

Eddy v City of New York

2025 NY Slip Op 35052(U)

December 22, 2025

Supreme Court, Kings County

Docket Number: Index No. 507595/2021

Judge: Inga M. O'Neale

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At City Part 7 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at Civic Center, Borough of Brooklyn, City and State of New York, on the 22nd day of December, 2025



Present: HON. INGA M. O'NEALE
Justice, Supreme Court

SAMMIE EADDY, S.H., an infant by her Mother and Natural Guardian, JASMIN BAGOT and JASMIN BAGOT, individually,

DECISION & ORDER

Plaintiffs,

Index No.: 507595/2025

-against-

THE CITY OF NEW YORK and JOHN AND JANE DOES-Police Officers as yet unidentified,

Defendants.

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The following papers numbered 1 to ___ read on this motion

**NYSCEF Doc#
Papers Numbered**

Notice of Motion-Order to Show Cause And Affidavits (Affirmations) Annexed	<u>30-52; 55-70</u>
Answering Affidavit (Affirmation)	<u>71-78; 79-80</u>
Reply Affidavit (Affirmation)	<u>81; 82</u>

Upon the foregoing papers, defendant the City of New York (defendant) moves for an order: (i) pursuant to CPLR 3211, dismissing the federal claims of plaintiffs Sammie Eaddy (plaintiff Eaddy), S.H., an infant by her mother and natural guardian, Jasmin Bagot (infant plaintiff S.H.) and Jasmin Bagot, individually (plaintiff Bagot; collectively, plaintiffs) for failing to name any individual defendants; (ii) pursuant to CPLR 3212, granting summary judgment in defendant's favor and dismissing plaintiffs' state law claims of false arrest and false imprisonment; (iii) pursuant to CPLR 3211(a)(7) and CPLR 3212, dismissing plaintiffs' state malicious prosecution claims; (iv) pursuant to CPLR 3211(a)(7) and CPLR 3212, granting summary judgment and/or dismissing infant plaintiff S.H.'s assault and battery claim; (v) pursuant to CPLR 3211 and 3212, dismissing and/or granting summary judgment on plaintiffs' negligent hiring, training, retention, supervision, pattern and/or practices; (vi) pursuant to CPLR 3211 and 3212, dismissing and/or granting summary judgment dismissing plaintiffs' cause of action for Monell liability pursuant to 42 USC 1983; (vii) pursuant to CPLR 3211 and 3212, dismissing plaintiff Eaddy and infant plaintiff S.H.'s cause of action for negligent infliction of emotional distress; (viii) pursuant to CPLR 3211 and 3212, dismissing plaintiff Bagot's loss of services claim; (ix) pursuant to CPLR 3211 and 3212, dismissing all claims against the John Doe defendants; (x) pursuant to CPLR 3211 and 3212, dismissing claims for punitive damages (motion sequence #3). Plaintiffs move for an order: (i) pursuant to CPLR 3025(b),

permitting plaintiffs to amend the caption and complaint, substituting additional defendants for the John Doe defendants; and (ii) extending plaintiffs' time to serve the newly substituted defendants with the supplemental summons and amended verified complaint (motion sequence #4).

As an initial matter, the Court notes that defendants did not move to dismiss the cause of action for assault and battery with respect to plaintiff Eaddy. The Court further notes that, during oral arguments on November 5, 2025, plaintiffs consented to the dismissal of their intentional infliction of emotional distress claims. In any event, "it is well settled that public policy bars claims sounding in intentional infliction of emotional distress against a governmental entity" (*Rapuzzi v City of New York*, 186 AD3d 1548, 1550 [2d Dept 2020]).

After oral argument, and upon a review of the papers submitted and the relevant law, defendant's motion sequence #3 is granted to the extent noted herein. Plaintiff's motion sequence #4 is denied.

"Applications for leave to amend pleadings under CPLR 3025(b) should be freely granted unless the proposed amendment (1) would unfairly prejudice or surprise the opposing party, or (2) is palpably insufficient or patently devoid of merit" (*Chinapen v Sookdeo*, 237 AD3d 658 [2d Dept 2025], internal citation and quotation marks omitted; *see* CPLR 3025[b]). "Amendments that seek to add a time-barred claim or party will be found to be patently devoid of merit" (*Bisono v Mist Enters., Inc.*, 231 AD3d 134 [2d Dept 2024]).

