

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO.:

EMMANUEL JEAN,

Plaintiff,

v.

THE CITY OF NORTH MIAMI BEACH,
an incorporated municipality, EDWARD
HILL and RICHARD RAND,

Defendants.

_____ /

COMPLAINT FOR DAMAGES

The Plaintiff, EMMANUEL JEAN (“Emmanuel”), sues defendants and says:

1. Plaintiff, Emmanuel Jean, is a citizen and resident of Florida, who resides in Hollywood, Florida.
2. Defendant, CITY OF NORTH MIAMI BEACH, is an incorporated municipality, organized under the laws of the State of Florida, with its principal place of business located in North Miami Beach, Florida (“the City”).
3. Defendant, Edward Hill, was at all times material to this action, a detective employed by the City of North Miami Beach Police Department who resided in, was and is a citizen of the State of Florida (“Hill”).
4. Defendant, Richard Rand, was at all times material to this action, a detective and later the Chief of Police and employed by the City of North Miami Beach Police Department who resided in, was, and is a citizen of the State of Florida (“Rand”).

5. This action arises under the common law of the State of Florida and under 42 U.S.C. section 1983 of the United States Code.

6. The amount in controversy for all state law claims exceeds the amount of \$75,000.00, exclusive of interest and costs.

7. The causes of action and claim initially arose in Miami-Dade County. Since his release from prison, Emmanuel has resided in Broward County, Florida. Venue is proper in the Southern District of Florida, Miami Division.

8. Jurisdiction of this Court exists under 28 U.S.C. section 1331, 28 U.S.C section 1332, and 42 U.S.C. section 1983.

FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS FOR RELIEF

9. At all times material to this action, Emmanuel was a young, Haitian American, and at 19 years and two months old, just barely an adult citizen of the State of Florida and a resident of North Miami Beach, Florida.

10. Emmanuel, his mother, father, and two brothers lived at 16880 NE 18th Avenue, North Miami Beach, Florida, and had lived in the community for nine years. His mother, father, and sister were born in Haiti and emigrated to the United States. Emmanuel and his two brothers were born in Florida.

11. Emmanuel's father, Jean Baptiste Jean, died on April 1, 2012, while Emmanuel was incarcerated, but the prison authorities would not allow him to attend his funeral. His father died having last seen his son the day he was arrested.

12. For some period of time, Emmanuel and other Haitian American youth had been targeted by Detective Hill and other City police officers. This continued, even after the arrest of Emmanuel, when the North Miami Beach police actually used a six-pack

collection of a majority of Haitian American youth for target practice in firearm training exercises, which six-pack had a photo of then 14-year-old Emmanuel and another 15-year-old boy as two of the six individuals. A photo shows Emmanuel's image having been shot (See Exhibit "A"), until a complaint from the public by the sister of one of the target practice subjects brought an end to the practice, but that did not end the bias against Haitians and Haitian Americans in the City and particularly in the police department.

13. On May 30, 2006, Mohammed Ayoub was working in his family business on North Miami Beach Boulevard, in North Miami Beach, when a youth entered his store, attempted to rob Mr. Ayoub, and in an ensuing scuffle, Mr. Ayoub was killed.

14. Despite the fact that Hill knew that Emmanuel had not killed Mr. Ayoub, he charged Emmanuel and two others, Lazaro Esteban Cortes, Jr., and Richard Petit (who was a 16-year-old juvenile at the time), with first degree murder. Emmanuel was arrested and held without bond starting on his arrest date, July 18, 2006, two days before he was scheduled to start his studies at College of the Canyons, Santa Clarita, California, on a full football scholarship. He also was in line for a scholarship for his last two years at Western Michigan University. From July 28, 2006 through April 28, 2023, Emmanuel remained incarcerated until he was ordered released by Circuit Judge Miguel de la O.

15. In the process of "investigating" the crime, Hill persuaded one of the two eyewitnesses to the crime, one Enderson Joseph, that Emmanuel was the shooter, even though Mr. Joseph had specifically told Hill, after having been shown a picture of Emmanuel, that **Emmanuel was not the shooter. In fact, Emmanuel, who Mr.**

Joseph had never seen that day, was not present when the shooting took place, did not see it, nor was Emmanuel even aware of the shooting until he saw it on the local news.

