

Civil Rights Litigation

Claims, evidence, remedies and informed client decisions

A connected practice file from intake and verified notices to supported pleadings, preservation, damages and settlement.

PROGRAM FACULTY

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PRESENTED IN PARTNERSHIP WITH



LATINO LAWYERS ASSOCIATION
OF QUEENS COUNTY

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About the course

A practical guide from the first interview to resolution.

Civil Rights Litigation develops the episode's discussion of police-misconduct cases into a practical guide for New York attorneys. It follows a potential claim from intake and preservation through accrual, pleading, proof, defenses, fees and settlement. Federal-officer remedies and the new custodial filing provision receive bounded introductions; full prison-conditions litigation and employment discrimination remain outside its substantive scope.

The legal analysis was rechecked on October 12, 2026. The recording date remains unverified. Later decisions and the 2026 custodial filing amendments are addressed in the written analysis and should not be attributed to the recording. All teaching case files are fictional; they do not establish a real case outcome or faculty approval of the editorial analysis.

Proposed New York CLE credit: 1.5 Areas of Professional Practice, subject to approval of the final course. This review edition does not establish accreditation or attendance credit. Written supplements support learning; they do not create additional recorded instruction.

Read each claim as a separate legal theory. An unlawful stop, an unsupported charge, a false report, and excessive force can arise together while requiring different evidence, accrual dates, and defenses. The book's examples make those differences explicit.

What you will be able to do

1. Select the appropriate defendant, cause of action, and forum for an alleged police wrong.
2. Build a claim-specific deadline ledger and identify notice, service, and hearing requirements.
3. Distinguish probable cause, favorable termination, fabrication, and independent excessive force.
4. Prepare supported allegations and an evidence-preservation plan using a concrete case file.
5. Evaluate individual liability, municipal policy, immunity, and indemnification separately.
6. Explain litigation expenses, potential damages, and settlement choices through a documented client recommendation.

A practical reading path

Chapters 1–2 identify the claim and protect its deadlines. Chapters 3–6 analyze arrest, force, prosecution, and fabrication. Chapters 7–8 develop defendants and proof. Chapters 9–10 connect resources and damages with informed client decisions. The final applications revisit the decisive distinctions. Numbered citations link to the authorities at the back.

Attorneys with Swag × Latino Lawyers Association of Queens County. Review edition 2.0 • October 9, 2026. Quality revision Q1 • October 12, 2026.

The connected case file

Law-review date: October 9, 2026. The fictional Queens file follows Reed’s January 4, 2024 arrest, January 5 release, January 29 partial dismissal and June 10 final dismissal without a bargain. Notices are served January 8 and June 12; suit begins December 2. June 2026 discovery informs the October 2026 recommendation. Later evidence is never presented as known at intake. Quinn, Morrow and Rowan are independent files.

All teaching documents, witness words, sworn statements, signatures and orders are fictional editorial examples, not real filings or faculty case accounts. Proposed orders are distinguished from assumed records. Unknown facts remain unknown unless expressly supplied.

Find the completed work products

File	Product and chapter
A1 / N0–N4	Actor/forum choice; custody-law variation; verified notices, service, examination, deadlines and late-relief application; 1–2
P1–P3 / E1–E2	Causation, evidence chronology, supported pleading, encounter and plea/force analysis; 3–4
C1–C2 / B1–B2	Count-specific dispositions, sufficiency submission, fabrication and disclosure/vacatur files; 5–6
M1–M3 / D1–D4	Defendant/remedy matrix, policy exhibits and requests, immunity, preservation, clock comparison and action ledger; 7–8
F1–F2 / V1–V3	Fee/expense proof, client authority, damages exhibits, evidentiary motion and final recommendation; 9–10
Blake problem	New dated intake and distribution problem, followed by a reasoned answer; Review and application

Meet the faculty

Masai Lord, Esq.



Founding Partner, Lord Trial Group PLLC

Masai Lord is a founding partner of Lord Trial Group PLLC, representing clients in civil-rights, criminal-defense and employment-discrimination matters. His experience includes litigation in state and federal courts, criminal trials and appeals in the Appellate Division, First Department. Before co-founding the firm, he worked as a public defender in Brooklyn.

He earned his J.D. from St. John's University School of Law in 2014 and was admitted to practice in New York in 2015. His civil practice has included wrongful-conviction claims, police-misconduct litigation, and disputes involving workplace discrimination and sexual harassment. He was selected to Super Lawyers Rising Stars from 2022 through 2025 and to Super Lawyers in 2026.

Education: J.D., St. John's University School of Law, 2014

Admission: New York, 2015

Practice: Founding partner, Lord Trial Group PLLC; civil rights, criminal defense and employment discrimination

Recognition: Rising Stars, 2022–2025; Super Lawyers, 2026

Meet the faculty continued

Eugene D. Toussaint, Esq.



President, Attorneys With Swag Inc.; Staff Attorney, The Legal Aid Society

Eugene D. Toussaint is President of Attorneys with Swag Inc. and a staff attorney in The Legal Aid Society's Criminal Defense Practice in Queens. As a public defender, he represents people facing criminal charges. He founded AWS to make legal knowledge accessible through its podcast, music, and community education programs, and serves as a host and showrunner.

He graduated from Mount Saint Vincent in 2010 after studying history and psychology and earned his J.D. from St. John's University School of Law in 2014. He was admitted to the New York bar in 2015. A Bronx native and first-generation college graduate, he developed his interest in public education and community organizing alongside his legal career.

Education: Mount Saint Vincent, 2010, history and psychology; J.D., St. John's University School of Law, 2014

Admission: New York, 2015

Leadership and practice: President, Attorneys With Swag Inc.; staff attorney, The Legal Aid Society, Queens Criminal Defense Practice; AWS host and showrunner

Meet the faculty continued

Jack Gomez



Producer, Host and Designer, Attorneys With Swag; Educator

Jack Gomez is an educator, designer and musical artist from Coney Island, Brooklyn. He is a producer, host and designer for Attorneys With Swag, hosts The Jury's Out, and serves on the organization's board. His education background includes classroom support for teachers and individual work with students with different learning needs in New York City's Department of Education.

He founded Splaticus in 2021, developing an art and fashion practice centered on individually designed clothing. His creative work draws on street art, painting, music and dance, with an emphasis on color, texture and personal expression. Alongside that work, his background in education includes helping young people build work habits, confidence and independence.

AWS roles: Producer, host, designer and board member; host of The Jury's Out

Education experience: Classroom and individual student support in New York City public education

Creative work: Founder, Splaticus, established in 2021; art, fashion, music and visual design

1. Identify the claim

Begin with the actor, the challenged conduct, and the right allegedly violated.

1.1 Section 1983 supplies a remedy

42 USC 1983 provides a civil remedy against a person who, acting under color of state law, deprives another of a federal right. It is not a general compensation program for every harmful government encounter. Identify the right and the defendant's act: an unreasonable seizure, objectively unreasonable force, or a deprivation caused by fabricated evidence. A violation of a departmental rule may supply relevant evidence without itself establishing a constitutional violation. [1]

Color of law concerns the use or misuse of government authority. It does not simply mean that an officer was on duty. An off-duty officer who invokes police authority to detain someone can act under color of law; an officer engaged in a purely private dispute may not. Pitchell rejects reliance on police employment alone. Ask about identification as an officer, commands, displayed credentials, use of official equipment, and the connection between authority and the injury. [1]

Compare two accounts. An off-duty officer argues with a neighbor over a parking space and punches the neighbor without invoking police power. State tort liability may be substantial, but section 1983 needs an additional state-action basis. Change the facts: the officer displays a badge, announces an arrest, orders backup through official channels, and uses that authority to confine the neighbor. Those facts materially support color of law even if the personal motive remains. Neither account is resolved by the duty roster alone.

1.2 Federal officers require a different analysis

Section 1983 ordinarily addresses state and local authority. Do not copy it mechanically into a complaint against a federal agent. Bivens describes an implied damages remedy in a limited set of constitutional settings. *Egbert v. Boule* emphasizes that extending Bivens to a new context is strongly disfavored and may be foreclosed by reasons for leaving a remedy to Congress. A federal badge does not supply a general constitutional damages action. Joint operations require examination of the authority actually exercised. [2]

The Federal Tort Claims Act is a separate route against the United States for qualifying torts, subject to exceptions and administrative requirements. Ordinarily, a claimant must present the claim to the appropriate agency within two years after accrual, then observe the six-month period after a qualifying mailed final denial. Section 2675 generally requires agency disposition or six months of inaction before suit. These are not the New York notice-of-claim rules. In *Martin v. United States* (2025), the Supreme Court held that the law-enforcement proviso does not erase the FTCA's discretionary-function exception and

rejected a separate Supremacy Clause defense to FTCA liability. Federal-officer screening therefore requires its own statute, defendant, exhaustion, and exception analysis. [2]

1.3 Choose the courthouse deliberately

A federal claim can ordinarily be heard in state court; related state tort claims may accompany a federal case under supplemental jurisdiction. A defendant may be able to remove a state action containing a federal claim. The forum does not change a New York tort into a federal cause of action or erase the tort's notice requirements. Consider jurisdiction, venue, governing precedent, local rules, scheduling, admission, and whether the federal court may later decline supplemental jurisdiction. [3]

New York federal district courts sit within the Second Circuit. Queens, Kings, Richmond, Nassau, and Suffolk are in the Eastern District. New York and Bronx Counties are in the Southern District, together with the additional counties listed in 28 USC 112. Florida is in the Eleventh Circuit, not the Fifth. Admission to a state bar does not by itself establish admission to every federal district or appellate court. Check the chosen court's current admission procedure before appearing. [3]

First intake product. Write: "Local officers; alleged arrest and force in Queens; potential section 1983 and New York tort claims; EDNY or competent state forum to evaluate; notices and identities require immediate work." This is a useful starting classification. "Civil-rights lawsuit against the police" leaves too many controlling questions unanswered.

1.4 File A1: the completed intake and forum decision

Jordan Reed • intake January 8, 2024; teaching analysis updated October 9, 2026. Reed is an adult New York resident. The encounter occurred outside 100 Example Street, Queens, a fictional address. Lane and Mora are fictional NYPD officers; Lane displayed his badge, announced an arrest and used police restraints. Reed seeks compensation for confinement, force and the use of an allegedly false observation. This exercise supplies assumed records; it makes no accusation about a real officer, claimant or prosecution. Later decisions cited in this edition explain the file retrospectively.

Completed classification. Lane's asserted arrest authority supports action under color of state law. The Fourth Amendment supplies the arrest/force questions; the later prosecution and fabricated-evidence theories require their own elements and causal injuries. The City is a separate potential defendant, with a policy theory under section 1983 and potentially different state-law responsibility. "NYPD" is not a substitute suable defendant. Mora's presence does not establish that Mora wrote Lane's report, used the challenged force or had time to stop it. Chapter 7 completes the defendant-by-defendant decision. [1,24,27,28]

Forum memorandum, conclusion. On these assumptions, EDNY is a supported forum for the federal claims: the material events occurred in Queens, within that district, and the claims invoke federal law. Related New York tort claims arise from the same incident; plead

the basis for supplemental jurisdiction and their independent prerequisites. Federal-question jurisdiction does not require diversity of citizenship or a \$75,000 controversy. A competent state court is also an available starting forum, but a federal claim can permit removal. Do not promise that selecting state court will keep the case there, or that the federal court must retain the state claims after the federal claims leave the case. Counsel must separately satisfy the chosen court's admission, filing and service rules. The fictional December 2, 2024 complaint below assumes admitted counsel and timely service; it does not turn a notice into a summons. [3,46]

Changed actor. Substitute an off-duty neighbor who never uses police authority. The badge in the neighbor's drawer does not make a private punch a federal civil-rights violation. Investigate state assault/battery, identification, insurance and the governing limitation; do not retain the municipal calendar without checking scope and indemnification. Substitute a federal agent executing only federal authority: screen Bivens under Egbert, and the distinct FTCA remedy against the United States, agency presentment, exceptions and exhaustion. Martin rejected a separate Supremacy Clause defense, but did not abolish the discretionary-function exception or award recovery for every wrong-address raid. A joint task-force label alone answers neither actor question. [1,2]

1.5 Reading the connected file

The January intake contains only Reed's account, treatment records and an initial video lead. Later chapters expressly add June 2026 discovery, including a full recording, report versions and testimony. An allegation supported by those later materials was not necessarily supportable on January 8. Preserve that distinction when reading the completed examples.

The principal record follows **Reed**, whose charges were dismissed without a bargain. **Quinn** is the independent fee-and-lien example; **Morrow** is the separate conviction/disclosure exercise; **File E2** changes the plea facts. None of those variations silently changes Reed's disposition. The worked examples are followed by explanations and changed facts so that the reader can test the rule rather than copy a result.

2. Protect the clocks

Calendar each claim's accrual event, then its notice, filing, and service requirements.

2.1 One incident can start several periods

New York section 1983 actions ordinarily borrow the three-year general personal-injury limitations period. Federal law determines accrual. Under *Wallace v. Kato*, a false-arrest claim involving detention without legal process accrues when that detention ends through legal process, such as arraignment and being held pursuant to it. Counsel cannot assume that dismissal of the criminal case starts every civil clock. A force claim ordinarily accrues when the injury occurs and is known; a prosecution claim ordinarily awaits the required favorable termination. Fabrication has the separate McDonough analysis discussed in Chapter 6. [4] [22]

State claims require their own treatment. New York false-imprisonment accrual generally follows termination of the confinement, as *Bumbury* illustrates. Do not mechanically replace that event with *Wallace*'s federal rule. General Municipal Law 50-i generally gives one year and ninety days for covered municipal tort actions; CPLR 215 can impose a one-year period on specified intentional torts where the municipal framework does not supply the governing period. Identify the defendant, indemnification framework, claim, and any actual toll before choosing a date. [6] [7]

The fictional Reed file. Jordan Reed reports arrest and force January 4, 2024. Arraignment and physical release both occur January 5. The disorderly-conduct count ends January 29; final dismissal of the remaining assault count ends the prosecution June 10, without any plea bargain. Assume each relevant termination qualifies for the particular claim calculated. Reed is an adult, no applicable toll or revival alters these historical dates, and the municipal claims use the stipulated section 50-i framework. The connected file supplies timely notices and a December 2, 2024 complaint. These are teaching assumptions, not findings about a real client.

Claim or step	Worked calendar entry
Force / state notice	January 4 accrual; ninety days expires April 3, 2024.
State false imprisonment / notice	January 5 release; ninety days expires April 4, 2024.
State prosecution / notice	June 10 termination; ninety days is September 8, 2024, a Sunday; applicable next-business-day rule gives September 9.
Covered municipal force action	One year plus ninety days from January 4, 2024 gives April 4, 2025.

Claim or step	Worked calendar entry
Covered municipal false imprisonment	One year plus ninety days from January 5 gives April 5, 2025, a Saturday; applicable extension gives April 7.
Covered municipal prosecution action	One year plus ninety days from June 10 gives September 8, 2025.
Federal force / false arrest	Ordinary three-year anniversaries: January 4 and January 5, 2027, respectively.
Federal prosecution	Ordinary three-year anniversary: June 10, 2027; separately prove accrual and favorable termination.

2.2 Show the arithmetic and the assumptions

Exclude the triggering day when counting the ninety days. For January 4, 2024, the remainder of January supplies 27 days, February supplies 29 because 2024 is a leap year, and March supplies 31. That totals 87; April 3 is day 90. For one year and ninety days, first reach January 4, 2025, then add ninety days in that year: April 4. “Three months” and “one year plus three months” produce different answers and are unsafe substitutes. Calendar internal action dates well before the legal outside date. [7]

Each ledger entry should retain the document establishing the event, the legal rule, the unadjusted date, any applicable weekend/holiday adjustment, and the responsible attorney. The table assumes both federal legal process and state release on January 5. If Reed is arraigned January 5 but remains confined, the state release analysis and the federal false-arrest accrual analysis may diverge. If a dismissal is subject to revival, the assumed prosecution date also requires reconsideration.

2.3 Notice is a separate work product

For covered state claims, General Municipal Law 50-e ordinarily requires notice service within ninety days after accrual. Identify the claimant and attorney, claim, time, place, manner, and known injuries or damages. Use an authorized recipient and method; retain service proof. Drafting a notice, making an administrative complaint, or alerting an officer is not necessarily service. Municipal possession of records is not an automatic substitute. [5]

Completed notice file. Sections 2.5–2.7 supply model notice text, sworn verifications, assumed service evidence, a separate later prosecution notice and the examination/action sequence. They distinguish facts known at intake from later discovery. Section 2.8 develops a discretionary late-notice application with supporting evidence and proposed relief.

