

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

EDWARD A. PERUTA,
HARRIS AGRICULTURAL ENTERPRISES, INC.,

Plaintiffs,

v.

TOWN OF ROCKY HILL, CHERYL A. VALADEZ,
LEONARD KULAS, SERGEANT, ROCKY HILL
POLICE DEPARTMENT, in his official and individual
capacities, BRIAN KELLEY, OFFICER, ROCKY HILL
POLICE DEPARTMENT, in his individual capacity, and
EDWARD S. NOBLE III,

Defendants.

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: CASE NO.
:
: **COMPLAINT**
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: **DEMAND FOR**
: **TRIAL BY JURY**
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:
: NOVEMBER 6, 2007

PRELIMINARY STATEMENT

1. This action arises from the combined conduct of the Defendants in procuring the false and malicious arrest of Plaintiff Edward A. Peruta (“Peruta”) for theft of a motor vehicle in the Town of Rocky Hill on November 2, 2007.

2. Peruta, acting in his capacity as corporate officer and agent for Plaintiff Harris Agricultural Enterprises, Inc. (“Harris Enterprises”) and with the authority and under the instruction by valid Power of Attorney of Jeffrey B. Harris (“Harris”), the President and Director of Harris Enterprises, drove a 1996 Ford Truck registered to Harris Enterprises from a residence in the Town of Rocky Hill owned by Harris and occupied by Defendant Cheryl A. Valadez (“Valadez”).

3. Valadez and Defendant Edward S. Noble III (“Noble”), knowing that Valadez had no right of possession or use, and lacking any ownership interest in the truck whatsoever, reported to the Defendant Officer Brian Kelley (“Officer Kelley”) of the Rocky Hill Police Department (RHPD) that Peruta has stolen the 1996 Ford Truck.

4. Officer Kelley and RHPD Sergeant Leonard Kulas (“Sergeant Kulas”), despite access to public information at the Connecticut State Department of Motor Vehicles and the Connecticut State Office of the Secretary of the State, confirming that the 1996 Ford Truck is registered to Harris Enterprises and confirming that Peruta is a corporate officer of Harris Enterprises, respectively, arrested Peruta for theft of the 1996 Ford Truck.

5. Officer Kelley and Sergeant Kulas, despite access to Harris at his location in the burn unit of Bridgeport Hospital on November 2, 2007, failed to contact Harris to confirm Peruta’s position as a corporate officer in Harris Enterprises, to confirm the existence and validity of a Power of Attorney issued by Harris to Peruta, and to confirm that Valadez’ had no right of use, possession, or ownership in the 1996 Ford Truck registered to Harris Enterprises.

6. The Defendants’ combined conduct denied Harris Enterprises the lawful use of its property, deprived Peruta of civil rights guaranteed under the Fourth Amendment and Fourteenth Amendments to the United States Constitution, and subjected Peruta to false arrest and malicious prosecution.

JURISDICTION

7. The District of Connecticut has original jurisdiction over the instant Complaint pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1343(a)(3), (4), 42 U.S.C. §§ 1983, 1988. The Court’s supplemental jurisdiction over Plaintiffs’ state common law claims arises from 28 U.S.C. § 1367.

PARTIES

8. Plaintiff Edward A. Peruta is an adult citizen of the United States with a residence in Wethersfield, Connecticut.

9. Plaintiff Harris Agricultural Enterprises, Inc. is incorporated under the laws of Connecticut since 1995 and maintains its headquarters and business address at 945-B Cromwell Avenue # 238, in Rocky Hill, Connecticut.

10. Jeffrey B. Harris is the President and Director of Harris Enterprises.

11. Harris resides at 29A Carillon Drive, in Rocky Hill, Connecticut.

12. Defendant Cheryl A. Valadez (“Valadez”) maintains a permanent residence at 4003 Saxon Drive, New Smyrna Beach, Florida.

13. Until Harris was admitted to the Bridgeport Hospital’s burn unit on or about October 29, 2007, Valadez was a guest of Harris in his residence at 29A Carillon Drive, in Rocky Hill, Connecticut.

14. Defendant Town of Rocky Hill (“Rocky Hill”) is a municipality located within the state of Connecticut and maintains a department of public safety known as the Rocky Hill Police Department.

15. Rocky Hill employed Defendant Leonard Kulas as a police officer in the Rocky Hill Police Department in the supervisory rank of Sergeant at all times relevant to the acts alleged by Plaintiffs. Sergeant Kulas is sued in his official and individual capacities.

16. Rocky Hill employed Defendant Brian Kelley as a police officer in the Rocky Hill Police Department at all times relevant to the acts alleged by Plaintiffs. Officer Kelley is sued in his individual capacity.

17. Edward S. Noble III is an attorney admitted to practice in the state of Connecticut and associated with the law firm of LeFoll and LeFoll at 2301 Silas Deane Highway, in Rocky Hill, Connecticut, at all times relevant to the acts alleged by Plaintiffs.

