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Superior Court of New Jersey

DEC 04 2013

CIVIL CASE MANAGEMENT
UNION COUNTY

YONI MISAEEL HERRERA,
Plaintiff,

v.

COCO BONGO PRODUCTIONS, INC.
d/b/a COCO BONGO NIGHTCLUB,
COCO BONGO PRODUCTIONS-
CONCERTS d/b/a COCO BONGO
NIGHTCLUB, LCC CITY OF
ELIZABETH, ELIZABETH POLICE
DEPARTMENT, JOSEPH ALISEO,
ROBERT CIFRODELLI, ABC CORP.
1-10 (names fictitious as
currently unknown), JOHN DOES
1-10 (names fictitious as
currently unknown), RICHARD
ROES 1-10 (names fictitious
as currently unknown)

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: UNION COUNTY
DOCKET NO.

UNN-L-4294-13

Civil Action

COMPLAINT

Plaintiff, YONI MISAEEL HERRERA, residing at 618 Broadway,
Apt. #1, Kingston, NY 12401, complaining of the defendants, COCO
BONGO PRODUCTIONS, INC. d/b/a COCO BONGO NIGHTCLUB, COCO BONGO
PRODUCTIONS-CONCERTS d/b/a COCO BONGO NIGHTCLUB, CITY OF
ELIZABETH, ELIZABETH POLICE DEPARTMENT, JOSEPH ALISEO, ROBERT
CIFRODELLI, ABC CORP. 1-10 (names fictitious as currently
unknown), JOHN DOES 1-10 (names fictitious as currently unknown),
RICHARD ROES 1-10 (names fictitious as currently unknown) says:

FACTUAL BACKGROUND

1. On January 14, 2012, and at all times stated herein, defendant, COCO BONGO PRODUCTIONS, INC. d/b/a COCO BONGO NIGHTCLUB and COCO BONGO PRODUCTIONS-CONCERTS d/b/a COCO BONGO NIGHTCLUB, was and are doing and transacting business in the State of New Jersey.

2. On January 14, 2012, and at all times stated herein, defendant, COCO BONGO PRODUCTIONS, INC. d/b/a COCO BONGO NIGHTCLUB and/or defendant, COCO BONGO PRODUCTIONS-CONCERTS d/b/a COCO BONGO NIGHTCLUB, was the owner and operator of the premises located at 429 North Broad Street, Elizabeth, New Jersey 07208, to which it invited members of the public, including plaintiff, YONI MISRAEL HERRERA.

3. On January 14, 2012, plaintiff was a patron and invitee of defendant, COCO BONGO PRODUCTIONS, INC. d/b/a COCO BONGO NIGHTCLUB, and/or defendant, COCO BONGO PRODUCTIONS-CONCERTS d/b/a COCO BONGO NIGHTCLUB, at the aforesaid premises.

4. At all times relevant herein, defendant CITY OF ELIZABETH was and is a body politic organized under the laws of the State of New Jersey and as such is charged with funding, supervising, and administering to and otherwise responsible for the policies and procedures of defendant, ELIZABETH POLICE DEPARTMENT.

5. At all times relevant herein, defendant ELIZABETH POLICE DEPARTMENT was and is a law enforcement agency and is a branch of

or otherwise is under the discretion and supervision and authority of the defendant CITY OF ELIZABETH.

6. At all times relevant herein, defendant, JOSEPH ALISEO, an individual, was employed as a police officer/patrolman by defendant ELIZABETH POLICE DEPARTMENT, and, thus, was an agent, servant, and/or employee of defendant ELIZABETH POLICE DEPARTMENT.

7. At all times relevant herein, defendant, ROBERT CIFRODELLI, an individual, was employed as a police officer/patrolman by defendant ELIZABETH POLICE DEPARTMENT and, thus, was an agent, servant, and/or employee of defendant ELIZABETH POLICE DEPARTMENT.