Under section 50-e(5), late-notice relief is discretionary. Address timely actual knowledge of essential facts, the reason for delay, substantial prejudice, and other applicable statutory factors with evidence. The extension ordinarily cannot exceed the action’s limitations period, subject to applicable tolls. A missed notice therefore requires immediate analysis of available relief, not an assurance that the court will excuse it. [5]

Section 50-h permits a timely demanded examination. Prepare the client from records and independent memory, obtain the transcript, and reconcile genuine discrepancies. Compliance is generally required before suit. The ninety-day rule after service of the demand has qualifications where the claimant fails to appear or seeks postponement. Section 50-i separately requires the prescribed post-notice waiting period—ordinarily thirty days, with a variation for Secretary of State service. Neither procedure automatically extends the outside limitations period. [6]

A state notice requirement does not become a condition of a section 1983 claim merely because that claim is filed in state court. *Felder v. Casey* supplies the federal preemption rule. Preserve both systems where both kinds of claims are contemplated. [8]

2.4 Current-law checkpoint: custody does not erase ordinary calendars

The ordinary calendar above remains correct on its stated facts, but it is incomplete as a universal current-law account. CPLR 208-a, General Municipal Law 50-e and 50-i now address specified custodial injuries. The February 2026 chapter amendment provides the ordinary applicable limitations period **and an additional two-year window following release from the relevant custody**. The exemption from notice applies to otherwise time-barred claims revived by the provision; it does not dispense with notice for claims timely under the ordinary limitation. Community supervision is excluded from the specified DOCCS category. Correction Law 40 defines local correctional facilities broadly enough to include municipal lockups and court detention pens: “not a state prison” is an insufficient exclusion analysis. [41]

The effective-date provision also matters. The legislation applies to custody periods ending on or after December 19, 2025 and does not revive or extend a claim already time-barred before that effective date. In *Streat*, the Court of Claims applied the amended law to dismiss a claim served and filed one day outside the ordinary ninety-day period before the law took effect. The decision illustrates why the superseded three-year formulation and an assumption that ongoing custody suspends every deadline are unsafe. It is a Court of Claims decision, not a ruling that every municipal claim has identical prerequisites. [41]

Application to Reed. Reed’s relevant custody ended January 5, 2024. The new window does not replace the historical dates shown here. The fictional suit was filed December 2, 2024, before the ordinary outside dates; no revival is needed. A practitioner screening a new file must record the facility, injury and release dates, the ordinary deadline, whether the claim was already barred on December 19, 2025, and why the provision applies. Do not apply this

state-law example mechanically to the accrual or borrowing analysis for every federal cause of action.

Changed custodial injury, File N0. Assume an adult suffers a known injury in a county jail January 10, 2026, remains in that custody until September 1, 2026, and has a covered municipal tort with no other toll. The ordinary ninety-day notice date is April 10, 2026; the ordinary one-year-and-ninety-day action date is April 10, 2027, a Saturday, adjusted to April 12 under the assumed applicable rule. The additional postrelease window runs to September 1, 2028. At an October 9, 2026 intake, the action is still within its ordinary limitation: counsel cannot simply invoke the revived-claim notice exemption to excuse a missing notice. Seek prompt late-notice analysis and preserve the federal claims. The statute's later revival route is a separate inquiry, not advice to abandon an available timely procedure. Change release to November 2025: the effective-date condition fails. Change the incident to an ordinary street encounter before covered custody: establish statutory coverage before using the window. [5-8,41]

2.5 File N2: completed verified notice of claim

Fictional teaching record • January 8, 2024 • no actual filing, signature or notarization.

This is a completed narrative notice demonstrating statutory content and sworn verification. The historical example does not purport to reproduce the City's 2026 electronic form. The City's current form and service guidance are separately identified below. [5,42]

To: City of New York, through the Office of the New York City Comptroller, 1 Centre Street, Room 1225, New York, NY 10007. **Claimant:** Jordan Reed, 10 Training Lane, Apt. 2, Queens, NY 11101. **Attorney:** Dana Ellis, Ellis Teaching Law, 20 Training Avenue, Suite 4, Queens, NY 11101; dana.ellis@example.com; 212-555-0140. Claimant correspondence may be sent through counsel. All personal addresses, contacts and records in this file are invented for instruction.

Nature of claim. Claimant gives notice of claims against the City and responsible employees arising from false arrest and imprisonment, assault and battery, and excessive force during the incident described here. The conduct was undertaken by officers purporting to perform police duties. Federal claims are identified for clarity, without conceding a state notice prerequisite to section 1983. Criminal charges remain pending; this notice does not represent that a malicious-prosecution claim has already accrued.

Time, place and manner. On January 4, 2024, at approximately 8:15–8:17 p.m., outside the front entrance and adjacent sidewalk of 100 Example Street, Queens, New York, Officer Lane, identified by his nameplate and arrest paperwork, announced an arrest, seized Reed and applied handcuffs. Officer Mora was present. Reed denies punching the shop employee. The employee initially described a person in a red coat; Reed wore a black jacket. Reed reports that Lane forced him down and struck his upper back and wrist after both wrists were restrained and Reed had stopped moving. Reed does not attribute each act to Mora

merely because Mora was nearby. The extent of Mora's participation and opportunity to intervene remain under investigation.

Reed was taken to the precinct, held overnight, arraigned in Queens on January 5 at approximately 1 p.m., and physically released at approximately 3 p.m. that day. The arrest paperwork asserts that Lane personally saw Reed punch the employee at 8:14 p.m. Reed disputes that account. A shop recording is being sought; the notice does not claim that its clocks or complete field of view have already been verified. The confinement was against Reed's will.

Known injury and loss. Reed reports wrist pain, bruising, upper-back pain, fear and humiliation during confinement, and continuing sleep disturbance. The January 5 clinic record diagnoses a wrist sprain and bruising, with no fracture seen on imaging; it restricts work through January 7. Reed missed scheduled January 5, 6 and 7 shifts at \$240 each, subject to employer confirmation. Known medical charges are \$900 for January 5 and \$450 for the January 8 follow-up. Additional treatment, travel, emotional injury and litigation-related losses will be documented as they become known. The amount claimed is \$250,000; this is a notice demand, not a verified economic subtotal, settlement prediction or per-day tariff.

Available witnesses and attachments. Shop employee Avery Cole and bystander Sam Wu can be located through the incident address; their current personal addresses are not yet known. Attached are copies of the arrest sheet identifying Lane and Mora, discharge paperwork recording January 5 release, the two clinic records and the January 5 injury photographs. Counsel retains the originals and will provide accurate supplemental information through the applicable procedure. No representation is made that a reservation of rights itself cures an omitted claim or defective service.

Sworn verification, completed teaching text. State of New York, County of Queens: Jordan Reed, being duly sworn, states: "I am the claimant. I have read this notice. Its statements about my actions, observations, confinement and symptoms are true from my personal knowledge. Statements describing records or other persons' accounts are identified as such and are true to the best of my information and belief. I understand that the pending charges and the officers' account are disputed." Teaching signature: /s/ Jordan Reed. Subscribed and sworn before Leah Park, an assumed duly commissioned New York notary, in Queens on January 8, 2024. Teaching jurat: /s/ Leah Park. These typed teaching signatures are not operative signatures or a notarial act.

2.6 File N2-S: proof of service and the next obligations

Completed sworn service account. "I, Morgan Chen, am over eighteen and am not a party. On January 8, 2024 at 4:10 p.m., I deposited in an official United States Postal Service depository in Queens, New York, a postage-paid envelope addressed to the Office of the New York City Comptroller, 1 Centre Street, Room 1225, New York, NY 10007. It contained the signed, sworn January 8 notice and the attachments identified in it. I sent it by certified

mail, return receipt requested. I retained the exact mailed copy and the postal acceptance receipt, exhibit N2-S1. The classroom tracking identifier is TRAINING-N2; it is not a real postal number.” Teaching signature /s/ Morgan Chen; sworn before the assumed notary Leah Park in Queens on January 8, 2024. Exhibit N2-S2 supplies the assumed January 10 delivery record and January 12 acknowledgment. No returned notice or service objection is assumed.

Annotation. Section 50-e(3) makes properly addressed registered/certified-mail service complete on deposit in an official postal depository **within New York State**. The retained receipt supports deposit; later delivery is additional evidence. Ordinary email, a draft saved in a portal, or a mailing from an unexamined location does not prove this method. The City’s current guidance identifies the Comptroller address above. For a present-day electronic notice, use the currently prescribed personal-injury form, complete its declaration and required fields, and retain the successful electronic receipt number and transmitted notice/attachments. A screenshot of a completed but unsubmitted form is not that receipt. The current form asks for information including incident details, police-related dismissal date when applicable, injuries and claim amount; do not invent an unknown dismissal date. [5,42]

Completed follow-through. The fictional City serves a written section 50-h demand on counsel January 22 for a February 15 examination. Ellis reviews the records with Reed February 8, preserving Reed’s independent recollection; Reed attends February 15 and answers under oath. Counsel obtains the transcript February 23 and identifies no uncorrected material discrepancy. This satisfies the assumed demand, not every conceivable later discovery obligation. January 8 plus thirty days is February 7; the actual hearing occurs later. Counsel therefore does not file on February 7 while the demanded examination remains uncompleted. The notice, examination and settlement discussion do not move the outside action dates. [6]

Changed service fact. If the envelope was sent by ordinary mail, do not reuse the certified-mail conclusion. Examine section 50-e(3)(c)’s actual-receipt, return and examination provisions on the real record, and seek relief where appropriate. If Reed requested an examination postponement beyond ninety days, the mere passage of ninety days after the demand would not establish compliance under section 50-h(5). Document the postponement and actual new date instead of declaring the prerequisite waived.

2.7 File N3: the later prosecution notice and action ledger

Completed separate notice • June 12, 2024. To the same Comptroller address, from the same claimant and attorney: “Reed gives notice of a New York malicious-prosecution claim challenging Lane’s initiation and continuation of the assault count in the January 4, 2024 prosecution. The remaining assault charge was finally dismissed on June 10, 2024; the disorderly-conduct count had been dismissed January 29. Neither dismissal involved a plea, compromise or condition. The certified disposition and June 10 minutes are attached.

Lane’s complaint asserted personal observation of a punch at 8:14 p.m.; Reed denies the punch and disputes that observation. Lane forwarded that account for prosecution. Counsel is investigating the statement’s accuracy, the independent witness evidence and the connection to the ensuing restraints. Reed was required to attend post-arraignment proceedings January 29, February 20, March 18, May 6 and June 10; the January 29 appearance was remote. Claimed injury includes those restraints, four documented round-trip travel expenses, anxiety and other proven consequences of the unsupported charge. This claim seeks \$250,000, without duplicating recovery for the same injury under another theory.”

Reed’s completed verification adopts the same sworn wording as N2, now as to this June 12 notice, signed /s/ Jordan Reed and sworn before assumed notary Leah Park in Queens on June 12. Chen’s completed service statement records certified-mail deposit in Queens on June 12 at 2:20 p.m. to the stated Comptroller address, retaining the exact notice, attachments and acceptance receipt TRAINING-N3; assumed delivery occurred June 14. These are separate completed teaching records, not proof of a real submission.

Event and supporting record	Legal significance	Completed internal action
Jan. 4–5 arrest, force, arraignment and release records	Separate force, federal legal-process and state physical-release triggers	Ellis entered all dates Jan. 8; second calendar check Jan. 9
Jan. 8 N2 certified-mail acceptance; Feb. 15 examination transcript	Notice served; demanded examination completed	Chen saved proof Jan. 8/10; Ellis reviewed transcript Feb. 23
June 10 final disposition and minutes	Assumed qualifying prosecution/fabrication termination	Ellis reviewed June 11; N3 served June 12, well before Sept. 9 notice deadline
June 20 demand; July 18 examination on later claim	Separate examination request completed; June 12 + 30 days = July 12	Ellis prepared July 11; Reed attended July 18; transcript checked July 26
Dec. 2, 2024 complaint and docket receipt; Dec. 9 service returns	Suit and service are separate from notices; all assumed ordinary outside dates preserved	Ellis filed; independent server delivered summons/complaint by authorized methods; returns retained

The complaint alleges that more than thirty days elapsed after each notice, adjustment was neglected or refused, and the demanded examinations were completed. These conditions concern the covered state claims. They are not added elements of Reed’s section 1983 claims. An attorney must verify service of process under the forum’s rules, including the proper municipal recipient and each individual defendant, independently of notice service.

[5–8]

2.8 File N4: a late-notice application must prove something

Separate variation: only the force notice was omitted. Assume counsel discovers on April 12, 2024 that a calendar entry was mistaken for completed service. The April 3 notice date has passed; the ordinary April 4, 2025 action date has not. No automatic extension is claimed. Reed’s April 15 affidavit attaches the proposed sworn notice with the same January incident facts as N2; counsel’s affidavit explains the nine-day discovery delay candidly and attaches the contemporaneous force investigation and preserved footage. An internal error is not portrayed as a strong excuse. [5,44]

Completed application text. “Petitioner requests leave under General Municipal Law 50-e(5) to serve the attached notice within ten days after service of the order with notice of entry. The January 6 supervisor’s incident review, exhibit L1, identifies the handcuffed claimant, wrist injury, Lane’s admitted strikes and the retained camera file. It supplies notice of the essential force facts, not merely notice that an arrest occurred. Exhibit L2 is the January 9 preservation acknowledgment confirming retention of the full footage; exhibit L3 identifies both officers as still available. These records support a finding that the short delay did not impair investigation. Counsel acknowledges the calendaring error and requests discretionary relief on the complete record.”

Opposition and answer. The City argues that an arrest report alone does not convey the essential wrongful-force facts, that the claimed injury could have arisen during resistance, and that an absent bystander’s memory cannot now be tested. The reply points to the specific supervisor review rather than the arrest label; it identifies a January 11 recorded bystander interview and unchanged contact information. Under Newcomb, the applicant must first supply evidence or a plausible argument of no substantial prejudice; a responsive municipal showing must be particularized. A successful prejudice argument does not eliminate the other statutory factors. [44]

Proposed operative terms, not an entered order. “Leave is granted solely for the force/assault-and-battery notice annexed as exhibit L4. Petitioner shall serve that notice within ten days after service of this order with notice of entry by an authorized method and retain proof. This order determines neither liability nor any other claim’s timeliness and does not extend the action limitation. All lawful examination rights remain.” Change the evidence: if the only recording was overwritten during the delay and the missing witness cannot be found, the prejudice response materially strengthens. If intake occurs after the applicable action limitation and no toll or revival applies, the court cannot grant a late-notice extension under General Municipal Law 50-e(5). [5,44]

3. Arrest and supported pleading

Evaluate the information available at the relevant moment, then plead what the evidence supports.

3.1 Probable cause is not a verdict

False arrest generally requires intentional confinement, awareness of confinement, lack of consent, and lack of privilege. Probable cause is a complete defense. The arrest question ordinarily asks whether the known facts supported an arrestable offense, not whether every charge later selected was valid. *Carruthers v. Colton* (2025) reaffirmed this distinction and held that the plaintiff's guilty plea to the traffic infraction barred his false-arrest claim in that case. The prosecution analysis was different. [9]

An identified complainant's first-hand account can provide reasonably trustworthy information. Counsel should ask what the witness actually said, whether the officer knew reasons for doubt, and what exculpatory facts were already apparent. Probable cause does not demand that an officer resolve every possible innocent explanation before acting. Nor may a lawyer manufacture probable cause by moving later discoveries backward in the chronology. A report contradicted by contemporaneous video raises a different problem from a report later undermined by evidence the officer did not possess.

Reed's dispute. The arrest report says Officer Lane saw Reed punch a shop employee at 8:14 p.m. Reed denies contact. A camera shows the doorway continuously from 8:12 to 8:16 but the sidewalk edge is obscured. The employee's initial statement describes a shove by someone wearing a red coat; Reed wears a black jacket. A nearby witness says the employee pointed to Reed before arrest. The video alone does not prove that no contact occurred outside its view. The description discrepancy and identification timing nevertheless require investigation. Obtain the complete recording, the employee's actual words, dispatch, and each officer's vantage point before deciding whether Lane knowingly misstated an observation or reasonably relied on a witness.