16. Hill lied and told Mr. Joseph that he and the police knew that Emmanuel had committed the crime because the very same gun used in the Ayoub crime had been used by Emmanuel to kill another person, but that they had been unable to have a positive identification of Emmanuel. Hill needed and used Mr. Joseph to provide a false eyewitness identification, to “put him away,” and to confirm that Emmanuel was the shooter because Hill proffered that ALL OF THE EVIDENCE in both cases pointed to Emmanuel.

17. As Mr. Joseph later swore, the argument was made to him that if he were to identify Emmanuel, the police could get him for this other crime as well.

18. Hill made up that story relayed to Mr. Joseph. In fact, the gun used to kill Mr. Ayoub was never recovered, and Hill simply fabricated the supposed other “murder” that Emmanuel had committed to persuade Mr. Joseph to sign the photo and to testify against Emmanuel at trial.

19. Hill knew that those statements were untrue, but nonetheless had Mr. Joseph and another eyewitness identify Emmanuel as the shooter and murderer of Mr. Ayoub, and testify to that fact later at trial. That testimony was later described as thoroughly incriminating by Judge de la O who presided over a hearing following trial in 2014. Judge de la O wrote at that time:

Two witnesses, Enderson Joseph and Harry Jackman, testified that they saw [Emmanuel] shoot the victim during a struggle. (T. at 380-411, 502-41) Mr. Joseph was twenty to thirty feet away from the shooting with a clear view. He testified that [Emmanuel] shot Mr.

Ayoub in the head intentionally. (T.at 385-86, 397, 409-10) Mr. Joseph later identified [Emmanuel] – with absolute certainty – from a photo lineup. (T. at 393-94, 408)

Mr. Jackman testified that he saw Mr. Ayoub in a struggle with [Emmanuel], and then saw [Emmanuel] shoot Mr. Ayoub. (T. at 511-12). Mr. Jackman also later identified [Emmanuel] – with absolute certainty – from a photo lineup. (T. at 518-19)

20. Emmanuel was returned to prison.

21. Mr. Joseph, at the urging and insistence of Hill, even testified to that identification at trial, even though he later testified that the only way he could identify Emmanuel is because of Hill's urging and because that he was the only Black youngster sitting next to defense counsel at the trial.

22. On the date that young Emmanuel was arrested, July 18, 2006, based upon Hill's and Rand's sworn testimony, Hill knew that one of his key "eyewitnesses" had not witnessed Emmanuel as the shooter and only identified Emmanuel as the shooter because Hill asked him to do so. Hill continued to shepherd Mr. Joseph through the pre-trial and trial period.

23. In addition to the testimony of the two "eyewitnesses," Emmanuel's brother, Nahum, testified at trial that Richard Petit, one of the others charged with the murder, had telephoned him and told him that he had actually shot Mr. Ayoub, and that Emmanuel had nothing to do with it. Despite his testimony, neither Hill, nor Rand, nor anyone in the City investigated those allegations. However, they did use Petit as a witness at the trial where he testified against Emmanuel. Pettit received a sentence of eight years and five months, his reward for false testimony against Emmanuel.

24. Emmanuel was arrested and held based upon perjured representations made to the Court which relied upon them.

25. While Emmanuel was jailed awaiting trial, a 20-year-old Haitian American who Hill used as a confidential informant, was shot and killed outside a nightclub. Hill attempted to link Emmanuel to the murder as a hit-from-jail co-conspirator in the young man's death. Hill went so far as having Emmanuel's mugshot appear on WSVN Channel 7 News as the suspect that ordered the hit from jail. It was only after the actual shooter was caught, that it was determined that the shooting was totally unrelated, but, despite the false and public accusations made against Emmanuel, none of Hill, Rand or the City ever cleared Emmanuel's name.

26. Following a seven-day trial, followed by three and one-half days of jury deliberation, Emmanuel was found guilty of First-Degree Murder, attempted armed robbery, and conspiracy to commit armed robbery. He was ultimately sentenced to life imprisonment without parole. Direct appeals and collateral attacks followed unsuccessfully, including the 2014 hearing before Judge De La O.

27. Hill testified at Emmanuel's trial, but during that same time, he was being investigated by the City for improper, undisclosed sexual relations with the wife of Mr. Superville, an incarcerated defendant that he was prosecuting. The investigation later included suspected forgery of a *Miranda* witness waiver supposedly signed by Mr. Superville, the accused.

28. After Emmanuel had been convicted, the State withdrew Hill as a witness in the case involving the other two co-defendants. One of them, Lazaro Cortes, promptly filed a demand for speedy trial, which resulted in him receiving a plea of 10 years, which he took.