"In order to employ the procedural 'Jane Doe' or 'John Doe' mechanism made available by CPLR 1024, a plaintiff must show that he or she made timely efforts to identify the correct party before the statute of limitations expired" (*Holmes v City of New York*, 132 AD3d 952, 953 [2d Dept 2015]). CPLR 1024 provides that "a party who is ignorant, in whole or in part, of the name or identity of a person who may properly be made a party, may proceed against such person as an unknown party by designating so much of his or her name and identity as is known" (*see Abrego v Tile World Imp. Corp.*, 242 AD3d 932 [2D Dept 2025], internal quotation marks omitted). "However, a plaintiff cannot reply on CPLR 1024 unless he or she exercises due diligence, prior to the running of the statute of limitations, to identify the defendant by name and, despite such efforts, is unable to do so" (*id.*, internal citation and quotation marks omitted).

Here, with respect to plaintiffs' state law claims, plaintiffs failed to establish that they made diligent efforts to ascertain the identity of the John and Jane Doe defendants prior to the expiration of the statute of limitations (*see Holmes*, 132 AD3d 952, 953-954). Similarly, with respect to plaintiffs' federal law claims, although plaintiffs were provided with the identity of the John and Jane Doe defendants prior to the expiration of the statute of limitations, they failed to move to amend until two (2) years after the applicable limitations period had expired (*id.*). As such, motion sequence #4 is denied.

Turning to motion sequence #3, the Court grants motion sequence #3 to the extent of dismissing plaintiffs' second, third, fourth, fifth, sixth, seventh, eighth, tenth, eleventh, twelfth, thirteenth and fourteenth causes of action for the reasons stated below.

With respect to plaintiffs' second cause of action for negligent hiring and retention on behalf of plaintiff Eaddy, in light of defendant's admission that the police officers were acting within the scope of their employment at all relevant times, the second cause of action is dismissed (*see Fludd v City of New York*, 199 AD3d 894 [2d Dept 2021]).

With respect to plaintiffs' third cause of action based upon a state law claim for false arrest on behalf of plaintiff Eaddy, the Court finds that defendant has established its initial prima facie burden of proof demonstrating that plaintiff's arrest was supported by probable cause (*see Fischetti v City of New York*, 199 AD3d 891 [2d Dept 2021]). In opposition, plaintiffs failed to raise a triable issue of fact (*see Zuckerman v City of New York*, 49 NY2d 557 [1980]). As such, the third cause of action is dismissed.

With respect to plaintiffs' fourth cause of action based upon a state law claim for false imprisonment on behalf of plaintiff Eaddy, the Court finds that defendant has established its initial prima facie burden of proof demonstrating that plaintiff's arrest was supported by probable cause (*see Fischetti*, 199 AD3d 891). In opposition, plaintiffs failed to raise a triable issue of fact (*see Zuckerman*, 49 NY2d 557). As such, the fourth cause of action is dismissed.

With respect to plaintiffs' fifth cause of action for negligent infliction of emotional distress on behalf of plaintiff Eaddy, allegations of negligent infliction of emotional distress are duplicative of the viable portions of plaintiffs' causes of action (*see Afifi v City of New York*, 104 AD3d 712 [2d Dept 2013]). In this regard, the fifth cause of action is dismissed.

With respect to plaintiffs' sixth cause of action for malicious prosecution on behalf of plaintiff Eaddy, the Court finds that defendant has established its initial prima facie burden of proof demonstrating that plaintiff's arrest was supported by probable cause (*see Fischetti*, 199 AD3d 891; *see also Williams v City of New York*, 153 AD3d 1301 [2d Dept 2017]). In opposition, plaintiffs failed to raise a triable issue of fact (*see Zuckerman*, 49 NY2d 557). As such, the sixth cause of action is dismissed.

With respect to plaintiffs' seventh cause of action for civil rights violation on behalf of plaintiff Eaddy, plaintiffs failed to name any individual police officers as defendants who acted under color of state law (*see Pressley v City of New York*, 233 AD3d 932 [2d Dept 2024]). As such, the seventh cause of action is dismissed.