3.2 Suppression does not decide damages

Townes v. City of New York distinguishes the criminal exclusionary rule from section 1983 damages. Evidence discovered through an unlawful stop or search is not simply erased from the civil probable-cause analysis through the fruit-of-the-poisonous-tree doctrine. Injury from the unlawful intrusion may remain actionable, while later conviction or incarceration damages require their own causation basis. *Townes* does not immunize every officer after a successful search or eliminate distinct fabrication and force claims. [10]

Suppose police unlawfully search a bag and find an actual prohibited weapon. Suppression may end the criminal case. That result alone does not establish that subsequent arrest lacked probable cause for civil purposes. Change the fact: police invent the weapon or falsely attribute another person's weapon to Reed. The issue now includes the truth and use

of the information, not merely exclusion of real evidence. Counsel must investigate the latter theory separately.

The discussion's suggestion of a simple federal-versus-state contrast needs qualification. *Martinez v. City of Schenectady* rejected the particular New York constitutional-tort and common-law claims despite suppression and reversal of the conviction; it also treated probable cause as defeating false imprisonment. New York constitutional damages are a limited remedy, not an automatic alternative whenever a federal theory fails. Read the cause of action and the controlling state decision rather than assuming suppression guarantees recovery in a state courthouse. [10]

3.3 Draft facts that connect actor and injury

Federal pleading requires a plausible claim and a reasonable factual inquiry. Rule 11 allows specifically identified allegations likely to obtain evidentiary support after a reasonable opportunity for investigation or discovery; it does not authorize an unsupported accusation of intentional misconduct. Merely changing “negligently” to “intentionally” cannot supply a missing constitutional element. Identify who did what, what makes the act unlawful, and how it caused the claimed deprivation. [11]

Completed pleading, with supporting facts. Sections 3.4–3.5 supply the later discovery, actual amended paragraphs and annotations. They separate Lane's claimed personal observation from the employee's statement and connect authorship, forwarding and actual prosecutorial use. The January intake did not yet establish these facts.

Why those facts matter. A pleading must identify the actor, source, knowledge and resulting injury. It must disclose the recording's limited coverage and distinguish a supported inference of fabrication from an innocent mistake. *Carruthers* requires the court to assess adequately pleaded facts without simply choosing the officer's competing explanation. [9,11]

3.4 File P2: separate what the officer knew from what counsel later learned

Initial record. On January 8, counsel has the arrest sheet, Reed's denial, the red-coat discrepancy and a witness's statement that Cole pointed toward Reed. Those facts warrant investigation. They do not establish what Lane heard, that every part of the sidewalk was visible, or that the video's clock matched dispatch. A pleading must identify its existing support and reasonably expected discovery; it cannot backdate later proof. [9,11]

Expressly added discovery, June 2026. The complete body-camera file records Cole saying at 8:15:10 actual time: “That is the man I argued with. I did not see who hit me.” Lane replies, “You pointed to him.” The recording identifies Reed by position and black jacket. Lane's signed January 4 complaint instead says he personally observed Reed strike Cole at 8:14. In a June 11, 2026 deposition, Lane identifies his first arrival as 8:14:51, says he did not previously approach from another entrance, and admits that the quoted sentence was his entry, not a transcription by someone else. The synchronized exterior video independently

shows that arrival. No recording shows the obscured sidewalk edge at the time of the alleged punch.

Decision with the adverse facts included. The actual personal-observation assertion is contradicted by Lane’s own arrival testimony, not simply by absence from one camera. The full witness statement weakens a theory that Lane reasonably understood Cole as identifying the assailant. But Cole’s injury, the preceding argument and the pointing remain evidence the defense can invoke; a trier must evaluate the complete circumstances, and qualified immunity is a separate issue. The later discovery materially strengthens the inference of fabrication and the challenge to probable cause. It does not turn a black jacket into conclusive proof that Reed never touched anyone.

Changed fact. If Cole instead unambiguously said “Reed punched me; I saw him do it,” with no apparent reason for Lane to disbelieve that firsthand account, the independent probable-cause defense becomes substantially stronger. A false claim of Lane’s personal observation still needs separate analysis, including its materiality and causal use; falsity does not automatically prove that every moment of confinement was caused by it. [9,18]

3.5 File P3: supported complaint paragraphs and annotations

Completed teaching excerpt for an amended complaint after the supplied discovery. The original timely complaint is assumed filed in December 2024; this excerpt demonstrates later factual specificity and is not a complete pleading or a claim that amendment is automatic. [11,40]

Paragraph 21. On January 4, 2024, Lane exercised NYPD arrest authority over Reed outside 100 Example Street, Queens. Lane arrived at approximately 8:14:51 p.m. and had not earlier viewed the location from another entrance. These allegations rest on Lane’s June 11, 2026 testimony, the dispatch record and the synchronized exterior recording.

Paragraph 22. Before the arrest, Cole told Lane that Reed was the person with whom Cole had argued and that Cole had not seen who hit him. The complete body-camera recording captures that qualification and Lane’s response. Reed denies striking Cole. The initial incident description refers to a red coat, while the recording shows Reed wearing a black jacket.

Paragraph 23. Lane nevertheless signed and transmitted a complaint stating that Lane personally saw Reed punch Cole at 8:14 p.m. Lane could not have made that observation on the supplied arrival record. His testimony identifies him as the author of the sentence. The allegation of deliberate falsity rests on that contradiction and the recorded witness qualification, rather than on the word “intentional” alone.

Paragraph 24. The transmission log shows Lane sent the signed complaint to the intake prosecutor at 10:02 p.m. January 4. The January 5 arraignment minutes quote the claimed direct observation in support of the assault charge. The assault charge remained pending after the disorderly-conduct count was dismissed January 29. Reed was required to return on February 20, March 18, May 6 and June 10; on June 10 the remaining assault count was

finally dismissed without a plea or compromise. The complaint attributes those later restraints to the unsupported assault charge and addresses the defense’s independent-evidence argument.

Paragraph 25. Independently, after Reed was handcuffed and stopped moving, Lane delivered three further strikes over approximately twelve seconds. Reed alleges the resulting wrist and back injuries on the supplied medical and recording evidence. Mora stood within several feet, stated that Reed was restrained, and remained present throughout that interval. Mora is alleged to have had a realistic opportunity to intervene in the continued strikes, not to have authored or transmitted Lane’s complaint.

Paragraph 26. Reed seeks proven compensatory relief for the distinct injuries caused by each violation, without duplicate recovery; punitive relief is sought only from an individual defendant on the required culpability showing, and reasonable statutory fees if the governing requirements are met. The municipal claim depends on the separate policy allegations and proof addressed in chapter 7, not solely on employment. [24,27,33,35,36]

Why this is supportable—and limited. Paragraph 21 states the source; paragraph 22 includes the actual qualification; paragraph 23 connects knowledge to authorship; paragraph 24 supplies transmission, use and postprocess restraint; paragraph 25 separates the two officers. Rule 11 still requires counsel’s reasonable inquiry and an honest evidentiary basis. Rule 8 permits alternative theories where appropriate, but does not license a claim that a document says something it does not. The claimant has not proven the allegations by drafting them. An immunity defense, competing inference, disputed causation or admissibility problem may still defeat a particular claim. [9,11]

3.6 File P1: the damages consequence of a changed search fact

Supplied fact	Supported civil inquiry	Conclusion that does not follow
Unlawful bag search finds an actual prohibited weapon	Injury from the intrusion; civil probable cause based on the actual discovery; separate causal analysis	Suppression necessarily makes all ensuing custody compensable
Officer invents a weapon and forwards that account	Falsity, knowledge, transmission, materiality and resulting restraint	The officer is protected merely because the report uses the word “weapon”
Actual weapon found, but gratuitous strikes occur after restraint	Independently evaluate the force and resulting injury	Probable cause makes every later use of force reasonable

Each row changes the legal theory, causation and proof required. Neither suppression nor a state-constitutional label supplies missing damages elements. [10,13]

4. Encounters, force, and pleas

Keep the justification for a stop, a frisk, an arrest, and each use of force separate.

4.1 Reconstruct the encounter in stages

New York’s De Bour framework distinguishes a request for information based on an objective, credible reason; common-law inquiry based on founded suspicion; forcible detention based on reasonable suspicion; and arrest based on probable cause and applicable arrest authority. A person’s flight can matter with other circumstances, but it does not automatically authorize every escalation. A broad description requires attention to reliability, distinctiveness, location, timing, and the individual’s conduct. [12]

A lawful stop does not automatically authorize a frisk. CPL 140.50 supplies a separate danger condition for the protective search; Terry requires the relevant reasonable basis to believe the person armed and dangerous. The search’s scope must remain consistent with protection against weapons unless another lawful basis exists. A violation of a more protective New York rule does not by itself establish a federal constitutional violation. Plead the actual federal threshold when seeking section 1983 relief. [12]

Separate encounter variation. For this example only, assume a different suspected offense and sequence. At 8:10 the broadcast describes only dark clothing. At 8:12 Reed walks away. At 8:13 an officer blocks the sidewalk and orders Reed to stay. At 8:14 the officer pats a pocket, then opens a small container. At 8:15 police claim to discover contraband. Analyze the basis for each intrusion at its own time. The final discovery cannot retroactively justify an earlier intrusion; Chapter 3 explains why the damages consequences still require a distinct civil analysis.

4.2 Evaluate force with its full context

Graham v. Connor applies objective reasonableness to force during a stop or arrest, considering the facts from a reasonable officer’s on-scene perspective. Relevant considerations include the offense’s severity, the immediate threat, and active resistance or flight. Force can become unreasonable when its justification ends. An officer’s bad motive alone does not decide a Graham claim, and a person’s injury alone does not establish unreasonableness. [13]

Barnes v. Felix (2025) rejects an artificially restricted “moment of threat” inquiry. Earlier events may explain the officer’s perception at the moment of force. The Court did not decide all questions about an officer’s creation of danger or hold that every earlier error makes later force unconstitutional. Preserve the whole sequence, including warnings, changes in resistance, restraint, positioning, and opportunities to perceive compliance. [13]

Force variation. Reed admits pulling away during the initial attempt to handcuff. The first camera segment shows a struggle; a later segment shows Reed handcuffed, prone, and still while an officer repeatedly strikes Reed. The earlier resistance matters, but it does not settle the necessity of later blows. Analyze timing and perceived threat for each segment. If the later camera angle cannot show Reed’s hands or movements, state that limitation and obtain the other angles before treating stillness as established.

4.3 A plea is not a universal force bar

Heck v. Humphrey bars a section 1983 damages theory when success would necessarily imply the invalidity of an outstanding conviction or sentence, unless the required invalidation has occurred. Read the offense, factual admissions, judgment, and proposed civil theory together. Do not advise that every disorderly-conduct plea extinguishes every force claim, or that every reduced plea preserves every civil claim. [14]

In the separate Rowan variation below, an admission of resisting initial handcuffing must be respected when analyzing a civil theory; denying an essential admitted fact may create a direct conflict. A theory accepting the resistance but challenging distinct later force after restraint can present a different question. Review the actual judgment, admissions and possible preclusion consequences. Reed’s main file contains no plea.

The episode’s officer-injury example also needs precision. Penal Law 120.05(3), as relevant to police, requires intent to prevent performance of a lawful duty and causation of physical injury. It does not require a separate intent to cause that injury, but neither does every injury an officer experiences during an encounter automatically establish the offense. Examine lawfulness, intent, causation, and the statutory injury requirement. A stumble or injured finger is a fact to investigate, not a complete legal conclusion. [15]

4.4 File E1: test each intrusion on the information then available

Separate encounter exercise, not Reed’s shop case. At 6:00 p.m., Diaz stands on a busy sidewalk carrying a closed backpack. An officer has a report of “a person in dark clothes” associated with no specified crime. Diaz declines a request to talk and walks away. At 6:01 the officer orders Diaz to stop, grabs the backpack and opens a small inside compartment. No weapon-like outline, threatening movement or particularized safety fact is supplied. The bag contains a real prohibited weapon.

Reasoned application. Under the New York De Bour/Hollman framework, identify the objective reason for the initial request for information and the additional founded suspicion needed for a more accusatory common-law inquiry. The supplied generic clothing description and refusal do not themselves establish reasonable suspicion for forcible detention. A search of a small compartment also needs its own authority; an automatic “officer safety” label does not establish reasonable suspicion that Diaz is armed and dangerous or the permissible scope of a protective frisk. Terry and CPL 140.50 have specific

requirements; New York’s encounter framework and the federal Fourth Amendment are related but not identical. [12]

The weapon’s later discovery cannot retroactively justify the earlier seizure or search. It may nevertheless affect civil probable cause and subsequent-detention damages under Townes. Identify the compensable intrusion and prove causation; the suppression ruling is not itself the damages calculation. [10]

Changed fact one. Before contact, a named victim reports that Diaz just threatened the victim with a knife, gives a distinctive backpack description and points Diaz out. The officer sees a matching handle-like outline at Diaz’s waistband. These new facts materially support a stop and a bounded protective search. Counsel still asks where the officer searched, what the officer reasonably perceived and whether the intrusion exceeded the supported purpose. **Changed fact two:** Diaz runs after a general inquiry. Flight must be assessed with the other circumstances and applicable law; Holmes rejects converting the weak facts there into a lawful pursuit merely by adding flight. Neither “running always authorizes a stop” nor “running is never relevant” is a usable rule. [12]

4.5 File E2: a plea and two phases of force

Changed-file plea extract. In this alternative case, Casey Rowan admits: “Knowing that Officer Lane was making an authorized arrest of me for shoplifting, I intentionally tried to prevent that arrest by pulling my arm away and pushing him before I was handcuffed. I plead guilty to resisting arrest under Penal Law 205.30 on those facts.” Assume the actual judgment and plea record establish that admitted conduct and remain valid. Section 205.30 concerns intentionally preventing or attempting to prevent an authorized arrest; the separate shoplifting facts and admission of authorization belong to this variation, not Reed’s disputed arrest. This extract demonstrates civil-consequence analysis, not a recommended criminal disposition. [48]

Phase one, 8:15:35–8:15:50. The defendant pulls away; Lane applies restraints. **Phase two, 8:16:05–8:16:17.** The supplied recording shows both wrists secured, the defendant prone and still, and three additional strikes; Mora says “He is cuffed.” There is no supplied movement toward a weapon. The proposed civil allegation accepts the phase-one conduct and challenges only the later strikes and resulting additional injury.

Heck analysis. A theory that the defendant never resisted could contradict the necessary basis of the outstanding judgment. The proposed phase-two theory does not require that denial: a lawful arrest and admitted resistance do not automatically justify significant force after resistance and threat have ended. Analyze the complete plea and judgment, causation and any preclusion issue; separating sentences in a complaint cannot rescue a theory that actually contradicts an essential admission. [13,14]

Defense and response. The defense argues that a tense, fast encounter should not be judged with hindsight and that an officer may reasonably perceive continuing resistance. The

claimant points to the duration, visible restraints, still body, warning from Mora and lack of threatening movement. Graham requires an objective assessment from the scene; Barnes requires relevant context rather than an artificial final-instant cutoff. Barnes is a 2025 merits clarification, not a source of notice to an officer in January 2024. For the earlier clearly-established-law inquiry, *Jones v. Treubig*, decided in 2020, addresses significant force after resistance and threat have ceased and the role of disputed facts. A lawyer must compare the actual force and perceived threat, not cite only the broad right to be free of excessive force. [13,26,47]

Changed fact. The second camera shows the cuff was not secured and the defendant suddenly reached under a jacket as the strike began. That evidence changes objective threat and reasonable-perception analysis. It does not erase the first camera, but requires a combined account. If all three strikes occurred in one unforeseeable second while Mora was facing away, the failure-to-intervene theory also weakens. The defendant's injury by itself proves neither unreasonableness nor Mora's opportunity. [27]

5. Prosecution and termination

Analyze the challenged charge, its initiation, the reason it ended, and the restraint it caused.

5.1 The elements remain cumulative

Under the Second Circuit formulation restated in *Carruthers*, a federal malicious-prosecution claim requires commencement or continuation by the defendant, favorable termination, lack of probable cause for the proceeding, actual malice, and sufficient post-arraignment restraint implicating the Fourth Amendment. A prosecutor's involvement does not automatically establish or eliminate an officer's responsibility. Examine whether the officer supplied false information or otherwise caused continuation, and identify the actual restraint. [9]

Thompson v. Clark holds that the federal favorable-termination requirement does not demand an affirmative indication of innocence; the prosecution must end without a conviction in the relevant sense. *Chiaverini v. City of Napoleon* rejects the proposition that probable cause for one valid charge categorically defeats a claim arising from another baseless charge. That decision did not eliminate causation. The plaintiff must connect the unsupported charge to a qualifying seizure; a separate valid charge may bear on what detention would have occurred anyway. [16] [17]

Reed charge analysis. Separate the overnight confinement before January 5 arraignment from the required post-arraignment appearances. Section 5.4 supplies the count dispositions, recognizance release and actual return obligations. The strongest later causal link concerns appearances after the other count ended January 29; no cash bail, monitoring or travel ban is assumed. If a valid independent charge or warrant caused the same restraint, examine that competing explanation instead of attributing every day to the challenged assault count.