29. The then assistant state attorney, and the City were fully aware of Hill's track record and unreliability as a witness during the period that Emmanuel was tried and later incarcerated, but did nothing to review the case and the proof of the case, while a youngster faced the rest of his life in prison. In fact, two years after his conviction, when the first post-trial motions were filed, the same assistant state attorney was on the case. The sordid tale of the disgraced Detective Hill was all over the newspapers and the courthouse. Both the State Attorney's office and the City were well aware that Hill was a dirty perjurer and did nothing to review Emmanuel's' conviction.

The Dirty History Of Ed Hill Was Well Known To The City And To The Police Department

30. Ed Hill had a long history of corruption, lack of credibility, lack of Integrity, and perjury which existed before Emmanuel was incarcerated, and continued thereafter. The City knew about it. The state knew about it. The police chief knew about it. And, the entire sordid tale is detailed in the internal affairs files of the North Miami Beach Police Department, which contained the signatures of the City Manager, the Police Chief, and Hill's supervisors, starting in 1988 and continuing straight through the date when Hill was fired and stripped of his law enforcement credentials. To add insult to injury, the State Attorney's Office had all of those same records, which the ASA turned over to Emmanuel's co-defendants after Emmanuel had been convicted. Despite the records containing eighty-nine (89) pages of wrongdoing and conduct unbecoming of a police officer (or any other citizen), the City and the State Attorney were perfectly happy to sweep it under the rug and simply allow Hill to resign and turn in his law enforcement credentials, instead of being arrested, prosecuted, and imprisoned.

31. The City, its police department, its commissioners, and its city manager all knew what a bad, unethical man Hill was, and that he had violated the civil rights of at least two defendants. The City is responsible and liable for the unconstitutional acts of Hill, Rand, and all of the departmental members who violated Emmanuel's rights and then failed, after one disclosure followed another, to take steps to right the City's wrongs. Those acts constituted a custom supported and advanced by the City and the State, for which the City is liable as well as Hill and Rand.

32. On January 10, 2011, Emmanuel was convicted of first-degree murder while possessing, displaying, and using a firearm, attempted armed robbery, and possession of a firearm during the crime, and conspiracy to commit an armed robbery. Five weeks later, he was sentenced to life imprisonment. Emmanuel was never free from incarceration from his date of arrest until right before his 36th birthday, on April 28, 2023, when Circuit Judge de la O ordered him released. The release occurred sixteen years and nine months after the start of Emmanuel's incarceration; only after the State agreed to the reversal of the first-degree murder conviction while possessing, displaying, and using a firearm, attempted armed robbery, possession of a firearm during the crime, and conspiracy to commit an armed robbery charges against Emmanuel, Emmanuel pled out to the crime of conspiracy to commit a strong-arm robbery, and was given credit for time served of five years. To be clear, Emmanuel served 16 years and 9 months for a crime that he did not commit. He spent from age 19 until his 36th birthday incarcerated.

33. After Emmanuel's trial, the State removed Hill as a witness against the other two co-defendants. Hill was allowed to resign and voluntarily turn in his LEO

credentials while engaged in a meretricious relationship with the wife of a jailed defendant, as well as being implicated in an alleged forgery of a *Miranda* waiver. Obviously, the State and the City knew of Hill's activities and inability to testify, but did nothing to check on what he might have done incorrectly to Emmanuel.

34. Rand, who remained with the City police department until his retirement, even serving as chief of police, was well aware of Hill's conduct and the charges against him. He worked with Hill on Emmanuel's case as well.

35. Upon information and belief, Emmanuel believes that no further action was taken against Hill for fear by the City, Rand, and the State Attorney's Office that it might lead to the further investigation of convictions achieved through the false testimony of Hill. It was more important to the City and the State to win than it was to provide justice and freedom for Emmanuel.

36. To secure the conviction of Emmanuel, the improperly acquired testimony of Mr. Joseph and the other eyewitness were the driving pieces of evidence upon which the State and the jury depended in convicting Emmanuel.

37. When initially charged, Emmanuel was facing the possibility of a death sentence, which hung over his head like the sword of Damocles, until the State waived it on June 30, 2009, almost three years after he had been arrested, after which the State decided to charge him with a life felony with no possibility of parole or release.

