his own recognizance.

16. On October 25, 2017, in Criminal Court, Bronx County, Part AP-4, plaintiff's criminal case corresponding to docket #2017BX029743 was adjourned in contemplation of dismissal.

**FIRST CAUSE OF ACTION**

**(Unlawful Seizure of Property Beyond Scope of Search Warrant)**

17. Paragraphs one through sixteen are incorporated herein by reference.
18. The New York City Police Department unlawfully seized \$29,000.00 worth of beer, wine and liquor from the target premises. The plaintiff, at all times, had a valid New York State Liquor Authority license to sell alcoholic beverages at his bar and restaurant. Furthermore, plaintiff stored a large quantity of beer, wine and liquor inside the premises at 400 East 198th Street. The presence of \$29,000.00 worth of beer, wine and liquor at 400 East 198th Street, Bronx, New York was lawful. These items are not contraband or evidence of any crime. The police seizure of the beer, wine and liquor was not authorized by the search warrant and was unlawful.
19. The police seizure of the three computers and the money transmittal safe was not authorized by the lawful component of the search warrant. As indicated, the search warrant, if based upon probable cause, may have lawfully authorized the police to search for and seize firearms, ammunition, holsters, and magazines. A lawful search warrant may not authorize the search for property constituting evidence of a crime, including but not limited to, firearms, ammunition, holsters and magazines.

20. The search warrant did not authorize the search and seizure of computers or money transmittal safes. The police seizure of three computers and the money transmittal safe was unlawful.

**SECOND CAUSE OF ACTION**

**(Grand Larceny)**

21. Paragraphs one through twenty are incorporated herein by reference.
22. The New York City Police Department unlawfully seized \$29,000.00 worth of beer, wine and liquor. In addition they seized \$10,000.00 which was never returned to the Plaintiff. Such seizure was not authorized by the search warrant. Furthermore, the property in question was not contraband or evidence of crime. As indicated, plaintiff had a valid New York State Liquor Authority license to sell alcoholic beverages at the target location.
23. At the time of the execution of the search warrant, the police seized the \$29,000.00 worth of beer, wine and liquor and loaded it into two police vans. The police never prepared a Property Clerk Invoice documenting their seizure of the beer, wine and liquor in question. In effect, the police stole \$29,000.00 in beer, wine and liquor from plaintiff at the time of the execution of the search warrant.

**THIRD CAUSE OF ACTION****(Criminal Mischief)**

24. Paragraphs one through twenty three are incorporated herein by reference.
25. The New York City Police Department unlawfully seized three computers, electronics and a money transmittal safe from the target location. The seizure of these items was not authorized by any conceivable lawful portion of the search warrant.
26. When the three computers, electronics and money transmittal safe were returned to the plaintiff, they had been destroyed. In addition, the NYPD damaged all the surveillance systems in the premises. These items were either destroyed during the execution of the search on May 19, 2017, at the target location or were subsequently destroyed while in NYPD custody.

**FOURTH CAUSE OF ACTION****(Municipal Liability)**

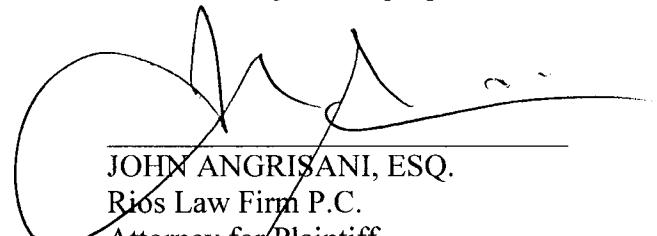
27. Paragraphs one through twenty six are incorporated herein by reference.
28. Defendants New York City and the New York City Police Department are liable for the damages suffered by plaintiff as a result of the conduct of its employees, agents, servants and others whose names are currently unknown.
29. The defendant New York City Police Department and John and Jane Doe 1 through 20, in the course of the acts and omissions mentioned herein, were acting in the course of and in furtherance of their employment with the City and the New York City Police Department.