The recording refers to court appearances as a liberty consequence. There is no universal rule that three appearances automatically create a federal claim. Swartz recognizes a qualifying restraint in the circumstances of repeated required appearances following arraignment; Burg distinguishes a pre-arraignment summons requiring a later appearance. Document the process, obligations, travel restrictions, bail, detention, and consequences of nonappearance. Count appearances only after identifying their legal significance. [39]

5.2 Read the disposition, not just its label

Carruthers supplies a particularly useful comparison. The guilty plea to a traffic infraction defeated false arrest. DWI-related charges dismissed as part of that negotiated plea did not terminate favorably for malicious-prosecution purposes. A distinct felony charge amended down before the suppression hearing and plea could satisfy favorable termination on the

pleaded facts because its termination plausibly occurred independently of the bargain. The court revived that part of the claim; it did not award damages or find ultimate liability. [9]

Disposition	Attorney's analysis
Acquittal or final abandonment without conviction	Test the federal termination requirement, then independently prove the remaining elements.
Dismissal exchanged for a guilty plea on another count	Carruthers rejects favorable termination for charges dismissed as part of that bargain. Obtain the full agreement and record.
Earlier independent termination of a distinct count	Determine why and when it ended; a later plea does not automatically decide that earlier disposition.
Adjournment in contemplation of dismissal	Distinguish adjournment from completed dismissal, and federal prosecution, state tort, and fabrication theories.

An ACD is not an acquittal. Its entry leaves a possible restoration period before the eventual dismissal. Smalls explains why completed ACD proceedings can permit the separate fabrication claim. After Thompson, federal district decisions such as *Price v. County of Nassau* have treated ACD dismissals as satisfying federal malicious-prosecution favorable termination. Price is a district-court application, not a categorical appellate resolution of every negotiated disposition. Analyze the actual order, completion, conditions, and any plea exchange in light of Carruthers. [18]

New York common-law malicious prosecution retains its own favorable-termination analysis. Cantalino applies the rule that final termination must not be inconsistent with innocence; compromise and mercy can defeat it. Hollender treats an ACD as insufficient for that state tort. Do not import a federal termination result into the state count without analysis, or quote older federal “affirmative innocence” language as though Thompson had not changed the federal rule. [19]

5.3 Insufficient allegations are not automatic civil liability

CPL 100.40 addresses facial sufficiency. An information generally needs nonhearsay allegations establishing, if true, each element and the defendant’s commission of it; complaints and other instruments have different requirements. CPL 140.45 directs dismissal of a covered insufficient instrument when the court is satisfied that available facts or evidence cannot support drawing and filing a sufficient one. It does not say every curable drafting defect requires final termination of the case. [20]

For disorderly conduct, identify the intent to cause public inconvenience, annoyance, or alarm, or recklessness as to that risk, together with the charged conduct. Baker rejects an automatic equation between insulting an officer and a public-order offense. Ask about

location, audience, disruption, and the surrounding circumstances. A private dispute does not become public harm merely because an officer describes it as loud. [21]

The discussion's conditional-threat example should not be reduced to a rule that the word "if" makes a threat lawful. Context, words, conduct, statutory elements, and the speaker's mental state matter. Counterman holds that the First Amendment requires at least recklessness as to a communication's threatening character in true-threat prosecutions; a particular offense may require more. "If you leave, I will shoot you," accompanied by a weapon, presents a different context from obvious rhetorical exaggeration. An acquittal, suppressed statement, or insufficient instrument still must be connected to the civil claim's own elements and the law governing the challenged act. [21]

5.4 File C1: connect the challenged count to later restraint

Completed disposition record. Reed's January 5 arraignment concerns assault in the third degree, Penal Law 120.00(1), and disorderly conduct under Penal Law 240.20(1). The fictional minutes record release on recognizance and required return appearances; they do not impose cash bail, electronic monitoring or a travel ban. The overnight January 4–5 confinement preceded arraignment. Treat it separately from postprocess restraint. The January 29 minutes dismiss the disorderly count without a plea or compromise and continue the assault count. The June 10 minutes finally dismiss the remaining assault count, also without a bargain. [39,48]

Completed causal memorandum. "The strongest postprocess theory concerns the four required appearances after January 29, when the assault count alone remained. The court orders identify that count as the reason for the February 20, March 18, May 6 and June 10 appearances. The January 5 prosecutor relied expressly on Lane's claimed personal observation; Lane's transmission and authorship are documented. The first January 29 return also concerned the disorderly count, so its causal allocation is less certain. The pre-arraignment overnight period is not counted as post-arraignment seizure. The defense may dispute whether independent evidence justified the assault prosecution and whether Lane caused the challenged continuation. Counsel must prove those links."

Chiaverini forecloses an across-the-board defense based simply on probable cause for another count, but left the contested causation test for further proceedings. Swartz supplies the Second Circuit treatment of required post-arraignment appearances; it does not establish a numerical "three appearance" rule. Reed's claim is stronger because the record identifies the surviving charge and the actual court obligations, rather than merely the length of a docket. [17,39]

Changed disposition A. The June 10 minutes instead say that assault is dismissed in exchange for a disorderly-conduct plea. Carruthers treats the bargained dismissal differently: favorable termination is not established simply because the assault count says "dismissed." **Changed disposition B:** the assault count was independently abandoned

January 29 for lack of proof, and a later plea resolved a separate remaining count. Obtain the earlier minutes and negotiation record; Carruthers permits a different analysis where the earlier termination was independent. Do not presume independence from the order of docket entries. [9]

Changed disposition C. The court enters an ACD with a possible restoration period. The adjournment is not the completed dismissal. After actual dismissal, distinguish the federal malicious-prosecution treatment in Price, the separate fabrication analysis in Smalls, and the New York tort rule in Hollender/Cantalino. Obtain the operative order, final disposition and conditions. A single shorthand answer about “ACD rights” hides these differences. [18,19]

5.5 File C2: a completed facial-sufficiency comparison

Supplied information, version one. “On January 4 at 8:15 p.m. outside 100 Example Street, Reed loudly said to Lane, ‘If you touch me, you will be sorry.’ Reed thereby caused annoyance.” This excerpt supplies neither a particularized account of fighting/violent conduct nor facts showing the required intent or recklessness concerning public inconvenience, annoyance or alarm. Labeling the words “disorderly” does not fill those gaps. Analyze the precise instrument: the nonhearsay requirements for an information are not automatically the requirements for every complaint. [20,21,48]

Proposed defense submission. “The information recites a conclusion of annoyance but does not allege the public-harm mental state or facts supporting it, nor the charged subdivision’s conduct. The court should evaluate facial sufficiency under CPL 100.40. If considering CPL 140.45, it must separately determine whether available facts or evidence could support a sufficient instrument; this submission does not claim that every omission is incurable.”

Changed supporting deposition. Cole states that Reed blocked a crowded doorway, repeatedly shoved two customers and shouted that no one could leave, while customers stepped into the roadway to escape. Those facts materially strengthen the public-harm and conduct allegations even though Reed may contest them. Baker requires context, not a prohibition on ever charging an incident that began as a private dispute. The conditional form of a threat supplies no automatic First Amendment immunity; Counterman requires at least recklessness about threatening character for a true-threat prosecution, alongside the particular offense’s elements. A repaired information may still rest on fabricated facts; a deficient information may still accompany an arrest supported by other facts. The criminal pleading ruling and civil merits therefore require separate reasoning. [20,21]

6. Fabrication and withheld evidence

Separate a false account, a disclosure failure, and the deprivation each allegedly caused.

6.1 Fabrication is its own theory

Carruthers, applying Garnett, identifies the core elements: an investigating official fabricates information likely to influence a jury, forwards it to prosecutors, and causes a deprivation of life, liberty, or property. A knowingly false account of an officer's own observation can qualify. A negligent error, an immaterial discrepancy, or an unforwarded draft does not establish those elements merely because it is inaccurate. [9]

Probable cause for an arrest does not supply a license to fabricate evidence supporting prosecution. Smalls preserves the due-process fabrication theory as distinct from Fourth Amendment malicious prosecution, including where the claimed harm concerns pretrial deprivation. The attorney must show what was false, the basis for inferring knowledge, transmission, likely significance, and the resulting harm. Neither a conviction nor an actual trial is invariably necessary to this theory. [18]

Apply the later-discovery record. File B1 below connects Lane's authorship, forwarding and prosecutorial use to restraint, then tests the unforwarded-draft and accurate-attribution alternatives. A failed accusation alone does not prove fabrication.

6.2 Accrual and criminal-case consistency

McDonough v. Smith holds that the fabrication claim before it accrued when the criminal proceedings ended favorably, not when the defendant first learned of the fabricated evidence. Smalls explains that the relevant concern is avoiding parallel proceedings and inconsistency with an outstanding conviction; completed dismissal after an ACD can satisfy that requirement. The analysis is not a device for postponing every other claim until criminal litigation ends. Preserve the early arrest and force clocks while separately recording the fabrication termination event. [22] [18]

Obtain certified dispositions, orders vacating convictions, plea minutes, and any later judgment. A client's statement that "the case is over" may mean dismissal, a pending ACD, sentencing, or a promised future reduction. Those are not interchangeable. If a civil theory would undermine a still-valid conviction, apply Heck and the relevant Second Circuit decisions rather than selecting a date simply because it is later. [14]

6.3 Brady requires more than a missing page

Brady concerns suppression of evidence favorable to the accused that is material to guilt or punishment. A constitutional disclosure claim is distinct from every violation of a discovery statute or deadline. Identify the favorable item, who possessed it, when it reached the prosecution and defense, its use at trial or sentencing, and whether the

nondisclosure undermines confidence in the result. Civil liability also requires the sued defendant's responsibility and the appropriate causal and immunity analysis. [23]

Completed disclosure comparison. File B2 below supplies the Morrow chronology, vacatur and later valid plea. It tests the suppressed report's use, responsible actor, materiality, immunity and damages limits under Poventud. A missing page alone does not establish liability. [23]

Investigation product. Build a four-date entry for each disputed item: created, received by investigator, forwarded to prosecutor, disclosed to defense. Attach the evidence supporting each date. Preserve "unknown" where the transmission record is missing. A disclosure chronology distinguishes a police withholding theory from a prosecutorial act and directs the next request to the right custodian.

6.4 File B1: prove creation, transmission, use and harm

Record supplied in Reed's file	What it supports	What remains contestable
Lane's signed 8:14 observation sentence and June 11, 2026 authorship/arrival testimony	An identified author and factual basis for knowing falsity	Whether the statement was a mistaken entry, and credibility of the explanation
Jan. 4, 10:02 p.m. transmission log attaching that version to prosecutor intake	Forwarding of the allegedly false account	Whether other versions or corrections also reached the prosecutor
Jan. 5 minutes quoting Lane's direct observation	Actual use in prosecuting the assault count	Independent evidence and the decision-maker's causal reliance
Jan. 29–June 10 orders after the other count ended	Specific later restrictions tied to the surviving count	Whether the unsupported information caused those restrictions

Completed recommendation. Pursue a fabrication theory on this assumed record, with the exact sentence, author, forwarding event and resulting restraint identified. Evaluate the innocent-error explanation against the underlying records. The pleading should set out concrete facts supporting knowing falsity; it need not concede the competing explanation. On a motion to dismiss, the court must draw reasonable inferences from well-pleaded facts in the plaintiff's favor rather than resolve the disputed testimony. Carruthers distinguishes plausible factual inference from a conclusory assertion. Smalls makes clear that a separate pretrial deprivation caused by forwarded fabrication can matter even without a trial. The claim does not require every arrest theory to succeed; it still requires its own causal injury. [9,18]

Changed fact. Suppose the false draft remained on Lane's device, the prosecutor received only an accurate witness-attributed version, and no official used the false draft to restrict

Reed. The supplied fabrication-and-forwarding theory fails at transmission and causation. An inaccurate draft may warrant internal investigation, but it cannot be treated as the demonstrated cause of Reed's prosecution. A second variation replaces the false assertion with "Cole says Reed punched him," accurately recording what Cole said and disclosing the contrary coat description. Counsel must identify evidence that Lane fabricated something, not merely that Cole later recanted.

6.5 File B2: a separate completed Brady chronology

Morrow file—different claimant and case. This hypothetical tests the episode's alternate-suspect discussion without asserting that a real prosecution had these facts. Investigator Vale's January 10, 2018 report describes a 5-foot-7-inch alternate suspect whose distinctive tattoo matches the witness's first account; Morrow is 6-foot-2 and lacks that tattoo. The investigating unit receives the report January 10. A January 11 email sends the report to the trial prosecutor. The defense disclosure log and trial record show no production before Morrow's June 2018 conviction. The report is disclosed in April 2021, and a December 2021 order vacates the conviction for a material disclosure violation. A new, fully informed plea in February 2022 produces a valid lesser conviction. [23]

Completed four-date entry. Created: January 10, 2018, signed report B2-1. Investigator received: same day, unit receipt B2-2. Prosecutor received: January 11, attachment-bearing email B2-3. Defense received: April 6, 2021, production cover letter B2-4. The discrepancy is a three-year disclosure gap; it does not, on this record, prove that the investigator failed to send the report. Counsel must locate the responsible act and analyze the actor's applicable functional immunity separately. The physical-description discrepancy is favorable evidence, but materiality requires the trial record and the reasonable probability of a different result, not a height comparison alone.

Damages and Heck memorandum. Poventud permits analysis of a Brady claim concerning the vacated conviction separately from a later valid plea. The theory must challenge the earlier unfair process without necessarily denying the later conviction's validity, and claimed damages must not simply absorb confinement attributable to the valid judgment. Obtain the actual vacatur order, later allocution, custody credits and release records. The fictional facts do not supply a complete compensable-days figure, so none is invented. They do support a targeted investigation and an express limit on the demand. [14,23]

Changed fact. If the defense received the report before trial and used it effectively, the suppression premise disappears on those facts. If the original conviction remains valid and the civil theory necessarily implies its invalidity, address Heck before filing that theory. For Reed, whose charges ended without trial, a missing page is not automatically a completed conviction-based Brady damages claim; his supplied fabrication and restraint evidence must do their own work.

7. Defendants, policy, and defenses

Individual misconduct, municipal liability, and payment responsibility are different questions.

7.1 Identify personal involvement

Specify the conduct of each individual defendant. The arresting officer, report author, observing partner, supervisor, and evidence custodian may have different knowledge and responsibilities. A supervisor's title does not establish liability for a subordinate's act. For failure to intervene, investigate awareness of the constitutional wrong and a realistic opportunity to prevent it; presence alone is insufficient. *Anderson v. Branen* makes the opportunity question fact-sensitive. Seconds, proximity, line of sight, duration, and authority matter. [27]

For *Reed*, request assignments and camera identifiers to distinguish who restrained, struck, wrote, and reviewed. If the identity is unknown, describe the person and pursue identification promptly. "John Doe" pleading does not ensure a later named defendant will relate back after limitations; federal and state relation-back rules have specific conditions. Calendar amendment and service work while pursuing discovery rather than treating an anonymous caption as permanent protection. [40]

7.2 Monell requires a causal municipal policy

Monell rejects municipal section 1983 liability based solely on employment of the wrongdoer. The plaintiff needs an actionable policy or custom that caused the constitutional deprivation. Possible routes include an official policy, a decision by a relevant final policymaker, a persistent practice, or a deliberately indifferent training failure. Identify the particular route and causal mechanism. "The City failed to train everyone properly" states a conclusion, not the necessary facts. [24]

Connick explains the demanding deliberate-indifference standard for failure to train. A pattern of similar violations is ordinarily needed to put policymakers on notice of the specific deficiency; the possible single-incident route is narrow. Unrelated complaints do not automatically establish the required pattern. Conversely, repeated, closely similar findings known to the responsible decision-maker can be significant. Read complaint allegations, sustained findings, settlements, and adjudications as different kinds of evidence. [24]

Reed's policy inquiry. Assume three earlier findings describe officers in the same unit falsely claiming personal observations because supervisors directed them to use a standard report entry. Request the relevant reporting instructions, supervisory communications, training materials, prior findings and responses, and the identity and authority of the policymaker. Ask whether the instruction operated when Reed was arrested and caused the

challenged report. If the earlier matters concern unrelated vehicle damage, they do little to establish this asserted fabrication practice. A settlement alone is not an admission that the alleged policy existed.