38. Mr. Joseph, plagued by feelings of guilt at having convicted an innocent man, later testified that he had not identified Emmanuel as the shooter, that the person in the photo that he initialed was not the shooter, and that he was only able to identify Emmanuel at trial because Mr. Joseph saw Emmanuel sitting next to defense counsel.

39. Mr. Ayoub's murderer has never been brought to justice.

40. While the investigation was proceeding and before trial, Detective Hill was quoted in the publication *New Times* as saying about Emmanuel: "He is a thug, a menace to society plain and simple," spits North Miami Beach Det. Ed Hill." *Eye For An Eye*, Joanne Green, *New Times* December 21, 2006.

41. While Emmanuel waited in the City police station for his lawyer to arrive, one of the City detectives, then Detective (later Chief of Police) Rand, referring to Emmanuel's Haitian heritage and apparently unconcerned about the fact that Emmanuel was a native-born American citizen, stated to Emmanuel: "Why don't you fuckin' Haitians go back to the country that you came from," after he had told Emmanuel that Haitians were "fucking-up" the City, to which Hill, a non-Haitian Black, agreed.

42. Irrespective of any basis for having arrested or detained Emmanuel, and after the City and the State Attorney's office knew that Hill had provided false testimony and possible forgery to frame a suspect, neither the City nor Rand made any attempt to determine the veracity of Hill's testimony against Emmanuel. Apparently, it was irrelevant to the City and State Attorney's office that Emmanuel had been convicted of a murder he had not committed, and was serving a life sentence without the possibility of parole. Nothing was done to look again at the "investigation" and prosecution of Emmanuel.

43. Both Rand's and the City's purposes and interests were served by turning a blind eye to possible false convictions of Emmanuel and others because of the potential civil liability for having destroyed other lives. Those interests were further

served as a means of hiding the obvious hostility towards Haitians, bad publicity for the police, and a diminution in public confidence for the police and the City.

44. Hill was the driving force behind the false arrest and prosecution of Emmanuel, a man that the City and its police department knew was a bad cop, a liar, and who even tried to slap Emmanuel with an unrelated murder for hire plot from the jail to further contaminate the jury pool and besmirch his reputation.

45. The City, while Emmanuel was incarcerated, knew that Hill was a dirty cop. Indeed, the City's recently retired police chief, Richard Rand, worked on Emmanuel's case with Hill and knew what kind of person Hill was. The City was also aware that its police department was using mugshots of Haitian American youth, including Emmanuel, for armed target practice. So, the old boys' network was there to protect the police and the City, but not the young Black Haitian American who was left to rot in prison for the rest of his life.

46. To this day, neither Rand nor the City has made any attempt to bring criminal charges against Hill. During the entire 16 years and 9 months that Emmanuel was incarcerated and since his release, Hill roamed the streets as a free man, while Emmanuel's youth was lost as he sat in prison.

47. When the City, Hill, and Rand allowed Emmanuel to remain in prison when they knew that his incarceration was predicated upon the guiding hand of their disgraced Detective Hill, they did so to protect themselves from bad publicity and weighty civil liability.

48. As a result of the false charges levied against him by the City, the Police Department, its former police chief, and its disgraced Detective Ed Hill, with the

knowledge of its recently retired chief of police, Emmanuel gave up 16 years and 9 months of his life, suffered severe emotional developmental damage through the death penalty Sword of Damocles hanging over his head for three years, and the damages to his social and mental condition caused by institutionalized life with the absence of any hope of getting out. In addition, to this day, none of these folks have apologized for the injustice done to him and to his family, including a father who never lived to see his son freed. While this group was willing to have Emmanuel sit in jail for a crime he did not commit, Mr. Ayoub's family was deprived of justice. They did not even press charges against Hill, or the actual killer, Richard Petit, for his obvious crimes in order to suit their own financial and public relations' interests.

49. At all times material to this action the City through its employees, servants, agents, and representatives did intentionally arrest and leave Emmanuel in prison to cover up the handiwork of their disgraced detective, whose conduct was known to the top echelons of the City and the Police Department.

50. As a direct result of the false arrest and imprisonment committed by the City, Emmanuel was injured in and about his body, sustained humiliation, suffered the loss of his capacity to enjoy life and his freedom, was treated as a murderer and contract for hire killer, and sustained compensatory damages which are continuing and permanent in nature. In addition, his ability to find employment or a job are severely hampered by the existence of these improper, untrue, and reckless charges.

