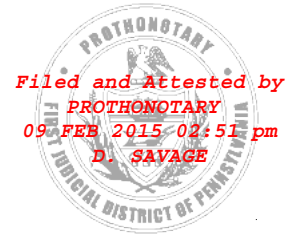


KLINE & SPECTER

A Professional Corporation

By: Thomas R. Kline, Esquire/28895
Dominic C. Guerrini, Esquire/91311
Tracie L. Palmer, Esquire/312098
1525 Locust Street
Nineteenth Floor
Philadelphia, PA 19102



PHILIPPE HOLLAND
553 Millbank Road
Upper Darby, PA 19082

Plaintiff,

v.

MITCHELL FARRELL
18th District Headquarters
55th Street and Pine Street
Philadelphia, PA 19143

and

KEVIN HANVEY
18th District Headquarters
55th Street and Pine Street
Philadelphia, PA 19143

Defendants.

: COURT OF COMMON PLEAS
: PHILADELPHIA COUNTY
:
: DECEMBER TERM 2014
:
: NO. 003973
:

JURY TRIAL DEMANDED

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Lawyer Referral Service
Philadelphia Bar Association
1101 Market Street, 11th Floor
Philadelphia, PA 19107
(215) 238-6338

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte pueda decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE, SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

Lawyer Referral Service
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1101 Market Street, 11th Floor
Philadelphia, PA 19107, (215) 238-6338

CIVIL ACTION COMPLAINT

Plaintiff, Philippe Holland, by and through his undersigned counsel, Kline & Specter, P.C., herein files this Civil Action Complaint and brings this civil action against the above-captioned Defendants based upon the predicate facts and causes of action set forth below.

Plaintiff avers as follows:

VENUE AND PARTIES

1. Plaintiff Philippe Holland is an adult citizen and resident of the state of Pennsylvania, residing at 553 Millbank Road, Upper Darby, Pennsylvania 19082.
2. Defendant Mitchell Farrell is an adult person and resident of the Commonwealth of Pennsylvania with a business address at 55th and Pine Streets, Philadelphia, Pennsylvania 19143. Defendant Mitchell Farrell ("Farrell") is a police officer with the Philadelphia Police Department. At all times relevant hereto, Farrell was a Philadelphia police officer assigned to the 18th Police District. Plaintiff is asserting claims against Farrell in his individual capacity.
3. Defendant Kevin Hanvey is an adult person and resident of the Commonwealth of Pennsylvania with a business address at 55th and Pine Streets, Philadelphia, PA 19143. Defendant Kevin Hanvey ("Hanvey") is a police officer with the Philadelphia Police Department. At all times relevant hereto, Hanvey was a Philadelphia police officer assigned to the 18th Police District. Plaintiff is asserting claims against Hanvey in his individual capacity.
4. Plaintiff is not asserting any federal claims or federal causes of action against Defendant Farrell or Defendant Hanvey.
5. Venue is properly laid in Philadelphia County because the conduct which is the subject of the claims herein took place in Philadelphia County.

OPERATIVE FACTS

6. On April 22, 2014, Plaintiff was employed as a delivery person for Slices & More Pizzeria and Grill ("Slices & More") located at 6932 Market Street, Upper Darby, Pennsylvania 19082.

7. On April 22, 2014, at or around 2140 hours, Plaintiff left Slices & More to make a delivery to 5109 Willows Avenue, Philadelphia, Pennsylvania 19143. Plaintiff was dressed in a black button down shirt, a black hooded sweatshirt, black jeans and black canvas sneakers.

8. Before making the delivery to 5109 Willows Avenue, Plaintiff parked his 2001 gold Ford Taurus behind another vehicle on the south side of Willows Avenue facing the intersection of Willows Avenue and 51st Street.

9. On April 22, 2014, Farrell and Hanvey were on duty assigned to the 18th Police District. Farrell and Hanvey were dressed in street clothes or "plainclothes" rather than in police uniform; they were also operating an unmarked vehicle.

10. According to police paperwork, at or around 2152 hours, Farrell and Hanvey were in the area of 900 S. 51st Street where they had conducted a car stop. At all times relevant hereto, 900 S. 51st Street was in the 12th Police District. Upon information and belief, it is a violation of Philadelphia Police Department policy for an officer to perform regular police duties outside of the district to which he is assigned.

11. While Farrell and Hanvey were at that location, gunshots were fired some blocks away, in the area of 51st Street and Baltimore Avenue. In response, Farrell and Hanvey proceeded in the direction of 51st Street and Baltimore Avenue. According to police paperwork, a report of gunshots in the area of 51st Street and Baltimore Avenue was also broadcast over police radio. No descriptions of the exact location or the alleged shooter(s) were provided,

including height, weight, race, age, gender, clothing or direction of travel.