7.3 Immunity does not mean universal permission

Qualified immunity for individual federal damages claims asks whether the conduct violated a federal right and whether the right was clearly established in the relevant factual setting. Pearson permits courts to address those questions in either order. The doctrine is distinct from probable cause, although a reasonable mistake about the legality of an arrest can matter. A plaintiff should identify factually relevant precedent and disputed facts rather than rely only on a broad statement of the right. Municipalities do not acquire this individual qualified-immunity defense simply because their employee asserts it. [26]

Prosecutorial and judicial immunity involve separate functional rules. Evaluate the act, not merely the office held. This book focuses on police defendants; it does not supply a complete immunity analysis for suing a prosecutor or judge. A viable underlying wrong can coexist with a defense protecting a particular defendant, and loss against one actor does not substitute for analyzing another.

The recording's general statements about a duty to protect also require limits. DeShaney ordinarily rejects a federal due-process duty to protect people from private violence, while recognizing the significance of government custody and restraint. The Second Circuit's state-created-danger cases address affirmative government involvement in danger, as illustrated by Dwares; mere failure to rescue is not enough. New York tort law separately examines special duty. The Cuffy framework, restated in Maldovan, considers an affirmative undertaking, knowledge that inaction could harm, direct contact, and justifiable reliance. Applicable governmental immunity must still be considered. [25]

Compare the facts. An unanswered request for general patrol protection does not automatically establish a federal duty. A specific promise inducing someone to forgo another available means of safety raises a different state special-duty inquiry. Officers affirmatively assuring assailants that an attack will be tolerated raise a different federal question. Obtain the words, recipients, timing, conduct, and reliance before choosing the theory.

7.4 Separate liability from defense and indemnification

The City of New York is generally the proper municipal defendant for these claims; the NYPD is not a separately suable entity under Charter 396. A city's representation of an officer or willingness to fund a settlement does not prove Monell liability. General Municipal Law 50-k imposes conditions on defense and indemnification and excludes a mandatory indemnification duty for intentional wrongdoing or recklessness. Do not

promise a client that every individual award, including punitive damages, will be paid by the City. [28]

State tort vicarious liability is a separate route: a municipality may be responsible for an employee's tort within the scope of employment without proof of a Monell policy. Jenkins expressly distinguishes these theories. Analyze scope, the underlying tort, notice, limitations, and applicable defenses; indemnification alone still proves neither theory. [28]

The episode describes separating Monell issues from individual claims. Bifurcation and discovery sequencing are case-management decisions, not universal rules. Federal Rule 42(b) permits separate trials for convenience, avoiding prejudice, or expedition and economy, while preserving the jury right. Explain what evidence overlaps, what municipal theory remains, and why proposed sequencing is fair. Under Rule 26(b)(1), tailor discovery to relevant, proportional issues; an unsupported demand for every misconduct record in the department is not a substitute for a defined policy theory. [29]

7.5 File M1: completed claim, defendant and remedy matrix

Defendant and theory	Required connection	Supporting and adverse record	Current decision
Lane: federal false arrest	Confinement without privilege on facts known then	Disputed identification, coat mismatch, full witness words; injury / argument / pointing support defense	Pursue with the actual knowledge chronology; no automatic recovery from dismissal
Lane: unreasonable force	Objectively unreasonable force causing injury	Three post-restraint strikes, medical evidence; defense disputes threat and perception	Pursue distinct force injury; address qualified immunity at Jan. 2024
Lane: prosecution/fabrication	Each claim's elements, transmission/use and resulting restraint	Signed statement, arrival admission, minutes and post-Jan. 29 orders; independent evidence remains disputed	Plead separate counts and avoid overlapping damage recovery
Mora: failure to intervene	Awareness and realistic opportunity to prevent harm	Nearby for twelve-second sequence, "He is cuffed"; no evidence Mora wrote the complaint	Pursue intervention for continued force; withhold unsupported fabrication count

Defendant and theory	Required connection	Supporting and adverse record	Current decision
City: section 1983 policy	Policy/custom and causal constitutional deprivation	M2's similar prior findings and operative instruction; final authority / implementation disputed	Develop targeted policy claim; employment alone insufficient
City: state tort responsibility	Underlying tort, scope, prerequisites and defenses	Police arrest function, timely notices/examinations; intentional wrongdoing and scope require careful analysis	Plead supported alternative state theory; no promise of payment
Supervisor or prosecutor	Personal act and claim-specific culpability; functional defenses	Current file does not establish every recipient's participation	Do not add a defendant solely from rank, review routing or job title

Tangreti rejects a special shortcut for supervisory liability: each defendant's own conduct must satisfy the constitutional theory. The City's potential respondeat-superior liability for a state tort, its federal policy liability and an employee's request for defense/indemnification are three distinct questions. Section 50-k does not guarantee payment for intentional or reckless wrongdoing. A defense lawyer's appearance for an officer is not an admission of liability or a collectible punitive award. [24,27,28,47]

7.6 File M2: completed policy evidence and discovery request

Supplied fictional supporting records. These are teaching exhibits, not descriptions of actual NYPD findings. M2-1 is a May 4, 2022 internal finding: "Officer A inserted 'I personally observed' although relying solely on a witness. The unit's reporting supervisor instructed staff to use that sentence in all assault complaints." M2-2, dated November 17, 2022, sustains the same reporting practice in another assault complaint and records delivery to the unit commander. M2-3, dated August 21, 2023, repeats the finding and notes that the template remained in use. The records identify different incidents and officers, not three copies of one complaint. No record establishes that a settlement admitted a violation.

M2-4 is the version-controlled reporting instruction in effect January 4, 2024, containing the same sentence. Lane's June 11 testimony identifies that template and states that he followed the supervisor's instruction. M2-5 is a routing sheet showing delivery of the prior findings to the unit commander. It does **not** establish that the commander is a final policymaker for the City, what a higher official knew, or that any official ordered falsification. The instruction's wording, understood literally, could be attacked as requiring actual observation rather than its invention. Those issues require proof, not assumption.

Completed production request. “Produce, for January 1, 2022 through January 4, 2024, the versions and change logs of the identified unit’s assault-complaint template; instructions explaining use of the personal-observation field; training and corrective directions concerning that field; the complete investigative findings underlying M2-1 through M2-3; records showing who received those findings and the response; and documents defining authority to approve or change the relevant reporting practice. Preserve associated emails and attachments. This request concerns the identified practice and unit, not every complaint against every officer.”

Completed response to burden objection. “Plaintiff will accept a staged search: the template repository and the reporting supervisor/unit commander custodians first, followed by identified recipients only if the first production shows a relevant escalation. The parties should address redactions and a protective order for sensitive third-party information. The requested period precedes Reed’s incident and tests notice, continuation and cause; unrelated misconduct categories can be excluded.” This is a proportionality proposal under Rule 26, not a court order granting unrestricted access. [29]

Merits evaluation. Repeated similar sustained findings, evidence that the practice continued, and Lane’s identified use strengthen a custom/notice/causation theory. They do not make the demanding Connick standard automatic, prove a final-policymaker theory, or establish that a training omission caused every allegation in the case. If the earlier records concern vehicle damage, or a corrected template was fully implemented before Reed’s incident, their value on this reporting theory sharply declines. Counsel should narrow or abandon an unsupported policy route rather than preserve the label for settlement pressure. [24]

Sequencing position, completed. “Plaintiff opposes a blanket stay of the limited M2 discovery because the template and authorship evidence also bear on Lane’s explanation. Plaintiff agrees that broader policy proof may be staged after the initial production. Separate trial of municipal issues may later reduce prejudice, but requires a developed assessment of overlap and preservation of the jury right.” The defense’s strongest response is that the individual claim may resolve the action without expensive policy discovery. Rule 42(b) leaves the balancing to the court; neither side can call bifurcation mandatory. [29]

7.7 File M3: duty, immunity and identity variations

Duty variation. A person asks for more patrols; officers fail to respond before a private attack. DeShaney does not turn that omission alone into a federal due-process duty. Change the record to officers expressly telling the assailants that they may attack demonstrators without intervention: Dwares illustrates the different state-created-danger inquiry into affirmative encouragement. Change instead to a specific protective promise directly communicated to the victim, knowledge of danger and the victim’s documented abandonment of another safe option in reliance. That supports examination of all four Cuffy

special-duty elements under Maldovan, with governmental immunity still separate. Custody also requires its own constitutional analysis; do not equate a freely moving caller with a person the state has confined and disabled from self-protection. [25]

Qualified-immunity record. On Reed’s force theory, use the supplied facts about restraint, movement, warnings, duration and what each officer could see. Compare pre-incident Second Circuit decisions including Jones, rather than treating the later Barnes opinion as notice in 2024. If a reasonable officer could perceive an ongoing weapon threat on the changed record, both the merits and immunity analysis change. Municipal liability remains subject to its own policy and underlying-violation requirements; absence of municipal qualified immunity is not automatic municipal liability. [13,26,47]

Identity work, completed example. In a different intake where Mora is initially unknown, Ellis records “second uniformed officer, body-camera identifier BWC-2, standing to Lane’s left” on January 8; requests assignments and device mappings January 9; receives a roster January 16; compares the image and roster January 17; and names the identified officer in the timely complaint. Retain that diligence record. If identity remains unknown near limitations, seek timely discovery and evaluate the actual amendment/service rules. Hogan’s relation-back discussion recognizes the distinct CPLR 1024 route through Rule 15(c)(1)(A), with diligence and adequate description requirements; lack of knowledge is not automatically a Rule 15(c)(1)(C) mistake. Hogan is cited here for identity/limitations, not its older supervisory-liability discussion. [40,45,47]

8. Build and preserve the record

An evidence plan must identify the item, custodian, purpose, and next action.

8.1 The first preservation work

Obtain the client's uninterrupted account before showing selected clips or suggesting legal labels. Record exact words, estimates, uncertainty, injuries, witnesses, and the source of each fact. Explain why candid discussion of adverse facts helps representation. Seek authorization for appropriate medical and employment records, coordinate with criminal counsel, and distinguish privileged communications from underlying documents that may be discoverable.

Evidence in Reed's file	Purpose and immediate action
Body cameras and vehicle recordings	Request every involved device, native files, metadata, activation and export records, and the relevant interval before and after arrest.
Shop and neighboring cameras	Identify owners and retention cycles immediately; request preservation and a reliable export before routine overwrite.
Dispatch and incident records	Establish the description and information available before each intrusion; preserve timestamps and later edits.
Arrest, complaint, and prosecution records	Compare the claimed observation, charges, amendments, forwarding, and actual disposition.
Medical and employment records	Connect reported injuries and lost work to dated evidence; distinguish billed sums, payments, and liens.
Witness accounts	Record separate first-hand accounts, contact details, vantage points, and any prior discussion or viewing of footage.

A preservation request should identify the incident, relevant time and location, known officers or identifiers, record categories, and the need to suspend applicable deletion. Retain delivery proof and follow up on gaps. A letter does not guarantee retention or production; use timely compulsory process and court relief where appropriate. Preserve the client's own relevant messages, photographs, recordings, and social posts as well. Do not advise deleting adverse material.

8.2 Demonstrate the discrepancy without overstating it

Initial comparison entry, January 8, 2024. “Lane report, paragraph 4: claimed observation at 8:14. CAM02: uniformed officer enters frame at 8:15:03 displayed time. Dispatch shows arrival at 8:14:51. Clock accuracy unverified. Obtain full native export, shared events, alternative entrance information and Lane’s vantage point.” This initial note retains uncertainty. Section 8.5 supplies the expressly later two-event comparison and Lane’s testimony; it does not silently convert the initial lead into a verified fact.

Keep originals separate from annotated working copies. Record who supplied each file, when, how it was transferred, and whether it is complete. A hash can help document that a copy has not changed after receipt; it does not establish the truth of the recording or cure an incomplete export. Prepare any synchronized timeline with an explicit offset and retain the underlying files so another reviewer can reproduce it.

Federal Rule 37(e) addresses electronically stored information that should have been preserved in anticipation or conduct of litigation, was lost because reasonable steps were not taken, and cannot be restored or replaced. Curative measures depend on prejudice; the most severe specified measures require intent to deprive. Missing footage therefore calls for investigation of preservation duty, loss, recoverability, prejudice, and intent, rather than an automatic request for an adverse inference. [30]

8.3 Science and uncertainty belong in the record

The episode treats DNA exclusion as potentially powerful evidence. Use the laboratory’s actual conclusion. Exclusion from a tested profile does not by itself establish that a person never touched the object. DNA deposition, transfer, persistence, sampling, recovery, mixture interpretation, and the question the test addresses matter. Similarly, inclusion or a likelihood ratio is not a direct statement of when or why contact occurred. NIST’s materials explain why source and activity questions differ. Obtain the complete report and underlying material needed for qualified interpretation. [31]

Appropriate intake wording. “The report excludes Reed as a contributor to the interpretable profile recovered from the sampled handle. We have not determined whether that result excludes the alleged activity.” Ask the expert about sampling locations, quantity, mixture complexity, limitations, and alternative explanations. This preserves the favorable evidence without turning it into an unsupported scientific certainty.

Finish the intake with a decision note: the strongest supported theory, the strongest competing explanation, the records needed to choose between them, the next deadline, and the client’s instruction. For Reed, the immediate recommendation is to preserve the full video and notice deadlines while investigating the claimed personal observation and separate force sequence. A final dismissal does not remove the need for that work.

8.4 File D1: the completed preservation letter

January 8, 2024 • fictional teaching correspondence, not sent. From Dana Ellis, Ellis Teaching Law, 20 Training Avenue, Suite 4, Queens, NY 11101, dana.ellis@example.com. To Corporation Counsel, City of New York Law Department, 100 Church Street, New York, NY 10007; attention to the custodians of the NYPD records identified below. Re: Jordan Reed, January 4–5, 2024 encounter, 100 Example Street, Queens; anticipated civil litigation.

“I represent Jordan Reed concerning the arrest, force and ensuing confinement described in the enclosed January 8 notice. Litigation is reasonably anticipated. Please take reasonable steps to preserve the following relevant records, including routine-deletion holds, and route this request promptly to the actual custodians. This letter requests preservation; it is not a subpoena, discovery order or substitute for notice service.

“Preserve every involved officer’s body-camera and vehicle recording for January 4, 2024 from 7:45 to 9:00 p.m. at or approaching 100 Example Street, and relevant precinct intake, restraint, medical-request and custody records through Reed’s January 5 release at approximately 3 p.m. The known officers are Lane and Mora. Preserve native files, metadata, device identifiers, clock/time-zone settings, activation/deactivation logs, upload/export histories and records of deletion or failed capture. Retain the full relevant intervals, including portions that may contradict my client’s account, and any existing audit trail.

“Preserve dispatch audio/CAD, the original complaint and every revision, witness accounts, photographs, use-of-force reports, supervisory reviews, the relevant template and instructions, officer assignments, and communications transmitting the account to prosecutors or correcting it. Preserve relevant messages and attachments on the systems actually used for those communications, including a relevant personal device if it was used for official case communications. This request is incident-specific; it does not seek unrelated private communications.

“Please acknowledge the request by January 10, identify the responsible contact, and advise promptly if a category is already unavailable or subject to an imminent retention deadline. Preserve available backups and audit records of any loss. Do not create a replacement record that obscures the original. We will confer about scope and lawful production, confidentiality and any necessary compulsory process. Please retain this request and its routing record. /s/ Dana Ellis, fictional counsel.”

Companion shop request, also January 8. To the owner/custodian at 100 Example Street:

“Please preserve the full January 4 recordings from 8:00–8:30 p.m. for every camera covering the entrance and adjoining sidewalk, including CAM02, native exports, system clock settings and retention/export logs. The interval may concern an anticipated civil claim by Jordan Reed. Please avoid overwriting it while counsel arranges lawful access; let us know by January 9 if the system deletes sooner. We seek the full interval, including

adverse footage, not a selected clip. This request is not a representation that you are a defendant or already subject to a court order. /s/ Dana Ellis.”