51. To this day, even though exonerated in the death of Mr. Ayoub, many members in the community continue to think that Emmanuel is a murderer, so much so that his parents and brothers moved to Broward County, which had some buffering

effect except for the fact that their families, churches, and community were still rooted in Miami-Dade County.

52. On April 27, 2023, at the conclusion of a hearing where Judge Miguel de la O, with the concurrence of the State, ordered Emmanuel to be freed and personally remained in his office even after his calendar day was done, to make sure that he was released.

53. The conduct of Hill was well known to the City because it had numerous similar incidents in which Hill had conducted himself with complete disregard for the need to be truthful and to not fabricate evidence. The City knew that Hill had manipulated witnesses in at least one case which was so notorious that it was printed in local and national publications, resulted in dropping serious charges against a defendant, and in Hill's separation and termination of law enforcement rights in Florida. In addition, Hill's co-detective Rand not only remained in the Department but rose to be the Chief of Police.

54. Hill was dirty and crooked. The City and the State knew that his testimony was unreliable and subject to challenge, but nonetheless did nothing to uncover the perjury that he had orchestrated in Emmanuel's case. The City actually fired Hill, but did not prosecute him for the very actions that constituted a crime under Florida law for no good reason and probably to protect themselves from having exposure to the review and reversal of other cases where Hill's testimony and investigation were key. Their actions sacrificed Emmanuel's right to life for their illegitimate convenience.

55. While Emmanuel was being prosecuted, convicted, and incarcerated, the City and the State Attorney knew that Hill was an unreliable and untruthful witness.

Even after the City and State Attorney dropped him as a witness after convicting Emmanuel, they did nothing to inquire as to whether the evidence and case against Emmanuel was legitimate. They knowingly supported the unconstitutional and malicious actions taken by Hill and his colleagues against Emmanuel, and in no way thanks to any action which the City should have taken, Emmanuel was released after having given up 16 years and 9 months of his young life.

56. Had the City and the State properly investigated this bad cop; Emmanuel would have been released on bail and probably never convicted of his life sentence crimes. He would not have spent 16 years and 9 months in jail for a crime that he did not commit.

57. The complete disregard of Emmanuel's rights and Hill's wrongdoings were covered up by the City and the State both of whom, no doubt, feared that all cases where Hill's testimony had been key, could be reversed. Their desire to save themselves the time of properly pursuing justice was intentional and institutional.

58. As a result of his arrest and incarceration Emmanuel has suffered physical and psychological damages, loss of the enjoyment of life, humiliation, and the permanent scar of being accused of being a murderer- twice.

59. On December 21, 2023, Emmanuel forwarded by United States Mail, certified, receipt requested, his Sovereign Immunity Notice to the City, the City, and the Chief Financial Officer of the Division of Financial Services for the State of Florida.

60. Emmanuel, by his evidence and conduct as alleged above, has performed all conditions precedent to maintaining his claim for relief of false arrest and malicious

prosecution against the City as required and directed by Florida Statutes section 768.28.

COUNT I – FALSE ARREST AGAINST THE CITY, HILL, AND RAND

61. Emmanuel re-alleges the allegations contained in paragraphs 1-57 of this Complaint as if fully set forth.

62. The City of Miami Police Department, Hill, and Rand intentionally charged Emmanuel with first degree murder, attempted armed robbery, and conspiracy to commit armed robbery, despite having no evidence of the commission of such crimes.

63. At all times material to this action the City, Hill, and Rand knew that Emmanuel had not committed Mr. Ayoub's murder or that it had insufficient evidence to show that he had done so, but the City intentionally imprisoned Emmanuel to cause him suffering and humiliation and for no other legitimate purpose, as the City, Rand, and Hill had decided that Emmanuel did not deserve to live in the State of Florida as a free person, and committed a willful abuse of its police powers.

64. As a result of the arrest and charges levied against Emmanuel, the City, Hill, and Rand knew that he would have no bond due to the charges being capital life felonies, and that Emmanuel would languish in jail, which he did.

65. Emmanuel's arrest was an unlawful restraint of Emmanuel.

66. Emmanuel's arrest was against his will.

67. Emmanuel's arrest was without legal authority because the defendants knew that the eyewitness identification of Mr. Joseph was bogus and had him do it anyway and represented to the Court that it was valid.

WHEREFORE, Emmanuel seeks damages against the City, Hill, and Read in an amount no less than \$16 million, plus the value of a continuing disability, plus costs and such further relief as the Court deems just and proper.

