

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF NEW YORK

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UNKECHAUGE INDIAN NATION, CHIEF  
HARRY B. WALLACE, HARRY WALLACE  
INDIVIDUALLY,

Plaintiffs,

-against-

SUFFOLK COUNTY, SUFFOLK COUNTY  
POLICE DEPARTMENT, RICHARD DORMER,  
COMMISSIONER OF POLICE, STEVE LEVY,  
SUFFOLK COUNTY EXECUTIVE, THOMAS J.  
SPODA SUFFOLK COUNTY DISTRICT ATTORNEY,  
"JOHN and JANE DOE 1-100",  
Defendants.

COMPLAINT

Docket No.

PLATT, J.

BOYLE, M.J.  
5122

CV 08

FILED  
CLERK  
2008 DEC 19 PM 12:20  
U.S. DISTRICT COURT  
EASTERN DISTRICT  
OF NEW YORK

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Plaintiffs Unkechaugue Indian Nation Tribal Council, Chief Harry B. Wallace and Harry  
B. Wallace individually allege the following:

### I-PARTIES

- 1- The Unkechaugue Indian Nation is a New York Indian Tribe first recognized by the Colony of New York and then by its predecessor the State of New York. The Poospatuck Indian Reservation is a New York State Indian Reservation duly recognized by the State of New York. Although the Unkechaugue Indian Tribe and the Poospatuck Indian Reservation is not recognized by the Bureau of Indian Affairs it is acknowledged by the Federal Government as a New York State Indian Tribe having reservation lands within the State of New York.

- 2- Plaintiff Unkechauge Indian Nation Tribal Council is a duly elected Tribal Council pursuant to New York State Indian Law Section 150 et. Seq. The responsibility of the Tribal Council is to represent and protect the rights of the Unkechauge Indian blood right members who reside on the reservation lands and to manage the affairs of the tribal members and the tribal lands.
- 3- All of the Tribal Council members reside on the reservation and are blood right members of the Tribe. The Council is duly elected as set forth in the NY Indian Law and consistent with the Regulations, Rules and Customs of the Unkechauge Indian Nation.
- 4- Plaintiff, Chief Harry B. Wallace is the duly elected Chief of the Unkechauge Indian Nation pursuant to New York State Indian Law 150 et seq. The responsibility of the Chief is to act as spokesmen for the Tribe and to represent the Tribe in and outside of the reservation lands pursuant to NY Indian Law and consistent with the Regulations, Rules and Customs of the Unkechauge Indian Nation.
- 5- Harry B. Wallace is an individual blood right member of the Unkechauge Indian Nation and resides on the Poospatuck Indian Reservation located in Mastic, New York.
- 6- All plaintiffs are a protected class of persons for purposes of bringing this action for discrimination. (Referred to herein as Unkechauge Indians, Indians, Native American, and residents of the Poospatuck Indian Reservation).
- 7- The Poospatuck Indian Reservation is a fifty-six acre New York State reservation that is the ancestral lands of the Unkechauge Indian Tribe located in Mastic, New York.

- 8- Defendant Suffolk County is a municipal corporation duly organized under the laws of the State of New York.
- 9- Defendant, Richard Dormer is the Commissioner of the Suffolk County Police and a citizen and resident of the County of Suffolk in the State of New York.
- 10- Defendant, Steve Levy is the Executive for the County of Suffolk in the State of New York and is a resident of Suffolk County, New York.
- 11- Thomas J. Spoda is the District Attorney for Suffolk County and in the State of New York and is a resident of Suffolk County.
- 12- The Suffolk County Police Department is a subdivision of Suffolk County in the State of New York.
- 13- “John and Jane Doe” are parties to be named later upon learning the proper names and titles of such individuals or entities. “John and Jane Does 1-100” include but are not limited to third parties in litigation with the plaintiffs who have conspired with the defendants to deprive the plaintiffs of their constitutional rights through vehicle stops at the three entrances and exits of the Poospatuck Indian Reservation on December 6, 2008.

## **II-JURISDICTION AND VENUE**

- 14- All matters in this Complaint occurred in the County of Suffolk in the State of New York. The Plaintiffs and the Defendants reside in Suffolk County, New York.
- 15- The claims arise pursuant to violations of the First, Fourth and Fourteenth Amendment of the Constitution of the United States of America.
- 16- The claims also arise under 42 U.S.C. §§ 1983 and Section 1985 et seq.