12. After completing the delivery to 5109 Willows Avenue, Plaintiff returned to his car. At that time, Plaintiff noticed a vehicle driving in a suspicious manner in the intersection of Willows Avenue and 51st Street. The car stopped and Farrell and Hanvey exited the vehicle. Plaintiff could not make out Farrell or Hanvey's features or identities as police officers.

13. Fearing he might be the target of an impending robbery, Plaintiff entered his car from the passenger side to conceal himself from the oncoming men. As Plaintiff slid into the driver's seat Farrell and Hanvey came into view. Neither Farrell nor Hanvey identified himself as a police officer or displayed a police badge.

14. Hanvey approached Plaintiff's car from the sidewalk on the passenger side and shone a flashlight in the direction of Plaintiff's face. Farrell approached Plaintiff's car from the street on the driver's side with his firearm drawn. Fearing an impending assault, Plaintiff placed his car into reverse. As soon as Plaintiff put his car into drive in an effort to exit the parking spot, Farrell and Hanvey fired their weapons into Plaintiff's moving vehicle. Upon information and belief, it is a violation of Philadelphia Police Department policy for an officer to fire at or from a moving vehicle unless deadly physical force is being used against the officer or another person present, by means other than the moving vehicle.

15. According to police paperwork, Farrell shot eight (8) rounds into Plaintiff's moving vehicle and Hanvey fired six (6) rounds into Plaintiff's moving vehicle. Plaintiff sustained multiple gunshot wounds to the head, face and leg and lost control of the car, which crashed into a fence on the northeast side of Willows Avenue.

16. By this time additional uniformed police officers had arrived at the scene. Two uniformed officers attempted to remove Plaintiff from his car. Unaware that Farrell and Hanvey

were police officers, Plaintiff attempted to report the shooting to the officers. Plaintiff was handcuffed and placed in the back of a police vehicle. Plaintiff was then transported by police to the Hospital of the University of Pennsylvania for treatment of his multiple gunshot wounds.

17. Neither Farrell nor Hanvey sustained any injuries.

18. Plaintiff was admitted to the Hospital of the University of Pennsylvania in critical condition and was treated for life-threatening injuries resulting from multiple gunshot wounds to the right thigh and left medial supraorbital ridge, including, but not limited to, right superficial femoral artery injury; right leg compartment syndrome; bilateral subdural hematomas; bilateral sinus fractures; complex nasal fractures; projection of bony fragments into orbitofrontal region; hypoxemia; acute respiratory failure; acute pain; acute blood loss; weakness; numbness; impaired balance, strength and coordination; loss or impairment of vision; photophobia; and post-traumatic stress disorder.

19. The acts and omissions of Defendants, Mitchell Farrell and Kevin Hanvey, directly and proximately caused the injuries and damages suffered by Plaintiff, Philippe Holland, and were in no manner whatsoever due to any acts or omissions of Plaintiff.

20. The intentional and reckless actions and conduct of Defendants, Mitchell Farrell and Kevin Hanvey, were substantial factors in causing the injuries sustained by Plaintiff, Philippe Holland.

21. By extreme and outrageous conduct, Defendants, Mitchell Farrell and Kevin Hanvey, recklessly caused Plaintiff, Philippe Holland, serious bodily injury and extreme emotional distress.

22. As a direct and proximate result of the intentional or reckless actions and conduct of Defendants, Mitchell Farrell and Kevin Hanvey, Plaintiff, Philippe Holland:

- a) has suffered injuries that have precluded him, and will continue in the future to preclude him, from fully enjoying the ordinary pleasures of life and participating in his ordinary activities and avocations;
- b) has undergone, and will continue in the future to undergo, multiple surgeries and treatments for his injuries, some or all of which may be permanent in nature, including intubation, mechanical ventilation, right superficial femoral artery interposition graft, four compartment fasciotomy and closure, vacuum-assisted closure, reduction of nasal fractures, deep vein thrombosis (DVT) prophylaxis, stress ulcer prophylaxis and right leg stent placement;
- c) has suffered, and will continue in the future to suffer, pain, suffering, agony, anxiety, mental anguish, depression, disability, mental disturbances, bodily deformation, embarrassment, humiliation, loss of life's pleasures, loss of well-being and other such intangible losses, some or all of which may be permanent in nature;
- d) has incurred in the past, and will continue to incur in the future, substantial medical and medically-related expenses including, but not limited to, expenditures for medical attention, medications, hospitalizations, medical and surgical care, testing, physical therapy, occupational therapy, rehabilitative care, equipment, and other care and treatment to attempt to treat and alleviate, minimize or cure him of the aforementioned injuries; and
- e) has suffered in the past, and will continue in the future to suffer a loss of

depreciation of earnings and earning capacity, to his great detriment and loss.