8. At all times relevant herein, defendants, ABC CORP. 1-10 (names fictitious as currently unknown), owned, operated, and/or provided, were responsible for, and/or were involved in the management and/or operation of the aforementioned premises, including, but not limited to, the provision of security and supervisory services.

9. At all times relevant herein, defendants, JOHN DOES 1-10 (names fictitious as currently unknown) were agents, servants, and/or employees of defendant, COCO BONGO PRODUCTIONS, INC. d/b/a COCO BONGO NIGHTCLUB, and/or defendant, COCO BONGO PRODUCTIONS-CONCERTS d/b/a COCO BONGO NIGHTCLUB and participated and/or were involved in the action set forth herein.

10. At all times relevant herein, defendants, RICHARD ROES 1-10 (names fictitious as currently unknown) were agents, servants, and/or employees of defendant, ELIZABETH POLICE DEPARTMENT and/or

CITY OF ELIZABETH participated and/or were involved in the action set forth herein.

11. On January 14, 2012, while exiting the aforementioned premises plaintiff, YONI MISAEEL HERRERA, realized he had left his cell phone inside the nightclub building.

12. When plaintiff, YONI MISAEEL HERRERA, attempted to reenter the nightclub building to retrieve his cell phone, he was confronted, verbally accosted, and instructed to leave the premises by defendant, JOSEPH ALISEO, defendant, ROBERT CIFRODELLI, and/or defendants, RICHARD ROES 1-10 (names fictitious as currently unknown), who were in uniform, on duty, and in the scope of their employment with defendant, ELIZABETH POLICE DEPARTMENT as well as, defendants, JOHN DOES 1-10 (names fictitious as currently unknown), who were working as security guards and bouncers for defendant, COCO BONGO PRODUCTIONS, INC. d/b/a COCO BONGO NIGHTCLUB, and/or defendant, COCO BONGO PRODUCTIONS-CONCERTS d/b/a COCO BONGO NIGHTCLUB and/or defendants ABC CORP. 1-10 (names fictitious as currently unknown).

13. As plaintiff, YONI MISAEEL HERRERA, turned to walk away, defendant, JOSEPH ALISEO, defendant, ROBERT CIFRODELLI, defendants, RICHARD ROES 1-10 (names fictitious as currently unknown), and/or defendants, JOHN DOES 1-10 (names fictitious as currently unknown), struck plaintiff, YONI MISAEEL HERRERA, with their fists, feet, and pepper spray.

FIRST COUNT (ASSAULT AND BATTERY)

14. Plaintiff, YONI MISAEEL HERRERA, repeats and realleges each and every allegation contained in paragraphs 1-13 as if set forth herein.

15. On January 14, 2012, defendant, JOSEPH ALISEO, defendant, ROBERT CIFRODELLI, defendants, RICHARD ROES 1-10 (names fictitious as currently unknown), and/or defendants, JOHN DOES 1-10 (names fictitious as currently unknown), in a wilful, deliberate and intentional manner, without justification, provocation, or any cause whatsoever, assaulted and battered plaintiff, YONI MISAEEL HERRERA.

16. As a direct and proximate result thereof, plaintiff sustained serious and permanent injuries to his head, face, eyes, and hand, accompanied by great pain, mental anguish, confinement, loss of liberty, loss of constitutional rights, imprisonment, and incurring various long term expenses for medical, domestic and other necessary aid and attention, and has been and will be prevented from attending his usual activities or occupation.

WHEREFORE, plaintiff, YONI MISAEEL HERRERA, hereby demands judgment against the defendants, COCO BONGO PRODUCTIONS, INC. d/b/a COCO BONGO NIGHTCLUB, COCO BONGO PRODUCTIONS-CONCERTS d/b/a COCO BONGO NIGHTCLUB, CITY OF ELIZABETH, ELIZABETH POLICE DEPARTMENT, JOSEPH ALISEO, ROBERT CIFRODELLI, ABC CORP. 1-10 (names fictitious as currently unknown), JOHN DOES 1-10 (names fictitious as currently unknown), RICHARD ROES 1-10 (names fictitious as currently unknown), individually, jointly and severally for damages, for compensatory damages, punitive damages,

interest, attorneys' fees and costs and other such relief as the Court may deem just and equitable.