### **III- FACTS**

- 17- On or about December 6, 2008, the Suffolk County Police Department dispatched police cruisers to the three entrances to the Poospatuck Indian Reservation in Mastic, New York.
- 18- The police in their official capacity, in police uniforms with firearms and police vehicles blockaded the Poospatuck Indian Reservation by parking police vehicles at the three entrances to the reservation and stopping vehicles going onto and exiting the reservation. (Photographs attached hereto as Exhibit A).
- 19- The defendants caused the vehicles and the individuals in the vehicles to be stopped and harassed on or about December 6, 2008 from nine o'clock in the morning until approximately four o'clock in the afternoon.
- 20- The police officers that were at the reservation on December 6, 2008 were ordered to stop and illegally harass and bother the residents of the reservation by the defendants Steve Levy, County Executive and Richard Dormer, Police Commissioner and "John and Jane Doe 1-100". The vehicle stops by the police were used to search residents of the Poospatuck Indian Reservation in order to threaten and intimidate the individual Indians from freely moving from one place to another. The evident result of the vehicle stops was the violation of the rights of the protected class of Native Americans residing on the Poospatuck Indian Reservation.
- 21- Upon information and belief the defendants Steve Levy, Richard Dormer and Thomas J. Spoda knew or should have know of the activities of the police officers on December 6, 2008 as set forth in ¶ 1-37 of the Complaint and failed to stop the illegal activity in their official capacity.

22- Upon information and belief, defendants Steve Levy conspired with others including “John and Jane Does 1-100” to violate the constitutional rights of the plaintiffs by permitting the unlawful vehicle stops at the Poospatuck Indian Reservation on December 6, 2008 by the Suffolk County Police. The parties that conspired with the defendants are third parties in litigation with the Unkechauge Indian Nation, individual Unkechauge Indians and their businesses on the Poospatuck Indian Reservation.

23- Upon information and belief, defendants Richard Dormer conspired with others including “John and Jane Does 1-100” to violate the constitutional rights of the plaintiffs by permitting the unlawful vehicle stops at the Poospatuck Indian Reservation of December 6, 2008 by the Suffolk County Police. The parties that conspired with the defendants are third parties in litigation with the Unkechauge Indian Nation, individual Unkechauge Indians and their businesses on the Poospatuck Indian Reservation

24- Upon information and belief, defendants Thomas J. Spoda conspired with others including “John and Jane Does 1-100” to violate the constitutional rights of the plaintiffs by permitting the unlawful vehicle stops at the Poospatuck Indian Reservation on December 6, 2008 by the Suffolk County Police. The parties that conspired with the defendants are third parties in litigation with the Unkechauge Indian Nation, individual Unkechauge Indians and their businesses on the Poospatuck Indian Reservation.

25- On or about December 6, 2008 the Suffolk County police blocked the entrance to and exit from the Poospatuck Indian Reservation at Eleanor Avenue and Squaw

Lane; Eleanor Avenue and Poospatuck Lane and Eleanor Avenue and Overlook Drive from nine o'clock in the morning until approximately four o'clock in the afternoon.

- 26- Under official authority or color of official authority as Suffolk County Police in their official capacity the Police on December 6, 2008 purposely and with full knowledge and intent violated the rights of the Native American Indians residing on the Poospatuck Indian Reservation.
- 27- The Poospatuck Indian Reservation borders to the North Eleanor Avenue and to the South the Forge River and encompasses 56 acres. There is one street that runs through the reservation that is known as Poospatuck Lane. The three streets that lead into and out of the reservation are Squaw Lane, Poospatuck Lane and Overlook Drive. (See Exhibit B attached hereto). Due to the fact that the streets blockaded and vehicles stopped at the only three exits and entrances to the Poospatuck Indian Reservation (where only blood right members of the reservation and families can live could) result in disproportionate vehicle searches of Native Americans. The violation of the constitutional rights of the Unkechaug Indian residents of the Poospatuck Reservation was a foregone conclusion by the police considering the location of the blockade and vehicle stops. The consciously selected location of the blockade by the police achieved the objective of violating the rights of the Native Americans with limited impact on the white community residing only blocks away from the Poospatuck Indian Reservation.
- 28- The reservation lands are well demarcated and the police department was fully aware of the reservation boundaries. The police set up the blockade for the vehicle stops at

the only three arteries leading off and on the reservation so that the vehicle stops would not infringe on the rights of the neighboring white residents near the Reservation.