ALLEGATIONS OF FACT

Harris' Property at 29 Carillon Drive

18. Harris is the sole owner of real property described as 29A Carillon Drive in Rocky Hill, Connecticut ("29 Carillon Drive").

19. From time to time, Harris has allowed Valadez to stay as a guest at 29A Carillon Drive.

20. At all times, Harris has paid the mortgage, property taxes, utility, and other expenses associated with 29A Carillon Drive.

21. In October 2005, when Valadez refused to leave 29A Carillon Drive, Harris agreed by written contract to pay Valadez ten thousand dollars (\$10,000.00) in two equal installments of five thousand dollars (\$5,000.00) to leave his home.

22. Valadez accepted the ten thousand dollar (\$10,000.00) payment and moved to Florida.

23. Harris commenced renovation work at 29A Carillon Drive in preparation for listing it for sale.

24. In 2006, Valadez returned to Connecticut for dental work during which time it was discovered in the course of treatment that Valadez required unrelated and further medical treatment lasting for approximately one year.

25. Harris, understanding that Valadez was destitute again and had no other place to stay, offered Valadez a temporary place to stay at 29A Carillon Drive.

26. At various times in the past three years prior to the Complaint, while Harris was engaged in his occupation as a long haul truck driver, Valadez has represented herself as Mrs. Harris and as Harris' "common law wife."

27. At various times in the past three years prior to the Complaint, Valadez has extorted money from Harris in exchange for her agreement to vacate Harris' home.

28. Valadez has threatened legal action, suicide, and false claims against Harris due to Harris refusal to marry Valadez and provide her free room and board.

Harris' Hospitalization and Recovery

29. During the morning hours of October 29, 2007, Harris received burn injuries when a fire at the Harris Enterprises barn located at Two Rod Highway in the Town of Wethersfield flashed back upon him as he entered the barn.

30. Harris was transported to the burn unit at Bridgeport Hospital on October 29, 2007, where he has remained through the filing of the instant Complaint.

31. On October 30, 2007, at the Bridgeport Hospital, Harris signed a Power of Attorney compliant with the Connecticut Statutory Short Form Power of Attorney Act, Conn. Gen. Stat. §§ 1-42, et seq., authorizing Peruta to manage and conduct all of Harris' business and personal affairs.

32. Pursuant to his role as a corporate officer in Harris Enterprises, in accordance with the Power of Attorney signed by Harris on October 30, 2007, and following Harris' direct instructions, Peruta told Valadez to vacate 29 Carillon Drive so that Harris would have the peaceful use and enjoyment of his home to rehabilitate after his discharge from the hospital.

33. Valadez refused to leave 29 Carillon Drive.

34. Pursuant to his role as a corporate officer in Harris Enterprises, in accordance with the Power of Attorney signed by Harris on October 30, 2007, and following Harris' direct instructions, Peruta transferred the 1996 Ford Truck from 29A Carillon Drive in Rocky Hill to the Harris Enterprises location at Two Rod Highway in Wethersfield.

35. Harris had expressly prohibited Valadez from operating the 1996 Ford Truck since Valadez had been involved in a motor vehicle accident in August, 2007, and was scheduled to appear in superior court for motor vehicles offenses occurring on two separate dates.

Peruta's Arrest

36. Peruta removed the 1996 Ford Truck from 29A Carillon Drive on November 2, 2007, to Two Rod Highway in Wethersfield.

37. Valadez, knowing that Peruta was a corporate officer in Harris Enterprises, knowing that Harris had provided Peruta Power of Attorney, knowing that Harris had instructed and authorized Peruta to demand that Valadez vacate 29A Carillon Drive, and knowing that she had no right of use, possession, or ownership in the 1996 Ford Truck, falsely reported to the Rocky Hill Police Department that Peruta had stolen the 1996 Ford Truck from her.

38. Noble, knowing that Peruta was a corporate officer in Harris Enterprises, knowing that Harris had provided Peruta Power of Attorney, knowing that Harris had instructed and authorized Peruta to demand that Valadez vacate 29A Carillon Drive, and knowing that Valadez had no right of use, possession, or ownership in the 1996 Ford Truck, falsely reported to the Rocky Hill Police Department that Peruta had stolen the 1996 Ford Truck from Valadez.

39. The responding RHPD officer, Officer Kelley, and his supervisor, Sergeant Kulas, refused to investigate Valadez' standing to report the 1996 Ford Truck as stolen under Connecticut General Statutes, § 14-151a.

40. The responding RHPD officer, Officer Kelley, and his supervisor, Sergeant Kulas, refused to verify ownership of the 1996 Ford Truck.

41. The responding RHPD officer, Officer Kelley, and his supervisor, Sergeant Kulas, knew that Valadez did not have permission to occupy 29A Carillon Drive.