With respect to plaintiffs' eighth cause of action for punitive damages on behalf of plaintiff Eaddy, it is well settled that "no separate cause of action for punitive damages lies for pleading purposes" (*Rimany v Town of Dover*, 72 AD3d 924 [2d Dept 2010]). As such, the eighth cause of action is dismissed.

With respect to plaintiffs' tenth cause of action for negligent hiring and retention on behalf of infant plaintiff S.H., in light of defendant's admission, that the police officers were acting within the scope of their employment at all relevant times (*see Fludd*, 199 AD3d 894). As such, the tenth cause of action is dismissed.

With respect to plaintiffs' eleventh cause of action for negligent infliction of emotional distress on behalf of infant plaintiff S.H., allegations of negligent infliction of emotional distress are duplicative of the viable portions of plaintiffs' causes of action (*see Afifi*, 104 AD3d 712). As such, the eleventh cause of action is dismissed.

With respect to plaintiffs' twelfth cause of action for civil rights violation on behalf of infant plaintiff S.H., plaintiffs failed to name any individual police officers as defendants who acted under color of state law (*see Pressley*, 233 AD3d 932). As such, the twelfth cause of action is dismissed.

With respect to plaintiffs' thirteenth cause of action for punitive damages on behalf of infant plaintiff S.H., it is well settled that "no separate cause of action for punitive damages lies for pleading purposes" (*Rimany*, 72 AD3d 924). As such, the thirteenth cause of action is dismissed.

With respect to plaintiffs' fourteenth cause of action for loss of services on behalf of plaintiff Bagot, defendant has demonstrated, prima facie, that plaintiff Bagot had no damages with respect to loss of services (*see generally, Guerriero v Sewanhaka Cent. High Sch. Dist.*, 150 AD3d 831 [2d Dept 2017]). In opposition, plaintiffs failed to raise a triable issue of fact (*see Zuckerman*, 49 NY2d 557). In this regard, the fourteenth cause of action is dismissed.

The Court further grants those branches of defendant's motion seeking to dismiss plaintiffs' causes of action based upon Monell claims and to dismiss the complaint in its entirety insofar as asserted as against John and Jane Doe police officers.

With respect to plaintiffs' cause of action based upon Monell claims, the Court finds that plaintiffs' broad and conclusory allegations are insufficient to state a claim under 42 USC § 1983 against defendant (*see Fludd*, 199 AD3D 894; *see also Brown v City of New York*, 192 AD3d 963 [2d Dept 2021]). As a result, said claims are dismissed.

With respect to the complaint insofar as asserted against John and Jane Doe police officers, the Court finds that defendant has demonstrated that "plaintiffs failed to identify the John Does and serve them with process prior to the expiration of the statutes of limitations applicable to this case. In opposition, the plaintiffs failed to raise a triable issue of fact as to whether they exercised due diligence in attempting to identify and serve the John Does such that the applicable limitations periods had tolled or were otherwise inapplicable" (*Lepore v Town of Greenburgh*, 120 AD3d 1202, 1204 [2d Dept 2014]). In this regard, the claims against the John Doe and Jane Doe police officers are dismissed.

Additionally, the Court denies that branch of defendant’s motion seeking to dismiss the ninth cause of action for assault and battery on behalf of infant plaintiff S.H., the Court finds that defendant’s submissions failed to eliminate triable issues of fact as to whether the police officers’ actions were objectively reasonable under the circumstances (*see Pleva v Cnty. of Suffolk*, 222 AD3d 795, 796-797 [2d Dept 2023]).

Accordingly, defendant’s motion (motion sequence #3) is granted to the extent of: (i) dismissing plaintiffs’ cause of action based upon Monell claims; (ii) dismissing the complaint insofar as asserted as John Doe and Jane Doe police officers; and (iii) dismissing the second, third, fourth, fifth, sixth, eighth, tenth, eleventh, twelfth, thirteenth and fourteenth causes of action of the complaint. Plaintiffs’ motion (motion sequence #4) is denied. The parties are reminded of their appearance in the **City Trial Readiness Part** on **March 16, 2026**. Any relief requested by the parties not specifically addressed herein is denied. The foregoing constitutes the decision and order of the Court.

ENTER:

DEC 22 2025



Hon. Inga M. O’Neale
J.S.C.

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