29- The reservation lands are governed and controlled by the Unkechaug Indian Nation Tribal Government pursuant to the Tribal Rules regulations and Customs and NY Indian Law 150 et seq. The Tribal Council has the sole authority to allow persons onto the reservation. The actions of the Police of December 6, 2008 violated the individual rights of the Tribal members to run their sovereign political affairs without interference intimidation and fear for their personal safety.

30- The Unkechaug Tribe does not have a police department or a court system.

Pursuant to New York State Law an Indian Tribe can obtain enforcement from local police if necessary. However, due to the fact that the Suffolk County police created illegal activity as an official branch of Suffolk County, the Unkechaug Tribal Council could not seek assistance from the Police because they were responsible for the illegal activity and violation of the constitutional rights of the Indians living on the reservation. The vehicle searching was being conducted by the police the same police enforcement the tribe would have to rely upon.

31- The action of the police of December 6, 2008 put fear into the Indian residents of the Poospatuck Indian Reservation. The fact that the police were acting in their official capacity armed with weapons, wearing official police uniforms and driving police vehicles residents of the reservation believed that the reservation was going to be occupied by force and they were going to be harmed physically by the police.

- 32- The residents of the reservation on December 6, 2008 was approximately 250 persons which include, men, women , children, senior citizens and handicapped persons.
- 33- Some of the Indian residents living on the reservation were prevented from participating in their religious services and attending political meetings for fear of the police on Saturday December 6, 2008. The Tribal Council was stopped from meeting to address the police blockade. The Native Americans were fearful of being stopped by the police and having their family members harassed and bothered by the police, in order to protect their family members and selves some tribal members were afraid to attend their holiday religious services and events and political meeting.
- 34- Some Unkechaug Indian residents avoided meeting other Unkechaug Indians on the reservations to discuss Tribal politics due to the presence of the police blockade and vehicle stops for fear of being arrested if they met to discuss tribal politics.
- 35- The police took personal information from Indian residents of the Poospatuck Indian Reservation to identify the vehicle and plate number and name and address of the Indian stopped. Upon information and belief, no violations were issued just personal information obtained by the police.
- 36- The police located just at the border of the reservation to further implement their illegal activities without entering onto the reservation lands per se. Nevertheless the calculated illegal conduct intentionally planned to harass and bother the Indians living on the reservation was all done under the color of official police authority.



- 37- The police have blockaded the reservation in the past and will likely continue this course of conduct. On or about 2005 the Suffolk County Police blockaded the Poospatuck Indian Reservation and refused to permit Indians onto the reservation. The Suffolk County Human Rights Commission convinced the Suffolk County police to stop that activity believing it was not going to occur again, however the understanding reached with the Human Rights Commission has now been rejected by the Suffolk County Police and defendants as witnessed from their actions of December 6, 2008.
- 38- The defendants have and continue to engage in conduct and a pattern of practice of blockading the Poospatuck Indian Reservation to perform vehicle stops and post-vehicle stop enforcement actions and procedures that include searches of Native American residents of the reservation travelling onto the Poospatuck Indian reservation. All of which are administered with the intent to discriminate against the Indians who reside on the Poospatuck Indian reservation.
- 39- Defendants including but not limited to Steve Levy and Richard Dormer through their acts or omissions permitted racially discriminatory law enforcement by the Suffolk County Police Department. In failing to implement procedures, policies, training, supervision, monitoring, and discipline of Suffolk County police officers to use vehicle stops in the manner described above to discriminate against Native Americans living on the Poospatuck Indian reservation.
- 40- The practice described above constitutes intentional racial discrimination by defendants in performing vehicle stops and pre stops enforcement actions and

procedures, including searches of Native Americans living on the Poospatuck Indian Reservation in Mastic, New York.