Client instruction given the same day. Reed is instructed to retain relevant messages, original photographs, posts, medical papers and devices; stop routine deletion affecting relevant material; and send counsel copies without editing originals. The client is told not to delete unfavorable material or coach witnesses. Counsel retains the instruction and Reed’s acknowledgment. A recipient’s silence does not complete the preservation task. [30]

8.5 File D2: chain of receipt and the reproducible clock comparison

Completed source account. Chen records receipt of the shop’s native 8:00–8:30 export January 9, 2024 from the owner, with the camera identifier, transfer method and export log. The original is retained read-only and a working copy is made. The initial transcript note correctly leaves the clock unverified. On June 4, 2026, discovery supplies the system settings, complete dispatch log and body-camera files. On June 8, the technician compares two independently identifiable shared events rather than shifting one clip until it fits the allegation.

Shared event	CAM02 display	Corroborated reference time	Observed offset
Lane steps from patrol car at the visible curb	8:15:03 p.m.	8:14:51 p.m.	CAM02 is 12 seconds ahead
Ambulance rear doors close on departure	8:25:42 p.m.	8:25:30 p.m.	CAM02 is 12 seconds ahead

Completed technician note. “For this supplied interval, subtract twelve seconds from CAM02 display to compare it with the corroborated reference timeline. I found no intervening clock reset in the produced log. The displayed 8:15:03 arrival aligns to 8:14:51. This does not prove the clock’s accuracy at every other time, identify a person by itself, or reveal the obscured sidewalk edge. I retain the native files, settings and two-event comparison with the working timeline.” The later contradiction to Lane’s claimed 8:14 observation also relies on his testimony excluding an earlier approach, as supplied in chapter 3. The initial unverified note is retained as an initial note, not silently rewritten.

Changed fact. If the second event appears at CAM02 8:25:52 while the reference remains 8:25:30, the second offset is twenty-two seconds, not twelve. A uniform correction is unsupported: investigate drift, a reset, frame loss or mistaken event matching before presenting a synchronized exhibit. A digest of a retained copy can show whether that copy changed after receipt; it cannot establish that the source device recorded the truth, the export was complete or the chosen reference clock was correct.

8.6 File D3: dated action ledger with owners and completion evidence

Due/action date and owner	Required action	Actual evidence or result	Next action or remaining risk
Jan. 8–9, 2024 • Ellis/Chen	Preserve city and shop records; retain own-file evidence	Letters and delivery records retained; shop acknowledges Jan. 9 and exports full interval	City acknowledgment alone does not establish every device was held
Jan. 10–16 • Chen	Resolve city silence and officer/device identities	Follow-up Jan. 10; written hold confirmation Jan. 11; roster received Jan. 16	Confirm scope against later production, not just “hold placed”
Feb. 23 and July 26 • Ellis	Review both examination transcripts	Transcripts checked against notices and independent memory	Correct actual errors through proper procedure; do not conform memory to video
Dec. 2–9 • Ellis/server	File complaint and complete separate service	Docket receipt and individual/municipal service returns retained	Track answer, scheduling order and amendments independently
June 4–11, 2026 • Chen/technician/Ellis	Receive full production, test clocks, examine Lane	Native files and manifest; June 8 two-event note; June 11 deposition	Alternate sidewalk coverage still incomplete; preserve this limit
Oct. 12–14 • Ellis	Obtain remaining template-authority proof and liens/expense confirmation	Production request pending; Oct. 7 payment records already confirm \$1,350 self-paid medical cost	Do not call the policy proof or closing distribution complete before replies
Oct. 15 • Ellis/Reed	Review offer terms, net and decision	Conference set before Oct. 16 offer deadline	Obtain actual client instruction; calendar court obligations regardless of negotiations

Loss variation and proposed response. Assume a June production reveals that BWC-2 was overwritten January 20 despite the January 11 hold acknowledgment. Counsel first asks for the hold’s recipients, retention settings, deletion logs, backups and alternate recordings. An available duplicate may cure the loss. If no replacement exists, the proposed application identifies what the missing view would have tested and how its loss prejudices proof; it requests proportionate curative relief. An adverse-inference or terminating sanction under Rule 37(e)(2) requires intent to deprive, not merely a missed retention step. A January 19

email ordering destruction “so Reed cannot use it” would materially change that request; a mistaken device identifier would require a different intent assessment. [30]

8.7 File D4: a scientific report does not answer every factual question

Separate laboratory exercise. The fictional report states: “A mixed trace-DNA profile was obtained from the backpack handle. Under the stated three-person contributor model, the profile is one million times more likely if Diaz and two unrelated unknown persons contributed than if three unrelated unknown persons contributed. The analysis does not determine when or how material was deposited.” This is a supplied likelihood-ratio statement, not an actual laboratory result, a probability of guilt or a finding that Diaz held a weapon during the encounter.

Completed attorney/consultant exchange. Ellis asks, “Does that result distinguish direct handling during the alleged offense from earlier lawful handling or secondary transfer?” The consultant answers, “Not from the source-level calculation alone. We need the propositions, validation and model assumptions, quantity and quality, contributor count, handling history, controls and other evidence. An activity-level conclusion needs additional justified information.” Ellis’s file note concludes: “The result may support contribution under its assumptions. It does not establish timing, possession during the event or who placed the item in the bag. Do not describe an exclusion from one recovered mixture as proof of never touching the item either.” NIST’s review and explainer support these distinctions. [31]

Changed fact. A contemporaneous recording independently shows Diaz gripping the handle and placing the weapon inside. That corroboration changes the evidentiary picture; it does not alter what the DNA statistic itself means. Conversely, a shared workplace handle and documented innocent contact make the activity inference more contested. Counsel’s task is to integrate the evidence and preserve the limits, rather than label all DNA either decisive or worthless.

8.8 Reusable drafting aids after the completed files

Adapt these templates after studying the completed records in D1 and D3. Replace every bracketed field with verified facts. Do not send the fictional Reed letter or assume that the same custodian, scope or legal regime applies.

Preservation correspondence.

“[Date]. To [identified recipient/custodian and verified address]. Re: [client; incident date, time and location; involved personnel; matter/reference]. I represent [client] concerning [specific anticipated dispute and factual basis for anticipating litigation].

“Please take reasonable steps to preserve [identified native recordings, documents, communications and physical evidence] covering [justified time interval and location]. Relevant sources include [specific devices, accounts, systems and responsible custodians]. Preserve originals, metadata, system/time settings, retention policies, existing audit trails and related versions. Please suspend routine deletion affecting this material; preserve favorable and unfavorable information alike. This request is not a subpoena, court order or substitute for required notice or service.

“Please identify the responsible contact and acknowledge the preservation measures by [date]. Tell us promptly of any known deletion deadline, missing material or limits requiring discussion. We can confer about proportionate scope, privacy safeguards and a lawful production process. [Counsel name, verified contact details and signature].”

Client instruction to adapt. Identify the client’s relevant devices, accounts, messages and originals; explain what to retain and what routine deletion to stop. Record the instruction and acknowledgment. Counsel must investigate preservation failures rather than equating a sent letter with a completed hold. [30]

Reusable action-ledger row. Copy one row per claim, evidence source or required act. Use “unknown” where necessary; assign a person and a verification date instead of inventing completion. An internal target and a legal outside date belong in separate fields.

Act / legal trigger	Outside date / internal target	Named owner	Completion evidence	Remaining dependency / next act
[Claim or item; source of rule and triggering fact]	[Computed legal date; earlier internal date]	[Responsible person]	[Receipt, filed record, native-file manifest or other proof; actual date]	[Unresolved issue; person to resolve it; next check date]

9. Resources and client decisions

Explain the cost of litigation in terms the client can use to make a choice.

9.1 Put the fee arrangement in writing

New York Rule 1.5(c) requires a writing explaining the contingent-fee method, relevant percentages, expenses, and whether expenses are deducted before or, where permitted, after calculating the fee. Applicable court rules and fee limits must also be checked. Explain responsibility for expenses if recovery is absent. Rule 1.8(e) governs permissible assistance with litigation costs. “No fee unless we win” is incomplete if the client may still bear expenses. [32]

Section 1988 permits reasonable attorney’s fees to a prevailing party in qualifying civil-rights litigation. It does not apply only because a case is in federal court; a qualifying federal claim can be litigated in state court. Conversely, choosing federal court does not automatically shift fees for a purely state tort. *Hensley* distinguishes unrelated unsuccessful claims from work involving a common factual core or related legal theories and emphasizes the degree of success. Counsel should keep useful contemporaneous time records rather than assume every hour or every separate claim will be compensated. [33]

Fees in a settlement require explicit treatment. Specify whether the amount includes fees and costs or resolves damages alone, whether a fee application remains available, and how any fee award interacts with the retainer. Do not promise that a private settlement automatically creates prevailing-party status or that a statutory award necessarily belongs to the client without examining the agreement and governing law. A written client explanation should prevent undisclosed double counting.

9.2 A completed net-recovery example

Quinn’s independent fee illustration. Assume a permitted signed agreement provides a one-third contingent fee calculated after reimbursement of \$9,000 in litigation expenses. The \$90,000 offer resolves damages, fees and costs together, and a verified \$3,000 medical lien is paid from Quinn’s proceeds. No taxes or other liens are included. This is not Reed’s medical ledger; Reed’s separately completed calculation appears in §9.4.

Calculation	Amount
Gross settlement	\$90,000
Reimburse documented litigation expenses	–\$9,000

Calculation	Amount
Base for one-third fee	\$81,000
Contingent fee: $\$81,000 \div 3$	-\$27,000
Client proceeds before lien	\$54,000
Verified lien payment	-\$3,000
Illustrative client net	\$51,000

If an otherwise permitted gross-method agreement calculates one third on \$90,000, the percentage component is \$30,000. On the expressly assumed lawful arrangement also providing reimbursement of the same \$9,000 costs and payment of the \$3,000 lien, the client amount would be \$48,000. This conditional comparison is not permission to impose gross calculation and costs without the required client selection, allocation and applicable court-rule compliance. Section 9.4 supplies the governing New York requirements and Reed's actual net-method terms. [32,43]

Resource decision. Suppose an expert would cost an additional \$6,000 and address whether the wrist injury was caused by restraint or a prior condition. Explain the expert's proposed task, uncertainty, timing, and effect on both proof and net recovery. Do not merely announce that the case needs a bigger budget. If the evidence cannot support the claim, additional spending may not solve it; if it can resolve a material causation dispute, the expense may be justified. An appeal similarly requires analysis of the record, standard of review, preserved issue, cost, and possible remedy, not just dissatisfaction with the result.

9.3 Give a schedule with dependencies

The episode's duration estimates are experience-based observations, not guaranteed court timelines. A New York note of issue and certificate of readiness represent a procedural readiness stage under 22 NYCRR 202.21; they do not guarantee an immediate trial. Federal scheduling depends on Rule 16 orders, discovery, dispositive motions, and the court's calendar. Identify the actual next events and update the client when they change. [34]

Completed client update. Section 9.5 provides the October 9, 2026 message after the later discovery, the actual \$54,000 Reed net scenario, material offer terms, remaining evidence, conference dates and Reed's limited negotiation instruction. Quinn's \$51,000 lien example is not imported into Reed's calculation.

Rule 1.2(a) assigns the settlement decision to the client. Explain the release's scope, treatment of liens and fees, payment timing, confidentiality or other material terms, and the consequences of rejecting the offer. Financial pressure, health, privacy, time away from

work, and a desire for accountability can reasonably affect a client's choice. Counsel provides a reasoned recommendation; counsel's expenses or desire for a precedent do not displace that choice. [32]

9.4 File F1: apply Reed's actual assumed fee terms

The \$3,000 lien example above belongs to **Quinn**, not Reed. Reed's supplied medical bills total \$1,350 and were paid personally; the October 7 records disclose no insurer payment, outstanding medical balance, assignment or lien for those bills. Counsel must still verify all relevant claims before distribution. For this exercise, assume that verification confirms no other deduction. This makes Reed's illustrative net different from Quinn's without changing either arithmetic example.

Completed retainer extract, January 8, 2024. "Jordan Reed retains Dana Ellis for the civil claims arising from the January 4–5 encounter and resulting prosecution, through trial in the agreed forum. An appeal requires a separate agreement. The contingent fee is one third of the recovery after reimbursement of documented litigation expenses. An unallocated settlement resolving damages, fees and costs together is included in that recovery. A separately identified statutory attorney-fee payment is excluded from this percentage base and is instead applied as the credit described below. Counsel advances reasonable litigation expenses; repayment is contingent on a recovery. If there is no recovery, the client owes no fee or repayment of those advanced litigation expenses under this agreement. This provision does not promise immunity from a court's sanctions or other obligations independently imposed by law. The client controls settlement. Any separately recovered statutory fee is credited dollar for dollar against the contingent fee otherwise due; the firm will not collect both in full for the same fee entitlement. A closing statement will identify the recovery, expenses, fee, credits, other lawful deductions and client balance. Any different fee arrangement requires an informed lawful written agreement." Teaching signatures: /s/ Jordan Reed and /s/ Dana Ellis.

This extract supplies the contractual assumptions used in the calculations; an actual retainer must address the full engagement. New York Rule 1.5(c) requires a writing promptly after retention describing the contingent-fee method, applicable percentages, expenses, whether expenses are deducted before or after the fee where permitted, and any expense liability without a recovery. At the end of the matter, counsel must provide the required outcome and remittance statement with the method of calculation. Signing the model agreement documents the client's assent to those terms. [32]

Second Department rule 691.20(e) provides net and permitted gross methods. The retainer or engagement letter must describe both alternatives, explain their financial consequences and clearly record the client's selection. Its gross method applies when counsel pays costs on counsel's own account under Judiciary Law 488(2)(d). Medical-treatment liens are not deducted in computing the percentage merely because they must be paid from the client's

proceeds. Counsel cannot switch methods silently at closing. Quinn’s gross-method comparison assumes a lawful agreement satisfying these conditions. [43]

For a contingent personal-injury matter subject to Part 691, the engagement also triggers OCA reporting. Counsel must personally sign and electronically file the retainer statement within thirty days after retention. When counsel receives, retains or shares any sum in connection with such a matter, a personally signed closing statement must be electronically filed and served on the client within fifteen days. If the matter ends or the retainer terminates without recovery, the electronic closing statement is due within thirty days. These reports are separate from the client’s fee agreement and settlement approval. [43]

F1 compliance-calendar entry. January 8, 2024 retention produces a February 7, 2024 retainer-statement deadline. Confirm that date against the actual OCA filing receipt; the supplied retainer extract is not evidence that the report was filed. As of the October 9 settlement discussion, the file assumes no receipt or sharing of proceeds and no termination, so the closing-report trigger has not occurred. Record that trigger and the resulting deadline when it does, and retain proof of filing and client service.

Expense substantiation, October 8, 2026. The fictional paid-invoice ledger contains \$2,600 for depositions/transcripts, \$2,100 for investigator interviews, \$1,800 for native-video processing, \$900 for filing/service/records, and \$1,600 for medical consultation: total **\$9,000**. These are litigation expenses, not a second claim for Reed’s \$1,350 treatment bills. Counsel has removed an unapproved \$300 office-overhead charge from the proposed ledger; overhead is not transformed into a reimbursable item merely by relabeling it an expense.

Reed offer calculation under the stated net method	Amount
Inclusive offer—damages, fees and costs together	\$90,000
Documented litigation expenses	–\$9,000
Fee base	\$81,000
One-third fee	–\$27,000
Client amount before separately reviewed tax consequences	\$54,000

No additional section 1988 award is assumed on top of this inclusive offer. Lackey explains why temporary preliminary success followed by mootness does not itself establish prevailing-party status; a claim’s procedural outcome and enduring judicial relief matter. Hensley separately governs reasonableness and success once fee entitlement exists. An agreed settlement allocation and a judicial fee award must not be confused. [33,49]

Separate statutory-fee payment: completed reconciliation. Suppose the resolution expressly allocates \$90,000 to damages **plus** a separately recoverable \$20,000 statutory fee. F1 excludes that separately identified fee from the contingent percentage base and credits it against the resulting fee. Expenses remain \$9,000, so the percentage base is $\$90,000 - \$9,000 = \$81,000$ and the contingent fee is \$27,000. Apply the \$20,000 credit, leaving \$7,000 taken from damages after expenses. Reed receives $\$90,000 - \$9,000 - \$7,000 = \$74,000$. The total \$110,000 reconciles to \$74,000 for Reed, \$27,000 in total attorney compensation and \$9,000 in expense reimbursement. This alternative is governed by the stated contract and express allocation; it does not add a fee entitlement to the pending inclusive offer. [32,33,43]

9.5 File F2: the resource and client-authority decision

Expert proposal. A qualified hand specialist offers a record review and causation report for \$6,000. The specific question is whether symptoms persisting beyond six weeks are attributable to the restraint/strikes or a documented prior wrist condition. The existing medical records already support an acute sprain; the consultant cannot promise proof of permanent impairment. Counsel's recommendation is to obtain the missing prior-treatment records and a focused preliminary opinion before authorizing the full report. Spending more does not necessarily make the case stronger.