SECOND COUNT (NEGLIGENCE)

17. Plaintiff, YONI MISAEEL HERRERA, repeats and realleges each and every allegation contained in paragraphs 1-16 as if set forth herein.

18. On January 14, 2013, defendant, JOSEPH ALISEO, defendant, ROBERT CIFRODELLI, defendants, RICHARD ROES 1-10 (names fictitious as currently unknown), and/or defendants; JOHN DOES 1-10 (names fictitious as currently unknown), without justification, provocation, or any cause whatsoever, negligently came into contact with plaintiff.

19. As a direct and proximate result thereof, plaintiff, YONI MISAEEL HERRERA, sustained damages alleged herein.

WHEREFORE, plaintiff, YONI MISAEEL HERRERA, hereby demands judgment against the defendants, COCO BONGO PRODUCTIONS, INC. d/b/a COCO BONGO NIGHTCLUB, COCO BONGO PRODUCTIONS-CONCERTS d/b/a COCO BONGO NIGHTCLUB, CITY OF ELIZABETH, ELIZABETH POLICE DEPARTMENT, JOSEPH ALISEO, ROBERT CIFRODELLI, ABC CORP. 1-10 (names fictitious as currently unknown), JOHN DOES 1-10 (names fictitious as currently unknown), RICHARD ROES 1-10 (names fictitious as currently unknown), individually, jointly and severally for damages, for compensatory damages, interest, attorneys' fees and costs and other such relief as the Court may deem just and equitable.

THIRD COUNT (EXCESSIVE FORCE)

20. Plaintiff, YONI MISAEEL HERRERA, repeats and reiterates each and every allegation set forth in paragraphs 1-19 more fully herein.

21. On January 14, 2013, defendant, JOSEPH ALISEO, defendant, ROBERT CIFRODELLI, and/or defendants, RICHARD ROES 1-10 (names fictitious as currently unknown), who were in uniform, on duty, acting under the color of law, and in the scope of their employment with defendant, ELIZABETH POLICE DEPARTMENT and/or CITY OF ELIZABETH did use excessive force on plaintiff, YONI MISAEEL HERRERA, and therefore did deprive Plaintiff of substantive Due Process and Equal Protection of the Law under the New Jersey State Constitution and are responsible for violating Plaintiff's rights thereunder.

22. Defendants, CITY OF ELIZABETH and the ELIZABETH POLICE DEPARTMENT, as employers of defendant, JOSEPH ALISEO, defendant, ROBERT CIFRODELLI, and/or defendants, RICHARD ROES 1-10 (names fictitious as currently unknown) were responsible pursuant to the Constitution of the State of New Jersey for the conduct of their employees and are responsible for violating Plaintiff's rights thereunder.

23. Upon information and belief, Defendants, CITY OF ELIZABETH and the ELIZABETH POLICE DEPARTMENT, have sanctioned, either formally, or informally, the type of illegal conduct demonstrated by defendant, JOSEPH ALISEO, defendant, ROBERT CIFRODELLI, and/or defendants, RICHARD ROES 1-10 (names fictitious as currently unknown), and such illegal conduct represents a

pattern of abuse so pervasive, permanent and well settled that it constitutes a policy, custom, or usage with the force of law.

24. The above-cited actions of all Defendants are a violation of N.J.S.A. 10:6-1 "The New Jersey Civil Rights Act."

25. As a direct and proximate result thereof, plaintiff, YONI MISAEEL HERRERA, sustained damages alleged herein.

WHEREFORE, plaintiff, YONI MISAEEL HERRERA, hereby demands judgment against the defendants, CITY OF ELIZABETH, ELIZABETH POLICE DEPARTMENT, JOSEPH ALISEO, ROBERT CIFRODELLI, and RICHARD ROES 1-10 (names fictitious as currently unknown), individually, jointly and severally for damages, for compensatory damages, punitive damages, interest, attorneys' fees and costs and other such relief as the Court may deem just and equitable.