**IV-AS AND FOR THE FIRST CAUSE OF ACTION 42 U.S.C. 1983:  
ADMENDMENTS I, IV and XV OF THE UNITED STATES CONSTIUTION**

- 41- The plaintiffs reiterate and re-allege paragraphs 1-38 of the complaint with full force and affect as if fully set forth herein.
- 42- The defendants acting under color of law and under claim of authority granted to them by Suffolk County have collectively and individually engaged in actions, abuses and omissions, which have deprived the plaintiffs of equal protection of the law.
- 43- The plaintiffs have a constitutionally protected right to equal protection of the laws and to enjoy equal privileges and rights afforded white persons, pursuant to the Equal Protection Clause of Amendment XIV of the United States Constitution.
- 44- The plaintiffs further have a protected liberty of free speech, ability to assemble and practice religion without interference by the defendants under Amendments I of the United States Constitution.
- 45- The plaintiffs further have a protected right to be secure in their persons, houses, papers and effects against unreasonable searches and seizures under Amendment IV of the United States Constitution.
- 46- On December 6, 2008, the Suffolk County police department blockaded the three entrances and exits to the Poospatuck Indian Reservation from nine o'clock in the morning until approximately four o'clock in the evening. The police acted under color of authority in police issued uniforms with firearms and in officially marked police vehicles. The police stopped vehicles going onto and off the reservation and

conducted searches of said vehicles occupied by Unkechaug Indians who reside on the reservation. (See facts more fully set forth in ¶¶ 1-38 of the complaint).

**V-AS AND FOR A SECOND CAUSE OF ACTION 42 U.S.C. 1985**

47- The plaintiffs reiterate and re-allege paragraphs 1-38 of the complaint with full force and affect as if fully set forth herein.

48- The defendants in violation of 42 U.S.C. 1985 conspired with third party litigants in other legal actions against the Unkechaug Indian Nation, individual Indians and businesses owned by the plaintiffs. Plaintiff conspired with third parties not in the same official capacity as Suffolk County defendants. (See facts more fully set forth in ¶¶ 1-38 of the complaint).

47-The defendants have and continue to engage in conduct that subjects the Unkechaug who reside on the Poospatuck Indian Reservation to discrimination on the basis of race in violation of Amendments I, IV and IV of the United States Constitution of the United States and Federal Statutes 42 U.S.C. ¶¶ 1983 and 1985 et. seq. as fully set out in ¶¶1-38 of the complaint.

**WHEREFORE, THE PLAINTIFFS PRAY THAT THE COURT GRANT THE FOLLOWING RELIEF:**

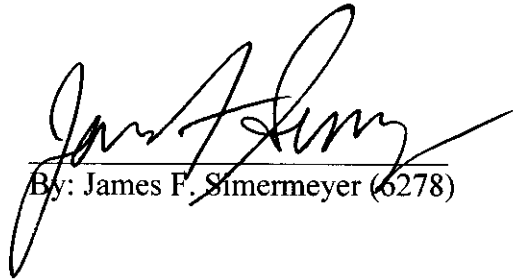
A- Plaintiffs be granted declaratory and equitable relief to eliminate a pattern and practice of law enforcement that discriminates against the Unkechaug Indians who reside on the Poospatuck Indian Reservation and permanently enjoin the defendants from blockading of the Poospatuck Indian Reservation;

- B- Enjoin the plaintiffs from conducting vehicle stops and searches at the entrance and exit streets, Eleanor Avenue, Squaw Lane, Poospatuck Lane and Overlook Drive and the 56 acres of land that make up the Poospatuck Indian Reservation;
- C- Order plaintiffs in conjunction with defendants, develop and implement policies, training, supervision, procedures to address grievances by the Tribal Members, by the Suffolk County Police to stop the official use of vehicle stops to discriminate against the Indians who reside on the Poospatuck Indian Reservation and for such other relief that this court may deem just and proper.