Budget consequence at an unchanged \$90,000 recovery. Expenses would rise to \$15,000, the net fee base would be \$75,000, the one-third fee \$25,000, and Reed's amount \$50,000. The added \$6,000 expense reduces the client's amount by \$4,000 under this net method because it also reduces the fee by \$2,000. If the recovery rises, the result changes; no increase is promised. If no recovery occurs, this retainer assigns the advanced expense risk to counsel. Those are contract assumptions, not universal rules. [32,43]

Completed October 9 message from Ellis to Reed. "The \$90,000 offer expires October 16 unless extended. On the verified \$9,000 expense ledger and your net-method agreement, your illustrative amount is \$54,000 before separately reviewed tax consequences. No medical lien is currently shown; we will finish the remaining checks before any distribution. The full camera and Lane's testimony now strengthen the force and false-observation issues. We still lack final authority/response records for the policy claim, and the defense disputes causation and your continuing wrist symptoms. The offer would release the specified incident-related civil claims against the named defendants, includes fees/costs, provides no admission or policy change, and proposes payment within sixty days after receipt of all required executed papers. We should negotiate a clear payment/enforcement provision and verify the release's exact scope. There is no trial date, and the offer itself does not change any court deadline."

Client's recorded response, October 9. "My priorities are a dependable net amount and finishing the case, but I do not want a release of unrelated claims or a confidentiality clause. You may ask for \$105,000 and those limits. I have not authorized acceptance of \$90,000 or any other amount. Explain the final terms to me first." Ellis records that limited negotiation

instruction, sets an October 15 conference, and keeps the October 16 deadline. Acceptance remains subject to Reed's approval of the final amount and terms. [32]

Schedule dependencies. The October 12 request for missing policy-authority records, October 14 lien/expense confirmation and October 15 conference are internal action dates, not asserted court orders. The fictional scheduling order places the next court conference on November 4; any trial date or expert cutoff must be read from that order. If a production delay threatens a court deadline, request timely relief with the concrete missing item and diligence record. A New York note of issue is a different readiness mechanism; neither that filing nor a federal conference guarantees a trial within a promised number of months. [34]

10. Damages and credible valuation

Connect each claimed loss to evidence and an actionable wrong; avoid a price-per-day formula.

10.1 Build the damages theory

Compensatory damages address injury caused by the violation. Relevant proof can include physical injury, lost earnings, treatment expenses, emotional distress, and loss of liberty, subject to the particular cause of action and causation rules. *Carey and Memphis Community School District v. Stachura* reject compensation based simply on the abstract importance of constitutional rights. Nominal damages may be appropriate where a violation is established without proven compensable injury. Distress should be proved through concrete effects and credible testimony, with records or other witnesses where available. [35]

There is no general statutory daily tariff for these section 1983 arrest and prosecution claims. An anecdotal settlement, a lawyer's past result, or a headline verdict is not a binding schedule. Compare legally relevant injuries, length and conditions of confinement, evidence strength, causation, defenses, forum, procedural stage, and the terms of the actual resolution. A settlement may compromise substantial disputed liability and may include fees; it is not necessarily a finding of what a day of liberty is worth.

Punitive damages serve a different purpose. *Smith v. Wade* permits them against an individual under section 1983 on the applicable evil-motive or reckless/callous-indifference showing. *City of Newport* bars section 1983 punitive damages against municipalities. An intentional act is not automatically a punitive award, and the indemnification question remains separate. [36]

10.2 Complete the proof schedule

Reed's preliminary damages record. Assume the following amounts are documented and causally related, with no overlap. The table is a method for organizing proof, not a forecast of an award. Whether each item is recoverable and whether collateral payments or liens affect the result require separate legal review.

Loss	Proof and treatment
Three missed shifts at \$240 each	Payroll and employer confirmation support \$720; distinguish paid leave from actual wage loss.
Medical expense of \$1,350	Itemized bills and payment records; confirm necessity, causation, and applicable offsets or liens.
Four court trips at \$35 each	Receipts and required appearance dates support \$140.

Loss	Proof and treatment
Documented economic subtotal	\$720 + \$1,350 + \$140 = \$2,210, before legal adjustments.
Wrist pain and functional limits	Dated examination, photographs, treatment course, and specific effects on daily tasks. No invented fixed amount.
Emotional and liberty injury	Client account of conditions, sleep, work, family effects, duration, and corroboration; separate lawful from allegedly unlawful restraint.

The \$3,000 lien in Chapter 9 is an independent fee illustration, not an additional established Reed medical loss. Keep example assumptions separate so a teaching calculation does not silently enlarge the damages record. In an actual file, one verified ledger should reconcile billed charges, payments, liens, claimed damages, and final deductions.

Causation variation. Reed misses a shift for treatment of the wrist, another for an unrelated illness, and a third because of a court appearance on a valid independent charge. The treatment-related shift fits the stated physical-injury theory if the evidence establishes that the challenged force caused the treatment and the actual wage loss. The other absences require their own causal connection and cannot be added merely because they occurred in the same month. A lack of wage records does not erase non-economic injury; it changes the proof available for the lost-income claim.

10.3 Address bias without adopting it

The discussion raises race, prior convictions, and perceived jury response. Race is not a legally proper discount to the value of a person's rights or suffering. Counsel should examine discriminatory assumptions in the case evaluation and the proposed evidence, describe the client's actual experience, and seek appropriate evidentiary rulings. A prediction about possible juror bias is a problem to address through advocacy and lawful jury selection, not a damages rule to repeat to the client as fact.

Prior convictions are not automatically admissible for every purpose. In federal court, Rule 609 distinguishes qualifying felony impeachment from crimes involving dishonest acts or false statements and imposes additional limits for old convictions. The ten-year period generally runs from conviction or release from confinement for it, whichever is later. Rules 403 and 404 separately address unfair prejudice and impermissible character reasoning. A civil plaintiff's criminal record does not make every allegation of police misconduct unbelievable or permit unrestricted propensity evidence. [37]

Proposed evidentiary approach. Identify each conviction, date, release date, proposed purpose, and applicable rule. Move to exclude impermissible propensity use and seek appropriate limits where some impeachment is allowed. If the defense claims a prior injury or confinement affects damages, require a specific relevance theory and distinguish it from

an attack on the client's worth. Consider limiting instructions or phased proof where appropriate. Do not hide the record from counsel or assume it will all reach the jury.

10.4 Finish with a supported recommendation

From intake to final advice. The initial file warranted preservation and investigation because camera timing, coverage and causal use were unresolved. The later supplied records permit the complete October 9, 2026 recommendation in §10.7. It identifies stronger and weaker claims, the \$2,210 documented subtotal, specific remaining proof, \$54,000/\$64,000 offer scenarios and the client's actual authority.

10.5 File V1: an evidenced loss schedule, not a settlement tariff

Completed supporting exhibits. V1-A is the employer's January 12, 2024 statement identifying scheduled eight-hour shifts January 5, 6 and 7 at \$30 per hour, no paid leave used and \$720 unpaid. V1-B contains the January 5 \$900 clinic bill, January 8 \$450 follow-up bill and Reed's payment records, with the sprain/bruising findings and no fracture. V1-C contains four \$35 round-trip receipts for the February 20, March 18, May 6 and June 10 required court appearances. The January 29 remote appearance generates no travel claim. These are fictional evidentiary records supplied for the exercise; they are not records about a real client.

The economic subtotal is $\$720 + \$1,350 + \$140 = \$2,210$. The wage and treatment items are linked to the claimed physical injury; the travel items depend on the prosecution-restraint theory. If that theory fails, the \$140 does not become force damages by moving it to another column. Payments are reconciled to claimed bills and final deductions so the same cost is not counted twice. A \$250,000 notice demand and a \$90,000 compromise offer do not establish either the economic subtotal or a jury valuation. [35]

Non-economic proof supplied. Reed's January 8 intake reports sleep disruption and difficulty gripping kitchen equipment. The January 12 employer statement confirms a temporary lifting restriction on return; Reed's February 2 account reports improved grip but continuing fear during police encounters. The clinic records do not diagnose permanent disability or a psychiatric disorder. Those limits belong in the recommendation. A factfinder may evaluate credible pain, emotional and liberty injury without a permanent diagnosis, but counsel should not invent one to support a demand.

Changed wage proof. If only one \$240 missed shift is injury-related and the other two were unrelated, while the four court trips remain causally tied to the unsupported sole assault charge, the supported economic subtotal becomes $\$240 + \$1,350 + \$140 = \$1,730$. If those trips instead would all have occurred solely because of an independent valid charge, the stated injury-linked subtotal becomes **\$1,590**. Separate causal facts change dollars; race, perceived social standing and generalized assumptions about a criminal record do not supply a lawful discount. [35,37]

10.6 File V2: completed motion, opposition and proposed limits

Supplied conviction record. Reed has a 2010 assault conviction, with release from confinement for it on June 30, 2012. Assume trial is scheduled for October 2026, solely for this evidentiary exercise. The defense gives written notice that it seeks the conviction to attack credibility and to suggest Reed has a violent disposition. No element of that conviction required a dishonest act or false statement. The main scheduling file still has no trial date; this changed trial assumption is used only to apply Rule 609's age rule. [37]

Motion text. "Plaintiff moves to exclude the 2010 assault conviction and any propensity argument. More than ten years have elapsed since both conviction and release from confinement. Rule 609(b), not merely the ordinary civil-felony rule, therefore governs impeachment. The proponent must identify specific facts showing that probative value substantially outweighs prejudicial effect and provide reasonable written notice. Assault does not automatically fall within Rule 609(a)(2). A violent-person inference is an impermissible character use, and its risk is acute in a case disputing police force. Defendant's notice supplies no particularized truthfulness basis sufficient to meet the heightened standard. Exclude reference to the conviction, sentence and underlying details absent a ruling outside the jury's presence."

Opposition. "Reed will offer his own account of resistance and injury; credibility is central. The conviction should be available for impeachment, and earlier incarceration may bear on claimed emotional effects." **Reply.** "Central credibility alone does not satisfy the specific Rule 609(b) test. A concrete damages theory concerning prior experience must be identified and evaluated separately under relevance, Rules 403/404 and appropriate limits; it cannot be used to smuggle in a propensity argument. Reed's worth and entitlement to constitutional protection are not contested evidentiary propositions." [37]

Proposed operative order, not an entered ruling. "On this supplied proffer, the 2010 conviction is excluded for impeachment and propensity purposes. Counsel and witnesses shall not refer to it before the jury without first obtaining a ruling outside the jury's presence. A party seeking to offer a specifically relevant, non-propensity fact concerning earlier confinement must identify that fact and purpose in advance; this order does not preapprove such evidence. No party may argue that race, prior conviction or social status reduces the legal value of a person's rights."

Changed fact. A 2020 conviction whose elements required a false statement presents a materially different Rule 609(a)(2) inquiry while within the ten-year period. A recent felony without such an element instead requires the civil-case Rule 609(a)(1)(A)/403 analysis. Check the judgment, elements, admissions and release date; do not call every theft offense automatically a false-statement crime. Even when impeachment is allowed, that does not license every underlying detail or an argument that the plaintiff deserved unlawful force. [37]

10.7 File V3: completed final recommendation

October 9, 2026 • Ellis to Reed • civil review memorandum. “The timely December 2024 filing and retained notice, examination and service records preserve the assumed claims; the new custody window does not rescue or replace this historical calendar. The full June production and Lane’s testimony improve the previously uncertain arrival issue. The strongest individual theory is the distinct post-restraint force shown over twelve seconds with medical corroboration. Mora’s audible acknowledgment and proximity support an intervention inquiry, but there is no present basis to accuse Mora of writing the false complaint.

“Lane’s admitted late arrival, authored observation sentence, forwarding log and the arraignment’s use of that sentence support a separate fabrication theory. The prosecution theory is strongest for the four required appearances after the other count ended. The defense can still argue independent evidence and dispute causal use; we should not assign every event or symptom to every count. The policy exhibits justify the focused M2 requests, but municipal final authority and the actual response remain incomplete. We should not promise a Monell verdict or City payment of punitive damages.

“The documented economic claim is \$2,210 before legal adjustments, with \$140 dependent on prosecution causation. Pain, distress and liberty injury are additional proof categories, not a daily formula. The record supports an acute sprain and temporary limits; it does not yet support permanent impairment. The old-conviction motion addresses a concrete evidentiary risk without adopting a criminal-history or racial discount.

“I recommend pursuing your authorized \$105,000 counterproposal and release limits while preparing to evaluate the \$90,000 offer before October 16. At \$105,000 with expenses unchanged at \$9,000, the net fee base is \$96,000, the fee \$32,000 and your illustrative amount \$64,000 before separately reviewed taxes or newly verified deductions. At the current \$90,000 inclusive offer it is \$54,000. These are arithmetic scenarios, not promised outcomes or instructions to accept. A trial can yield more, less or nothing; continued litigation can also increase cost and delay. Before any acceptance, we will review the exact release, payment/enforcement terms, fee treatment and final deductions together. Your October 9 instruction authorizes negotiation only.”

What would change the recommendation. A clear independent identification would weaken arrest/prosecution theories; a contrary complete camera view would alter force and intervention analysis; missing policy linkage would narrow the City’s federal exposure; supported permanent injury could justify further expert work and a different valuation. A real client’s decision may reasonably prioritize closure over litigation or vice versa.

Review and application

Apply the distinctions before reviewing the model analysis.

1. The late intake

A client calls ten months after force during arrest. The criminal case ended yesterday. Is every claim newly timely?

Analysis. No. Identify separate accrual events. Force and federal false arrest ordinarily started earlier; prosecution and qualifying fabrication may follow termination. Check state notice, municipal and individual limitations, tolls, and any available late-notice application immediately. Dismissal does not revive an expired independent claim. Chapters 2 and 6 show the required ledger.

2. The plea package

A felony is dismissed in exchange for a plea to a violation. The client says the felony's dismissal alone establishes favorable termination. What document is decisive?

Analysis. Obtain the plea and disposition record, including the bargain's scope. Carruthers rejects favorable termination for charges dismissed as part of the negotiated plea. A distinct charge ended independently earlier presents a different question. Separately analyze false arrest, fabrication, and any force theory consistent with the plea; do not apply one answer to all claims.

3. The missing footage

Only a short clip survives. Does the loss require an adverse inference?

Analysis. Determine what existed, when preservation duties arose, the deletion process, reasonable preservation steps, whether other sources can restore it, prejudice, and intent. Rule 37(e) distinguishes curative measures from the more severe measures requiring intent to deprive. Obtain the retention policy, logs, and other cameras before drawing the requested inference.

4. The supported arrest and false report

An officer has probable cause for an arrest but invents a confession that causes added restraint. Does probable cause resolve the entire civil case?

Analysis. It may defeat false arrest while leaving a distinct fabrication or charge-specific prosecution inquiry. Identify knowledge, transmission, materiality, causation, disposition, and any outstanding conviction. A fabrication claim cannot rest simply on disagreement with an honest account; the invented confession must be supported as a knowingly false statement.

5. The municipal shortcut

The City pays for an officer's defense. Counsel pleads that payment alone as the policy causing the injury. What is missing?

Analysis. Defense and indemnification concern representation and payment. Monell requires an actionable policy or custom and causal link to the violation. Obtain facts supporting the specific municipal route; do not infer it from the defense arrangement. Consider proper parties, immunity, and targeted discovery separately.

6. The settlement number

The client hears "\$90,000" and assumes that is the amount they will receive. What should counsel provide?

Analysis. Provide a written gross-to-net calculation using the lawful retainer, documented expenses, liens and fee terms, then explain the exact release and obtain the client's decision. Quinn's independent example yields \$51,000; Reed's separately verified no-lien example yields \$54,000. State which facts govern instead of importing a convenient net from another file.