COUNT II – FALSE IMPRISONMENT AGAINST THE CITY, HILL, AND RAND

68. Emmanuel re-alleges the allegations contained in paragraphs 1-57 of this Complaint as if fully set forth.

69. The City, Hill, and Rand willfully and maliciously caused the false imprisonment of Emmanuel for 16 years and 9 months despite knowing that he was innocent of the crimes that kept imprisoned for 16 years.

70. The City, Hill, and Rand restrained and kept Emmanuel imprisoned against his will, without legal authority for 16 years and 9 months.

71. Emmanuel's arrest was an unlawful detention and deprivation of the liberty of Emmanuel.

72. Emmanuel's detention was against his will.

73. Emmanuel's detention was without legal authority because the defendants knew that the eyewitness identification of Mr. Joseph was bogus and had him do it anyway and represented to the Court that it was valid.

74. Emmanuel's detention was unreasonable and unwarranted under the circumstances.

75. As a direct result of the false imprisonment committed by the City, Hill, and Rand, Emmanuel sustained compensatory damages, including but not limited to the loss of his liberty for 16 years and was denied the basic freedoms and rights of the

citizens of this country. And, while incarcerated, Emmanuel feared that he might either be put to death or remain in jail for the rest of his natural life.

WHEREFORE, Emmanuel seeks damages against the City, Hill, and Rand in an amount no less than \$16.75 million, plus the value of a continuing disability, plus costs and such further relief as the Court deems just and proper.

COUNT III - CLAIM AGAINST THE CITY, HILL, AND RAND FOR MALICIOUS PROSECUTION

76. Emmanuel re-alleges the allegations contained in paragraphs 1-57 of this Complaint as if fully set forth.

77. An original criminal proceeding against Emmanuel first degree murder while possessing, displaying, and using a firearm, attempted armed robbery, possession of a firearm during the crime, and conspiracy to commit an armed robbery were commenced and continued.

78. The present defendants were the legal cause of the original proceeding against Emmanuel as the defendant in the original proceeding.

79. The termination of the original proceeding on April 27, 2023, constituted a bona fide termination of that proceeding in favor of Emmanuel.

80. There was an absence of probable cause for the original proceeding.

81. There was malice on the part of the present defendants.

82. Emmanuel suffered damage as a result of the original proceeding, which resulted in his incarceration for 16 years and 9 months.

83. Emmanuel suffered losses and damages as a result of the malicious prosecution, many of which continue into the future.

WHEREFORE, Emmanuel seeks damages against the City, Hill, and Read in an amount no less than \$16.75 million, plus the value of a continuing disability, plus costs and such further relief as the Court deems just and proper.

COUNT IV.- CLAIM AGAINST THE CITY, HILL, AND RAND FOR THE DEPRIVATION OF THE CIVIL RIGHTS OF EMMANUEL

84. Emmanuel re-alleges the allegations contained in paragraphs 1-57 of this Complaint as if fully set forth.

85. This is an action brought by Emmanuel pursuant to title 42, section 1983, United States Code, for the deprivation of Emmanuel's Civil Rights caused by the specific acts of the City, Hill, and Rand in allowing themselves and their police force to engage in activities of suborning perjury in the illegal and false prosecution and incarceration of Emmanuel for a crime he did not commit.

86. The City of North Miami Beach allowed its police department to employ and harbor police officers who intentionally violated the civil rights of its citizens, and then, knowing that acts of its officers resulted in the unjust incarceration of Emmanuel for life and being charged with a death penalty offense for three years, did nothing to seek the reversal of those charges and Emmanuel's discharge from prison, even though they knew that he had been prosecuted and imprisoned based upon testimony that they encouraged and knew to be false.

87. The City, beginning with Emmanuel's arrest, gave little concern or care for a careful and full forensic investigation of the crimes committed or Emmanuel's rights, and the City and then mayor knew that the constitutional rights of Emmanuel would take a back seat to its concern that the illegal acts of Hill and perhaps Rand would result in

the “inconvenience” of retrying cases where either of those officers investigated or testified.

88. At all times material to this action, the City and its city manager knew that Hill was a bad cop, who had used his office to improperly and illegally prosecute citizens, but because of its concern that it might be legally and morally bound to investigate earlier cases such as Emmanuel’s, did nothing. The City wrongly injected its political and financial concerns while discharging its police powers, and by this conduct, the City invited the degeneration of the fundamental constitutional rights of any defendant whose case had been investigated by or where the testimony of Hill or Rand has been used in court.