FOURTH COUNT (WRONGFUL ARREST AND IMPRISONMENT)

26. Plaintiff, YONI MISAEEL HERRERA, repeats and reiterates each and every allegation set forth in paragraphs 1-24 more fully herein.

27. On January 14, 2013, defendant, JOSEPH ALISEO, defendant, ROBERT CIFRODELLI, and/or defendants, RICHARD ROES 1-10 (names fictitious as currently unknown), who were in uniform, on duty, acting under the color of law, and in the scope of their employment with defendant, ELIZABETH POLICE DEPARTMENT and/or CITY OF ELIZABETH did wrongfully arrest and did wrongfully imprison Plaintiff, YONI MISAEEL HERRERA, in violation of the New Jersey State Constitution, and are responsible for violating Plaintiff's rights thereunder.

28. Defendants, CITY OF ELIZABETH and the ELIZABETH POLICE DEPARTMENT, as employers of defendant, JOSEPH ALISEO, defendant, ROBERT CIFRODELLI, and/or defendants, RICHARD ROES 1-10 (names fictitious as currently unknown) were responsible pursuant to the Constitution of the State of New Jersey for the conduct of their employees and are responsible for violating Plaintiff's rights thereunder.

29. Upon information and belief, Defendants, CITY OF ELIZABETH and the ELIZABETH POLICE DEPARTMENT, have sanctioned, either formally, or informally, the type of illegal conduct demonstrated by defendant, JOSEPH ALISEO, defendant, ROBERT CIFRODELLI, and/or defendants, RICHARD ROES 1-10 (names fictitious as currently unknown), and such illegal conduct represents a pattern of abuse so pervasive, permanent and well settled that it constitutes a policy, custom, or usage with the force of law.

30. The above-cited actions of all Defendants are a violation of N.J.S.A. 10:6-1 "The New Jersey Civil Rights Act."

31. As a direct and proximate result thereof, plaintiff, YONI MISAEL HERRERA, sustained damages alleged herein.

WHEREFORE, plaintiff, YONI MISAEL HERRERA, hereby demands judgment against the defendants, CITY OF ELIZABETH, ELIZABETH POLICE DEPARTMENT, JOSEPH ALISEO, ROBERT CIFRODELLI, and RICHARD ROES 1-10 (names fictitious as currently unknown), individually, jointly and severally for damages, for compensatory damages, punitive damages, interest, attorneys' fees and costs and other such relief as the Court may deem just and equitable.

FIFTH COUNT (PREMISES LIABILITY)

32. Plaintiff, YONI MISAEEL HERRERA, repeats and reiterates each and every allegation set forth in paragraphs 1-31 more fully herein.

33. On January 14, 2013, defendants, COCO BONGO PRODUCTIONS, INC. d/b/a COCO BONGO NIGHTCLUB, COCO BONGO PRODUCTIONS-CONCERTS d/b/a COCO BONGO NIGHTCLUB, and/or ABC CORP. 1-10 (names fictitious as currently unknown), owned and operated a nightclub at the aforementioned premises, and was obligated and responsible for providing a safe atmosphere for its invitees including, but not limited to, providing reasonable and appropriate security and/or supervision.

34. At said time and place, defendants, COCO BONGO PRODUCTIONS, INC. d/b/a COCO BONGO NIGHTCLUB, COCO BONGO PRODUCTIONS-CONCERTS d/b/a COCO BONGO NIGHTCLUB, ABC CORP. 1-10 (names fictitious as currently unknown), and/or JOHN DOES 1-10 (names fictitious as currently unknown) created a dangerous and hazardous condition by not having sufficient and properly trained and/or supervised security and/or bouncers.