30. The City and the New York City Police Department have failed to take steps to discipline, train, supervise or otherwise correct the criminal conduct of the individual defendants in this and similar cases involving criminal conduct which resulted in the destruction of property seized during the execution of a search warrant and the theft of property stolen during the execution of a search warrant.
31. Defendants failed to carry out their lawful duties toward plaintiff by their unprofessional, wrongful and criminal conduct on May 19, 2017, at 7:30 p.m., at 400 East 198th Street, Bronx, New York, by their criminal destruction of the surveillance systems, the three computers, electronics and a money transmittal safe, and the theft of \$10,000.00 in U.S. currency, and the theft of \$29,000.00 worth of beer, wine and liquor committed by the NYPD officers who executed the search warrant for the target premises.
32. Defendants the City and the New York City Police Department damaged plaintiff by their failure to properly train, supervise, discipline, review or correct the criminal conduct of its employees, agents or servants in this and similar cases involving the destruction and theft of property by NYPD officers during the course of their execution of search warrants.
33. Plaintiff has been damaged as a result of the wrongful, criminal acts of the City and the New York City Police Department in an amount that exceeds the jurisdictional limits of all lower courts.

WHEREFORE, plaintiff demands judgment against the defendants, jointly and severally, as follows:

- A. Awarding plaintiff damages in an amount that exceeds the jurisdiction of all lower courts;
- B. Granting such other and further relief as this Court deems just and proper.

Dated: Bronx, New York  
January 12, 2018



JOHN ANGRISANI, ESQ.  
Rios Law Firm P.C.  
Attorney for Plaintiff  
2560 Matthews Avenue, Suite 1  
Bronx, New York 10467

Verification

STATE OF NEW YORK )  
                      )  
COUNTY OF BRONX   ) ss.:

I, Polando Feliz, being duly sworn, depose and say:

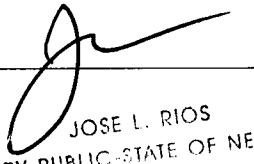
I am a Plaintiff in the herein action; I have read the foregoing Complaint and know the contents thereof to be true to my own knowledge except as to those matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.



Sworn to before me this

12<sup>th</sup> day of January, 2018

\_\_\_\_\_  
Notary Public

  
JOSE L. RIOS  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02R16098139  
Qualified in Bronx County  
My Commission Expires April 29, 2019

**INDEX****SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX**

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**ROLANDO FELIZ,**

Plaintiff,

-against-

**THE CITY OF NEW YORK, THE NEW YORK CITY POLICE DEPARTMENT, & NYPD  
OFFICERS "JOHN & JANE DOE" 1-20**

Defendant,

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**SUMMONS & VERIFIED COMPLAINT**

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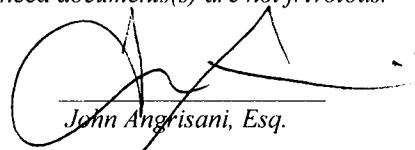
By: JOHN ANGRISANI, ESQ.  
2560 Mathews Avenue  
Bronx, New York 10467  
P:(347) 346-8700  
F: (347) 346-8702  
Attorneys for PLAINTIFF  
ROLANDO FELIZ

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**ATTORNEY CERTIFICATION**

The undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information, belief and reasonable inquiry, the contentions contained in the above referenced documents(s) are not frivolous.

Dated: Bronx, NY  
February 5, 2018



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State of New York )  
County of Bronx ) ss.:

being duly sworn, deposes and says: that deponent is not a party to the action, is over 18 years of age and resides at Bronx County, New York. That on the \_\_\_\_\_ day of \_\_\_\_\_ 2017, deponent served the within Attorneys for Plaintiff(s):

the address designated by said attorney(s) for that purpose by depositing same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.

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**NOTARY PUBLIC**

Sworn to before me this \_\_\_\_\_

(Stamp)

Day of \_\_\_\_\_, 2018