

VIRGINIA: IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

**BIANCA JOHNSON and
DELMAR CANADA**

Plaintiffs,

v.

COMPLAINT

ANDREW HOMES

Case No. _____

Defendant.

Bianca Johnson and Delmar Canada by counsel, for their Complaint against Defendant, state as follows:

PARTIES

1. Plaintiff Bianca Johnson is African-American, a citizen and a resident of Albemarle County.
2. Plaintiff Delmar Canada is African-American, a citizen and a resident of Albemarle County and the fiancé of Plaintiff Bianca Johnson.
3. Andrew Holmes is Caucasian and a police officer of the County of Albemarle, acting under color of law at all times relevant to this Complaint.

FACTS

4. On or about April 26, 2014, Plaintiff Delmar Canada was given a traffic summons by Defendant Holmes for driving while his license was suspended.
5. Thereafter, on April 27, 2014, Defendant Holmes obtained a search warrant for the home of Plaintiffs, ostensibly to search for the “Department of Motor Vehicle suspension notification form for Delmar Gene Canada.” which had been issued more than a year earlier.

6. Defendant Holmes and several other Albemarle police officers appeared at Plaintiffs' home on or about Friday, May 2, 2014 at or about midnight and proceeded to thoroughly search their home.
7. Defendant's search produced no results and after approximately two hours Defendant Holmes and the other officers left.
8. The search warrant that Defendant Holmes sought and obtained patently lacked probable cause and specificity as is required by the Fourth and Fourteenth Amendments to the United States Constitution and Defendant Holmes knew or should have known that fact.
9. The scope of the search warrant that Defendant Holmes sought and obtained and of the search that he conducted was unreasonable in relation to the purpose for which it was allegedly initiated.
10. While the search was conducted, Plaintiff were prohibited from leaving their home or moving within their home without permission.
11. On information and belief, Defendant Holmes targets African-American males for vehicle stops and intrusive searches.
12. Defendant's conduct, as described herein, was willful, deliberate, malicious and with reckless disregard for he Plaintiffs' constitutional rights.

CAUSES OF ACTION
FIRST CAUSE OF ACTION
(Civil Rights Violation for Unlawful Search - 42 U.S.C. §1983)

13. By his conduct as described above, Defendant Holmes violated Plaintiffs' rights protected by the Fourth and Fourteenth Amendment to the United States Constitution to be free from unreasonable searches.

14. As a direct and proximate cause of that conduct, Plaintiffs suffered damages, including emotional distress.

SECOND CAUSE OF ACTION
(Civil Rights Violation for Unlawful Seizure - 42 U.S.C. § 1983)

15. By his conduct, as described above, Defendant Holmes violated Plaintiffs' rights protected by the Fourth and Fourteenth Amendments to the United States Constitution to be free from unreasonable seizures.

16. As a direct and proximate cause of that conduct, Plaintiffs suffered damages, including emotional distress.

THIRD CAUSE OF ACTION
(Denial of Equal Protection - 42 U.S.C. § 1983)

17. The conduct of Defendant, as described herein, violated Plaintiffs' right to equal protection of the law as guaranteed by the Fourteenth Amendment to the United States Constitution.

18. As a direct and proximate result of the actions of Defendant, Plaintiffs Polk and Cook suffered damages, including emotional harm.

WHEREFORE, Plaintiffs seek judgment for compensatory damages against Defendant Holmes in an amount to be determined by a jury or the Court . Plaintiffs also seek punitive damages against Defendant Holmes in an amount to be determined by a jury or the Court and such other and further relief as the Court may deem appropriate. Plaintiffs also seek reasonable attorneys fees and costs against Defendant pursuant to 42 U.S.C. § 1988.

Respectfully submitted,
DELMAR CANADA and
BIANCA JOHNSON
By Counsel

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