JURY TRIAL IS HEREBY DEMANDED

Dated: New York, New York  
December 19, 2008

Law Offices of James F. Simermeyer PC  
101 Avenue of the Americas 15<sup>th</sup> Floor  
New York, New York 10013  
Tel. 212-691-7070  
Fax: 212-691-7070  
Email: [jsimermeyer@cs.com](mailto:jsimermeyer@cs.com)  
Email: [James@Simermeyer.com](mailto:James@Simermeyer.com)

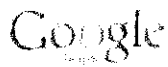


By: James F. Simermeyer (6278)

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Results 1-4 of about 4 for  
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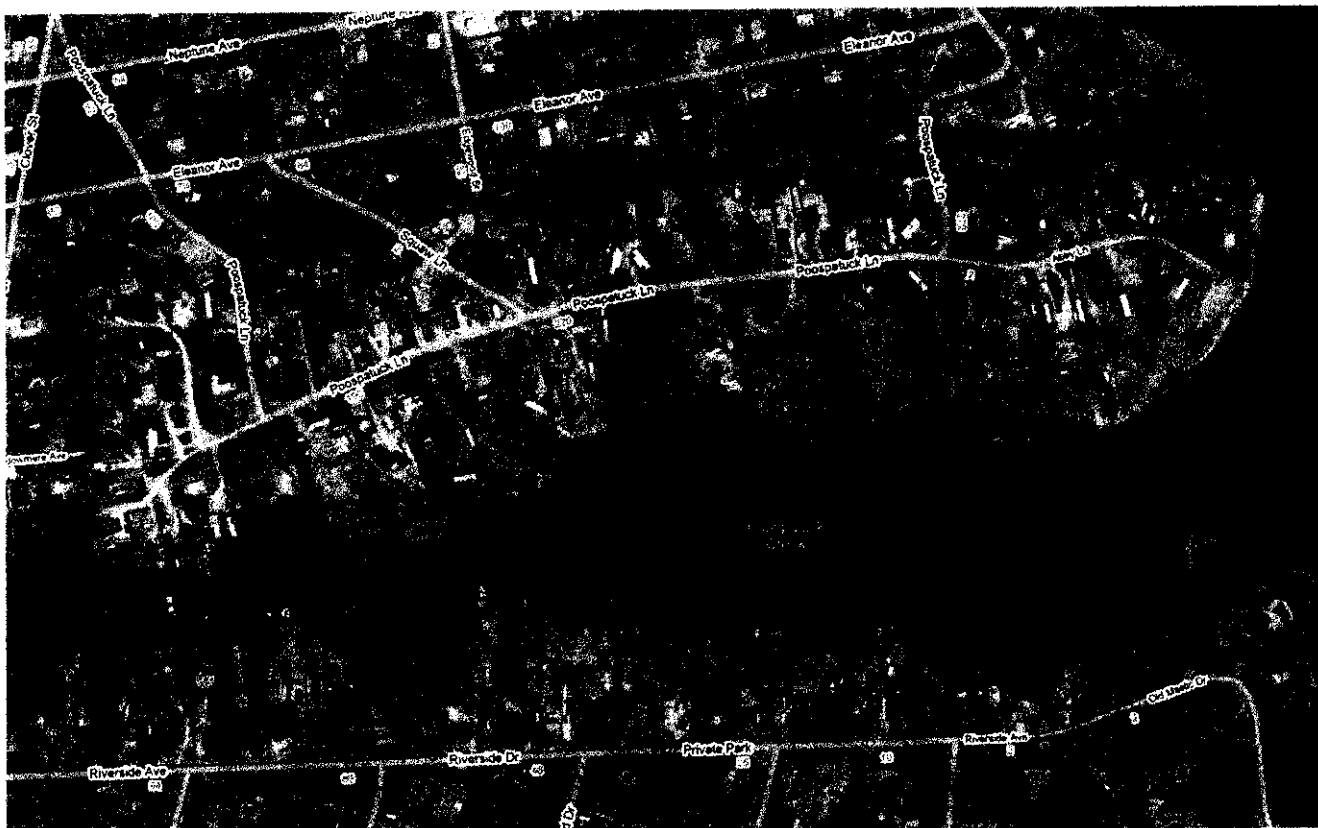
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|---|---|
| A. Finkelstein Newman LLP<br>225 Broadway, New York, NY -<br>(212) 725-1100<br>1 review | B. New York City Hall<br>250 Broadway, New York, NY -<br>(212) 227-7777 |
| C. Prusan Eric I<br>33 Willis Ave, Mineola, NY - (516) 747-6461                         | D. Long Island<br>(631) 543-7500  |





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| C. Prusan Eric I<br>33 Willis Ave, Mineola, NY - (516) 747-6461                         | D. Long Island<br>(631) 543-7500  |