COUNT I – ASSAULT
Plaintiff, Philippe Holland v. Defendant, Mitchell Farrell

23. Plaintiff incorporates the preceding paragraphs of this Complaint and makes them part of this Count as if fully set forth herein.

24. Farrell's actions and conduct, as described more fully herein, constituted an intentional display of force which gave Plaintiff reason to fear or expect immediate bodily harm or injury in one or more of the following respects:

- a) Farrell exited and abandoned his car in an intersection with Hanvey to pursue Plaintiff on foot, who was walking to his car alone at night;
- b) Farrell brandished his firearm without verbally identifying himself as a police officer;
- c) Farrell brandished his firearm without wearing a badge or any other markers that would identify him as a police officer;
- d) Farrell brandished his firearm as he closed in on Plaintiff, who was alone, carrying cash in his car at night;
- e) Farrell brandished his firearm as he and Hanvey moved toward the driver and passenger sides of Plaintiff's car, respectively, preventing Plaintiff's movement or escape; and
- f) Farrell fired eight (8) shots and struck Plaintiff.

25. The conduct set forth above was a substantial factor and factual cause or increased the risk of harm to Plaintiff Philippe Holland, rendering this Defendant liable for the injuries and damages claimed herein.

WHEREFORE, Plaintiff Philippe Holland demands judgment against all Defendants, jointly and severally, in an amount in excess of the local arbitration limits and in excess of \$50,000.00, exclusive of pre-judgment interest, costs and post-judgment interest. The amount claimed exceeds the jurisdictional amount requiring arbitration.

COUNT II – ASSAULT
Plaintiff, Philippe Holland v. Defendant, Kevin Hanvey

26. Plaintiff incorporates the preceding paragraphs of this Complaint and makes them part of this Count as if fully set forth herein.

27. Hanvey's actions and conduct, as described more fully herein, constituted an intentional display of force which gave Plaintiff reason to fear or expect immediate bodily harm or injury in one or more of the following respects:

- a) Hanvey exited and abandoned his car in an intersection with Farrell to pursue Plaintiff on foot, who was walking to his car alone at night;
 - b) Hanvey approached Plaintiff's car and shone a flashlight in Plaintiff's face without verbally identifying himself as a police officer;
 - c) Hanvey approached Plaintiff's car and shone a flashlight in Plaintiff's face without wearing a badge or any other markers that would identify him as a police officer;
 - d) Hanvey approached Plaintiff's car and shone a flashlight in Plaintiff's face while Plaintiff was alone, carrying cash in his car at night;
 - e) Hanvey approached Plaintiff's car and shone a flashlight in Plaintiff's face as he and Farrell moved toward the passenger and driver sides of Plaintiff's car, respectively, preventing Plaintiff's movement or escape;
- and

f) Hanvey fired six (6) shots and struck Plaintiff.

28. The conduct set forth above was a substantial factor and factual cause or increased the risk of harm to Plaintiff Philippe Holland, rendering this Defendant liable for the injuries and damages claimed herein.

WHEREFORE, Plaintiff Philippe Holland demands judgment against all Defendants, jointly and severally, in an amount in excess of the local arbitration limits and in excess of \$50,000.00, exclusive of pre-judgment interest, costs and post-judgment interest. The amount claimed exceeds the jurisdictional amount requiring arbitration.

COUNT III – BATTERY

Plaintiff, Philippe Holland v. Defendant, Mitchell Farrell

29. Plaintiff incorporates the preceding paragraphs of this Complaint and makes them part of this Count as if fully set forth herein.

30. Farrell's actions and conduct, as described more fully herein, constituted physical contact intended to harm another when Farrell fired eight (8) rounds into Plaintiff's moving vehicle in the absence of deadly physical force used against Farrell or another person present in violation of police policy, striking Plaintiff in the head, face and leg.

31. The conduct set forth above was a substantial factor and factual cause or increased the risk of harm to Plaintiff Philippe Holland, rendering this Defendant liable for the injuries and damages claimed herein.

WHEREFORE, Plaintiff Philippe Holland demands judgment against all Defendants, jointly and severally, in an amount in excess of the local arbitration limits and in excess of \$50,000.00, exclusive of pre-judgment interest, costs and post-judgment interest. The amount claimed exceeds the jurisdictional amount requiring arbitration.

COUNT IV – BATTERY
Plaintiff, Philippe Holland v. Defendant, Kevin Hanvey

32. Plaintiff incorporates the preceding paragraphs of this Complaint and makes them part of this Count as if fully set forth herein.

33. Hanvey's actions and conduct, as described more fully herein, constituted physical contact intended to harm another when Hanvey fired six (6) rounds into Plaintiff's moving vehicle in the absence of deadly physical force used against Hanvey or another person present in violation of police policy, striking Plaintiff in the head, face and leg.