42. Officer Kelley, without probable cause, placed Peruta under arrest for theft of a motor vehicle, a violation of Connecticut General Statutes, § 53a-124, on November 2, 2007.

43. Sergeant Kulas, without probable cause, directed Officer Kulas and did place Peruta under arrest for theft of a motor vehicle, a violation of Connecticut General Statutes, § 53a-124, on November 2, 2007.

VIOLATIONS AND CLAIMS

Count I

False Arrest and Unreasonable Seizure

Defendants Brian Kelley and Leonard Kulas

Fourth and Fourteenth Amendments, 42 U.S.C. § 1983

44. Plaintiff Peruta hereby incorporates by reference under Count I each and every paragraph numbered 1 through 43, above.

45. On November 2, 2007, Officer Kelley, acting under color of state law, seized Peruta.

46. In arresting Peruta on November 2, 2007, Officer Kelley's actions were not objectively reasonable.

47. Officer Kelley failed to investigate Valadez's and Noble's claim that Peruta had stolen the 1996 Ford Truck.

48. Officer Kelley lacked probable cause to arrest Peruta on November 2, 2007.

49. Officer Kelley's unlawful seizure of Peruta's person was the proximate cause of the injury, damages, loss, and harm sustained by Peruta.

50. On November 2, 2007, Sergeant Kulas, acting under color of state law, seized Peruta.

51. In arresting Peruta on November 2, 2007, Sergeant Kulas' actions were not objectively reasonable.

52. Sergeant Kulas failed to investigate Valadez's and Noble's claim that Peruta had stolen the 1996 Ford Truck.

53. Sergeant Kulas lacked probable cause to arrest Peruta on November 2, 2007.

54. Sergeant Kulas' unlawful seizure of Peruta's person was the proximate cause of the injury, damages, loss, and harm sustained by Peruta.

Count II
False Arrest and Unreasonable Seizure
Defendant Town of Rocky Hill
Fourth and Fourteenth Amendments, 42 U.S.C. § 1983

55. Plaintiff hereby incorporates by reference under Count II each and every paragraph numbered 1 through 43, above.

56. Plaintiffs were injured as a result of the Town of Rocky Hill's failure to train its police officers to investigate stolen motor vehicle reports.

57. As a result of the Town of Rocky Hill's failure to train its officers, Plaintiffs were denied the use of Harris Enterprise property in the course of Harris Enterprise business.

58. As a result of the Town of Rocky Hill's failure to train its officers, Peruta was arrested without probable cause.

59. The Town of Rocky Hill's failure to provide proper training was a cause of injury to Plaintiffs.

Count III
Malicious Prosecution
Defendants Cheryl A. Valadez and Edward S. Noble III
Common Law Claim

60. Plaintiff Peruta hereby incorporates by reference under Count III each and every paragraph numbered 1 through 43, above.

61. Valadez and Noble falsely reported an incident to the Rocky Hill Police Department.

62. Valadez and Noble lacked a reasonable, good faith belief in the facts they alleged and in the validity of the claims they asserted to Officer Kelley.

63. Valadez and Noble knew that they were lying when they told Officer Kelley that Peruta had stolen the 1996 Ford Truck from Valadez.

64. Valadez and Noble engaged in the malicious prosecution of Peruta on November 2, 2007.

65. Peruta was unlawfully arrested and taken into custody.

66. Valadez and Noble authorized, encouraged, directed or assisted Officer Kelley in performing an unlawful act.

67. The restraint, detention or confinement, and arrest caused Peruta to suffer injury, damage, loss and harm.

Count IV
Intentional Infliction of Emotional Distress
Defendants Cheryl A. Valadez and Edward S. Noble III
Common Law

68. Plaintiff Peruta incorporates by reference under Count IV each and every paragraph numbered 1 through 43, above.

69. Valadez and Noble caused Peruta to lose his liberty by falsely reporting a crime to Officer Kelley on November 2, 2007.

70. Valadez and Noble caused Harris Enterprises to lose the use of its property by falsely reporting a crime to Officer Kelley on November 2, 2007.

71. Valadez and Noble, by committing the criminal offense of falsely reporting an incident, in violation of Connecticut General Statutes, § 53a-180c(a)(1), exceeded all bounds tolerated by decent society and engaged in conduct that was calculated to cause, and did cause, mental distress of a very serious nature.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs suffered damages and request this Court:

- a. Award Plaintiffs compensatory and punitive damages;
- b. Award Plaintiffs reasonable attorney's fees and costs;
- c. Award such other further relief as this Court may deem appropriate.

Dated this 6th day of November 2007, at Litchfield, Connecticut.

PLAINTIFFS
EDWARD A. PERUTA
HARRIS AGRICULTURAL ENTERPRISES, INC.

BY: _____

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