35. As a result of the foregoing and by further reason of the negligent manner in which defendants, COCO BONGO PRODUCTIONS, INC. d/b/a COCO BONGO NIGHTCLUB, COCO BONGO PRODUCTIONS-CONCERTS d/b/a COCO BONGO NIGHTCLUB, ABC CORP. 1-10 (names fictitious as currently unknown), and JOHN DOES 1-10 (names fictitious as currently unknown) owned, maintained, operated, controlled, inspected, and/or supervised the aforesaid premises and/or its

employees, plaintiff, plaintiff, YONI MISAEEL HERRERA, was caused to sustain the damages alleged herein.

WHEREFORE, plaintiff, YONI MISAEEL HERRERA, hereby demands judgment against the defendants, COCO BONGO PRODUCTIONS, INC. d/b/a COCO BONGO NIGHTCLUB, COCO BONGO PRODUCTIONS-CONCERTS d/b/a COCO BONGO NIGHTCLUB, ABC CORP. 1-10 (names fictitious as currently unknown), and JOHN DOES 1-10 (names fictitious as currently unknown) individually, jointly and severally for damages, for compensatory damages, interest, attorneys' fees and costs and other such relief as the Court may deem just and equitable.

SIXTH COUNT (NEGLIGENT SUPERVISION)

36. Plaintiff, YONI MISAEEL HERRERA, repeats and reiterates each and every allegation set forth in paragraphs 1-35 more fully herein.

37. At all times alleged herein, defendants, COCO BONGO PRODUCTIONS, INC. d/b/a COCO BONGO NIGHTCLUB, COCO BONGO PRODUCTIONS-CONCERTS d/b/a COCO BONGO NIGHTCLUB, ABC CORP. 1-10 (names fictitious as currently unknown), and/or JOHN DOES 1-10 (names fictitious as currently unknown) negligently supervised, trained, monitored, and/or instructed its employees, agents, servants, representatives, security personnel, and/or bouncers.

38. As a direct and proximate result thereof, plaintiff, YONI MISAEEL HERRERA, sustained damages alleged herein.

WHEREFORE, plaintiff, YONI MISAEEL HERRERA, hereby demands judgment against the defendants, COCO BONGO PRODUCTIONS, INC. d/b/a COCO BONGO NIGHTCLUB, COCO BONGO PRODUCTIONS-CONCERTS d/b/a

COCO BONGO NIGHTCLUB, ABC CORP. 1-10 (names fictitious as currently unknown), and JOHN DOES 1-10 (names fictitious as currently unknown) individually, jointly and severally for damages, for compensatory damages, interest, attorneys' fees and costs and other such relief as the Court may deem just and equitable.

SEVENTH COUNT (NEGLIGENT SUPERVISION)

39. Plaintiff, YONI MISAEEL HERRERA, repeats and reiterates each and every allegation set forth in paragraphs 1-38 more fully herein.

40. At all times alleged herein, Defendants, CITY OF ELIZABETH and the ELIZABETH POLICE DEPARTMENT, negligently supervised, trained, monitored, and/or instructed its officers, employees, agents, servants and representatives .

41. As a direct and proximate result thereof, plaintiff, YONI MISAEEL HERRERA, sustained damages alleged herein.

WHEREFORE, plaintiff, YONI MISAEEL HERRERA, hereby demands judgment against the defendants, CITY OF ELIZABETH and ELIZABETH POLICE DEPARTMENT, individually, jointly and severally for damages, for compensatory damages, interest, attorneys' fees and costs and other such relief as the Court may deem just and equitable.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury on all of the
above issues.

THE EPSTEIN LAW FIRM, P.A.
Attorneys for Plaintiff

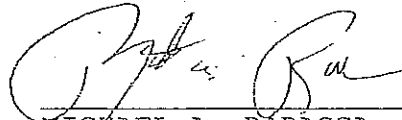
By: 

MICHAEL A. RABASCA

Dated: November 27, 2013

CERTIFICATION

I hereby certify that, pursuant to R. 4:5-1: (1) the within matter in controversy is not the subject of any other action pending in any other court or arbitration; (2) no other action or arbitration proceeding is contemplated; and (3) no other necessary party to be joined in the subject litigation is presently known.


MICHAEL A. RABASCA

Dated: November 27, 2013