34. The conduct set forth above was a substantial factor and factual cause or increased the risk of harm to Plaintiff Philippe Holland, rendering this Defendant liable for the injuries and damages claimed herein.

WHEREFORE, Plaintiff Philippe Holland demands judgment against all Defendants, jointly and severally, in an amount in excess of the local arbitration limits and in excess of \$50,000.00, exclusive of pre-judgment interest, costs and post-judgment interest. The amount claimed exceeds the jurisdictional amount requiring arbitration.

COUNT V – Intentional Infliction of Emotional Distress
Plaintiff, Philippe Holland v. Defendant, Mitchell Farrell

35. Plaintiff incorporates the preceding paragraphs of this Complaint and makes them part of this Count as if fully set forth herein.

36. Farrell's pursuit of Plaintiff in response to unspecified reports of gunshots several blocks north of the intersection of Willows Avenue and 51st Street, in the absence of any description of the alleged shooter's height, weight, age, race, gender, clothing or direction of travel, constituted extreme and outrageous conduct.

37. Farrell's assault and battery of Plaintiff, who sustained multiple gunshot

wounds after Farrell intentionally or recklessly fired eight (8) rounds into Plaintiff's moving vehicle in violation of police policy, constituted extreme and outrageous conduct.

38. As a direct and proximate result of Farrell's conduct, Plaintiff suffered and continues to suffer from pain, suffering, agony, anxiety, mental anguish, depression, disability, mental disturbances, extreme emotional distress, embarrassment, humiliation, fear and post-traumatic stress disorder.

WHEREFORE, Plaintiff Philippe Holland demands judgment against all Defendants, jointly and severally, in an amount in excess of the local arbitration limits and in excess of \$50,000.00, exclusive of pre-judgment interest, costs and post-judgment interest. The amount claimed exceeds the jurisdictional amount requiring arbitration.

COUNT VI – Intentional Infliction of Emotional Distress
Plaintiff, Philippe Holland v. Defendant, Kevin Hanvey

39. Plaintiff incorporates the preceding paragraphs of this Complaint and makes them part of this Count as if fully set forth herein.

40. Hanvey's pursuit of Plaintiff in response to unspecified reports of gunshots several blocks north of the intersection of Willows Avenue and 51st Street, in the absence of any description of the alleged shooter's height, weight, age, race, gender, clothing or direction of travel, constituted extreme and outrageous conduct.

41. Hanvey's assault and battery of Plaintiff, who sustained multiple gunshot wounds after Hanvey intentionally or recklessly fired six (6) rounds into Plaintiff's moving vehicle in violation of police policy, constituted extreme and outrageous conduct.

42. As a direct and proximate result of Hanvey's conduct, Plaintiff suffered and continues to suffer from pain, suffering, agony, anxiety, mental anguish, depression, disability, mental disturbances, extreme emotional distress, embarrassment, humiliation, fear and

post-traumatic stress disorder.

WHEREFORE, Plaintiff Philippe Holland demands judgment against all Defendants, jointly and severally, in an amount in excess of the local arbitration limits and in excess of \$50,000.00, exclusive of pre-judgment interest, costs and post-judgment interest. The amount claimed exceeds the jurisdictional amount requiring arbitration.

Dated: 2/9/15

KLINE & SPECTER
A Professional Corporation



BY: _____

THOMAS R. KLINE, ESQUIRE
DOMINIC C. GUERRINI, ESQUIRE
TRACIE L. PALMER, ESQUIRE
The Nineteenth Floor
1525 Locust Street
Philadelphia, PA 19102
(215) 772-1000 telephone
(215) 735-0937 telefax

VERIFICATION

Plaintiff, Philippe Holland, hereby verifies that the within Complaint in Civil Action is based on first-hand information and on information furnished to counsel and obtained by her in the course of this lawsuit. The language of the document is that of counsel and not of the affiant. To the extent that the contents of the document are based on information furnished to counsel and obtained by her during the course of this lawsuit, the affiant has relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.



PHILIPPE HOLLAND

Date: 12/18/14

CERTIFICATE OF SERVICE

I, TRACIE L. PALMER, ESQUIRE, hereby certify that a true and correct copy of Plaintiff's Civil Action Complaint was served on this date upon all parties, via the Court's electronic filing system and U.S. regular mail addressed as follows:

Craig Straw, Esquire
City of Philadelphia Law Department
Chief Deputy City Solicitor
1515 Arch Street, 14th Floor
Philadelphia, PA 19102
Attorney for Defendants Mitchell Farrell and Kevin Hanvey



TRACIE L. PALMER

Dated: February 9, 2015