89. The City, Hill, and Rand, by subjecting Emmanuel to a police investigation and prosecution, engaged in approving and funding law enforcement conduct and behavior which intentionally deprived Emmanuel of his inalienable constitutional rights of procedural and substantive due process, including the right to be free from unwarranted and intrusive custodial interrogation and imprisonment. They just didn’t care and put their own convenience ahead of Emmanuel’s life.

90. The conduct of this investigation and Emmanuel’s treatment were influenced by a pervasive and well-established pattern of disregard and prejudice against African American, Haitian American, and black males in the City by its police force.

91. This count is being brought pursuant to section 1983 for the

violation of Emmanuel's civil rights committed by the City, Hill, and Rand when they wrongfully tolerated police illegality and immorality in prosecuting and convicting a youngster, just barely a man, at 19 years-old.

92. As a result of the deprivation by the City, Hill, and Rand of Emmanuel's civil rights, Emmanuel was falsely arrested and falsely imprisoned causing him the complete loss of his rights to: privacy, freedom of expression; dignity, travel within the United States without condition; to be free from unreasonable searches and seizures and the other fundamental liberties enjoyed by free citizens, and to suffer physical and psychological damages, which continue to this day.

93. As a result of the constitutional violations caused by the City, Hill, and Rand, none of them is entitled to the limitations and immunities as set forth in Florida Statutes section 768.28, nor is Emmanuel required to comply with the Florida sovereign immunity statute as a condition to pursuing his claim under the United States Code.

94. Emmanuel has suffered \$16.75 million in damages plus attorney's fees.

95. Emmanuel has been required to retain the undersigned firm of attorneys and is obligated to pay them a reasonable fee for their services, which the City, Hill, and Rand are legally responsible to pay to Emmanuel and his counsel.

WHEREFORE, Emmanuel seeks damages against the City, Hill, and Read in an amount no less than \$16.75 million, plus the value of a continuing disability, plus costs and such further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial of all issues so triable as of right by a jury.

DATED: 29 August 2024.

Joseph P. Klock, Jr., Esq., FBN 156678
Susan Elizabeth Klock, Esq., FBN 41294
RASCO KLOCK PEREZ NIETO
2555 Ponce de Leon Blvd., Ste 600
Coral Gables, Florida 33134
Telephone: 305.476.7111
Facsimile: 305.675.7707

Counsel for the Plaintiff, Emmanuel Jean

By: /s/ Joseph P. Klock, Jr.
Joseph P. Klock Jr. Esq.

Thomas A. Cobitz, Esq. FBN 813400
LAW OFFICE OF THOMAS A COBITZ
7600 W. 20th Ave., Ste 220
Hialeah, Florida 33016
Telephone: 305.821.3041
Fax: 305.558.9980
Tcobitz@comcast.net

By: Thomas A Cobitz
Thomas A. Cobitz, Esq.

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS

EMMANUEL JEAN

DEFENDANTS

THE CITY OF NORTH MIAMI BEACH, an incorporated municipality, EDWARD HILL, and RICHARD RAND,

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Joseph P. Klock, Jr., Esq., Rasco Klock et al., 2555 Ponce de Leon Blvd., Suite 600, Coral Gables, Florida 33134 See attachment

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Grid of categories for nature of suit: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PERSONAL INJURY, PERSONAL PROPERTY, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, INTELLECTUAL PROPERTY RIGHTS, OTHER STATUTES.

V. ORIGIN

(Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Re-filed (See VI below)
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation Transfer
7 Appeal to District Judge from Magistrate Judgment
8 Multidistrict Litigation - Direct File
9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case YES NO b) Related Cases YES NO

JUDGE:

DOCKET NUMBER:

VII. CAUSE OF ACTION 42 U.S.C. 1983 and 28 U.S.C. 1332 Deprivation of civil rights by false imprisonment

LENGTH OF TRIAL via 5 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$16,750,000.00 CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE DATE 23 August 2024 SIGNATURE OF ATTORNEY OF RECORD

23 August 2024

Additional Plaintiff's Counsel: Emmanuel Jean v. City of North Miami Beach

Thomas A. Cobitz, Esquire
LAW OFFICES OF THOMAS A. COBITZ, P.A.
7600 W. 20th Ave., Ste 220,
Hialeah, FL. 33016