7. Fresh transfer problem: Ellis's new intake

Try the work before reading the answer. This separate file concerns Morgan Blake, not Reed. Force occurs May 1, 2024; arraignment and physical release occur May 3. The remaining charges are finally dismissed without a bargain September 6, 2024. Assume the covered municipal framework, adult claimant, no applicable toll or revival, and ordinary federal accrual as taught above. Counsel meets Blake July 29, 2024. A draft notice exists but has not been served. A native camera file shows a shared event at 14:02:20, while the corroborated reference shows 14:02:00; a second shared event appears at 14:12:25 versus reference 14:12:00. A \$75,000 inclusive settlement proposal is later made under a net-method one-third retainer, with \$6,000 verified expenses and a separate \$2,000 verified lien.

Required decisions. Calculate the force and state-confinement notice dates, identify what must happen at the July 29 intake, then calendar the later prosecution notice and covered action dates. State the ordinary federal dates separately. Decide whether the video supports one uniform offset. Complete the settlement distribution. Finally, explain what changes if the dismissal was exchanged for a plea, and why a late notice and a section 1983 claim require different analyses. Do not assume that a favorable result on one question supplies the answer to another.

8. Reasoned answer and completed transfer ledger

Notice calculation. May 1 plus ninety days is **July 30, 2024**: thirty remaining May days + thirty June days + thirty July days. May 3 plus ninety is **August 1**; September 6 plus ninety is **December 5, 2024** for the separately assumed prosecution notice. On July 29, complete the truthful verified notice and authorized service, with proof. A saved draft is not service; dismissal does not restart earlier clocks. [5-8]

Covered action calculation. Add one year and ninety days: force **July 30, 2025**; confinement **August 1, 2025**; prosecution **December 5, 2025**. Ordinary federal three-year dates: force May 1, 2027 is Saturday, extending to **May 3**; false arrest is already **May 3**; prosecution September 6, 2027 is Labor Day, extending to **September 7**. These apply the stated final-day rules. Set earlier internal dates; verify actual tolls, calendar and service requirements separately. Timeliness does not establish the merits. [4,7,22,50]

Video answer. Offsets are twenty and twenty-five seconds. Preserve both originals and investigate drift, resets or mismatched events; one uniform correction is unsupported. The discrepancy alone proves neither officer guilt nor claimant dishonesty.

Distribution answer. $\$75,000 - \$6,000 = \$69,000$ fee base; one third = $\$23,000$; proceeds before lien = $\$46,000$; after the $\$2,000$ lien = **$\$44,000$** , before separately reviewed taxes/other deductions. Reconciliation: $\$6,000$ expenses + $\$23,000$ fee + $\$2,000$ lien + $\$44,000$ client = $\$75,000$. A gross-method fee would contradict the supplied agreement. [32,43]

New-file decision	Completed action and reason
July 29 intake	Ellis verifies facts, recipient/method and signature/oath; arranges actual authorized service by July 30 and retains the transmitted copy and proof
September 6 disposition	Obtain final minutes; serve the separate prosecution notice by Dec. 5; do not rely on the earlier force notice alone
Conflicting time offsets	Technician preserves files and checks the second event/system log; no definitive synchronized exhibit yet
Offer	Explain $\$44,000$ calculated net and exact release/fee/payment terms; obtain actual client settlement authority
Plea-exchange variation	Apply Carruthers to bargained dismissal; analyze any independent force theory under the actual plea and Heck
Notice missed	Prompt state late-notice inquiry on evidence; preserve federal rights separately under Felder rather than representing all claims as lost or automatically extended

Glossary

Working terms and the distinctions that matter in this course.

Accrual. The event that starts the limitations clock; it may differ among claims from one encounter.

Color of law. Exercise or misuse of governmental authority, distinct from employment or on-duty status alone.

Probable cause. A practical basis for the relevant arrest or prosecution, evaluated using the governing claim and available facts.

Favorable termination. A required disposition whose meaning depends on the cause of action and the actual manner in which proceedings ended.

ACD. Adjournment in contemplation of dismissal; entry and completed dismissal are different procedural events.

Fabrication. Knowing falsification of qualifying information, with the transmission, materiality, and resulting deprivation necessary for the claim.

Materiality. Legal significance under the particular rule; Brady materiality is not identical to ordinary discovery relevance.

Monell liability. Municipal section 1983 liability based on an actionable policy or custom causing the violation, rather than employment alone.

Qualified immunity. An individual defense concerning violation of a federal right and whether it was clearly established in the relevant setting.

Indemnification. Payment protection subject to its legal conditions; distinct from whether a municipality caused the violation.

Nominal damages. A limited award recognizing a proven violation without proven compensable injury in the applicable circumstances.

Spoliation. Loss or destruction of evidence; the available remedy depends on the governing rule and required findings.

Selected authorities

Primary authorities and official guidance supporting the instruction. Legal authorities and guidance were rechecked on October 12, 2026; faculty source verification is recorded separately. Pinpoints and scope notes identify the propositions used.

1. 42 USC 1983; *Pitchell v. Callan*, 13 F.3d 545, 548–549 (2d Cir. 1994). Federal right and color of law, including private pursuits. [Statute](#) · [Pitchell](#)
2. *Egbert v. Boule*, 596 U.S. 482 (2022); *Martin v. United States*, 605 U.S. 395 (2025); 28 USC 2401(b), 2675(a). Bivens limits and distinct FTCA requirements. [Egbert](#) · [Martin](#) · [2401](#) · [2675](#)
3. 28 USC 112, 1331, 1367, 1441. New York districts, federal-question and supplemental jurisdiction, and removal. Court-specific admission rules require separate review. [112](#) · [1331](#) · [1367](#) · [1441](#)
4. *Owens v. Okure*, 488 U.S. 235, 249–250 (1989); *Wallace v. Kato*, 549 U.S. 384, 388–397 (2007). Borrowed limitations period and federal false-arrest accrual. [Owens](#) · [Wallace](#)
5. General Municipal Law 50-e(1)–(3), (5). Notice content, service, and discretionary late-notice applications. [Read statute](#)
6. General Municipal Law 50-h(2), (5), and 50-i. Examination demand and compliance, waiting period, and covered municipal limitation. [50-h](#) · [50-i](#)
7. General Construction Law 20 and 25-a; CPLR 214(5), 215(3); *Bumbury v. City of New York*, 62 AD3d 621 (1st Dept 2009). Day counting, specified periods, and state confinement accrual. [20](#) · [25-a](#) · [214](#) · [215](#) · [Bumbury](#)
8. *Felder v. Casey*, 487 U.S. 131, 138–153 (1988). State notice-of-claim conditions cannot defeat section 1983 rights. [Read opinion](#)
9. *Carruthers v. Colton*, 153 F.4th 169 (2d Cir. 2025), slip opinion pp. 18–53. Arrest versus prosecution, charge-specific termination, plea bargains, fabrication, and pleading-stage inferences. [Read opinion](#)
10. *Townes v. City of New York*, 176 F.3d 138, 145–149 (2d Cir. 1999); *Martinez v. City of Schenectady*, 97 NY2d 78, 82–85 (2001). Suppression, causation, and limits of federal and state damages theories. [Townes](#) · [Martinez](#)
11. Federal Rules of Civil Procedure 8(a), 11(b); *Carruthers*, reference 9. Plausible factual allegations and reasonable inquiry. [Rule 8](#) · [Rule 11](#)
12. *People v. Hollman*, 79 NY2d 181 (1992), explaining *People v. De Bour*, 40 NY2d 210 (1976); *People v. Holmes*, 81 NY2d 1056 (1993); CPL 140.50; *Terry v. Ohio*, 392 U.S. 1 (1968). Encounter levels and protective-search requirements. [Hollman](#) · [Holmes](#) · [140.50](#) · [Terry](#)
13. *Graham v. Connor*, 490 U.S. 386, 395–397 (1989); *Barnes v. Felix*, 605 U.S. 73 (2025), slip opinion pp. 4–9. Objective force analysis and totality of circumstances. [Graham](#) · [Barnes](#)
14. *Heck v. Humphrey*, 512 U.S. 477, 486–487 (1994). Damages theories that necessarily imply invalidity of an outstanding conviction. [Read opinion](#)
15. Penal Law 120.05(3). Intent to prevent a lawful duty and resulting physical injury in the specified assault offense. [Read statute](#)
16. *Thompson v. Clark*, 596 U.S. 36, 43–49 (2022). Federal favorable termination without an affirmative indication of innocence. [Read opinion](#)
17. *Chiaverini v. City of Napoleon*, 602 U.S. 556, 558–563 (2024). Charge-specific probable cause; causation remains necessary. [Read opinion](#)

18. *Smalls v. Collins*, 10 F.4th 117 (2d Cir. 2021), discussion of Daniel and completed ACD; *Price v. County of Nassau*, No. 18-cv-4393, Doc. 152 (EDNY 2022), federal ACD application after Thompson. Price is district-court authority. [Smalls · Price](#)
19. *Cantalino v. Danner*, 96 NY2d 391, 395–396 (2001); *Hollender v. Trump Village Cooperative*, 58 NY2d 420, 425–426 (1983). New York tort termination, compromise, and ACD; see *Brown v. City of New York*, 2019 NY Slip Op 02295, applying *Hollender*. [Cantalino · Brown applying Hollender](#)
20. CPL 100.40 and 140.45. Distinct instrument sufficiency requirements and dismissal where no sufficient instrument can be drawn from available evidence. [100.40 · 140.45](#)
21. *People v. Baker*, 20 NY3d 354, 359–362 (2013); *Counterman v. Colorado*, 600 U.S. 66 (2023). Public harm in disorderly conduct and mental state in true-threat prosecutions. [Baker · Counterman](#)
22. *McDonough v. Smith*, 588 U.S. 109 (2019); *Smalls*, reference 18. Accrual and criminal-case consistency for fabrication claims. [McDonough](#)
23. *Brady v. Maryland*, 373 U.S. 83, 87 (1963); *Poventud v. City of New York*, 750 F.3d 121 (2d Cir. 2014) (en banc), majority discussion of Brady, Heck, and damages. Distinguish the vacated conviction from the later valid plea. [Brady · Poventud](#)
24. *Monell v. Department of Social Services*, 436 U.S. 658, 690–694 (1978); *Connick v. Thompson*, 563 U.S. 51, 60–71 (2011). Policy, causation, and deliberate indifference in training. [Monell · Connick](#)
25. *DeShaney v. Winnebago County*, 489 U.S. 189, 195–201 (1989); *Dwares v. City of New York*, 985 F.2d 94, 98–99 (2d Cir. 1993); *Maldovan v. County of Erie*, 39 NY3d 166 (2022). Federal private-violence limits and distinct state special duty. [DeShaney · Dwares · Maldovan](#)
26. *Pearson v. Callahan*, 555 U.S. 223, 231–236 (2009). Qualified-immunity questions and order of decision; *Owen v. City of Independence*, 445 U.S. 622, 638 (1980), rejects municipal qualified immunity. [Pearson · Owen](#)
27. *Anderson v. Branen*, 17 F.3d 552, 557 (2d Cir. 1994). Knowledge and realistic opportunity to intervene; individual factual roles remain necessary. [Read opinion](#)
28. General Municipal Law 50-k(2)–(4); NYC Charter 396; *Jenkins v. City of New York*, 478 F.3d 76, 93 n.19 (2d Cir. 2007). Defense/indemnification conditions and NYPD non-suable status. [50-k · Charter · Jenkins](#)
29. Federal Rules of Civil Procedure 26(b)(1) and 42(b). Proportional discovery and discretionary separate trials. [Rule 26 · Rule 42](#)
30. Federal Rule of Civil Procedure 37(e). Lost electronically stored information, reasonable steps, prejudice, and intent-dependent remedies. [Read rule](#)
31. NIST, DNA Mixture Interpretation: A NIST Scientific Foundation Review, NIST IR 8351 (December 2024). Source propositions, transfer, persistence and activity-level limits; report §§5.4.1–5.4.2, pp.142–148. [NIST DNA mixture report](#)
32. New York Rules of Professional Conduct, Rules 1.2(a), 1.5(c), 1.8(e). Compilation amended through July 1, 2026; adopted text distinguished from comments. Client authority, written fee/expense allocation and closing account. See also reference 43. [New York professional-conduct rules](#)
33. 42 USC 1988(b); *Hensley v. Eckerhart*, 461 U.S. 424, 433–440 (1983). Prevailing-party fees, common factual core, unrelated claims, and degree of success. [1988 · Hensley](#)
34. 22 NYCRR 202.21; Federal Rule of Civil Procedure 16. Trial readiness and scheduling, without a guaranteed duration. [202.21 · Rule 16](#)

35. *Carey v. Phipus*, 435 U.S. 247, 254–267 (1978); *Memphis Community School District v. Stachura*, 477 U.S. 299, 306–310 (1986). Actual injury, nominal damages, and no abstract constitutional-right valuation. [Carey · Stachura](#)
36. *Smith v. Wade*, 461 U.S. 30, 56 (1983); *City of Newport v. Fact Concerts*, 453 U.S. 247, 271 (1981). Individual punitive-damages standard and municipal exclusion under section 1983. [Smith · Newport](#)
37. Federal Rules of Evidence 403, 404 and 609(a)–(b), current judiciary compilation. Civil impeachment, dishonest-act elements, prejudice and conviction/release ten-year rule. [Federal Rules of Evidence — full text](#)
38. Lord Trial Group, team profile; Super Lawyers, Masai Lord profile. Faculty biography and distinction between Rising Stars 2022–2025 and Super Lawyers 2026. Other faculty details follow the supplied AWS roster. [Firm · Publisher](#)
39. *Swartz v. Insogna*, 704 F.3d 105, 112 (2d Cir. 2013), discussing *Burg v. Gosselin*, 591 F.3d 95 (2d Cir. 2010). Post-arraignment restraints distinguished from a pre-arraignment summons. [Read opinion](#)
40. Federal Rule of Civil Procedure 15(c). Conditions for relation back, including applicable state-law routes; an unidentified defendant is not automatic limitations protection. [Read rule](#)
41. CPLR 208-a; Correction Law 40(2)–(3); L.2025 ch.707 Part J as amended by L.2026 ch.36 Part J (A9516); *Streat v. State of New York*, 2026 NY Slip Op 26057 (Ct. Cl. Mar. 6, 2026). Custody coverage, two-year release window, notice exception and effective-date limits. [CPLR 208-a — full text](#); [Correction Law 40 — full text](#); [2026 chapter amendment](#); [Streat decision](#)
42. NYC Comptroller, current Personal Injury Claim form NYC-COMPT-BLA-PI1-F2, electronic filing instructions and Filing a Claim guide, pp.1–4 (2026). Current form/service guidance, not a representation of a historical 2024 form. Statutory claim-specific accrual and exceptions control over generic website shorthand. [NYC personal-injury claim form](#); [NYC electronic claim filing](#); [NYC claim-filing guide](#)
43. 22 NYCRR 691.1 and 691.20(a)(1), (b)(1), (e)(2)–(3); Judiciary Law 488(2)(c)–(d). Part 691 applicability, electronic retainer/closing reports, net/gross alternatives, client selection and litigation expenses. Current consolidated Second Department rule and statutory text. [Current Second Department Part 691](#); [Judiciary Law 488 — full text](#)
44. *Matter of Newcomb v. Middle Country Central School District*, 28 NY3d 455, 465–468 (2016). Late-notice prejudice: initial showing and particularized response; separate statutory factors. [Newcomb decision](#)
45. *Hogan v. Fischer*, 738 F.3d 509, 517–519 (2d Cir. 2013); CPLR 1024; Fed. R. Civ. P. 15(c). Identity, diligence and state relation-back route. Hogan cited only for that issue; current supervisory rule is at 47. [Hogan decision](#); [CPLR 1024 — full text](#)
46. 28 U.S.C. 1391(b)(2); EDNY Attorney Admissions guidance. Substantial-event venue and distinct federal admission process. [28 USC 1391](#); [EDNY attorney-admission requirements](#)
47. *Jones v. Treubig*, 963 F.3d 214 (2d Cir. 2020), slip pp.17–32; *Tangreti v. Bachmann*, 983 F.3d 609, 618–620 (2d Cir. 2020). Significant force after resistance ends, reasonable perception and personal conduct of supervisors. [Jones decision](#); [Tangreti decision](#)
48. New York Penal Law 120.00(1), 240.20(1), 205.30. Supplied assault/disorderly counts and separate authorized-arrest resistance variation. [Penal Law 120.00 — full text](#); [Penal Law 240.20](#); [Penal Law 205.30](#)

49. *Lackey v. Stinnie*, No.23-621 (U.S. Feb.25,2025), slip pp.4–13. Enduring judicial relief and prevailing-party status; preliminary relief followed by mootness. [Lackey decision](#)
50. Fed. R. Civ. P.6(a); 5 U.S.C.6103(a). Final-day weekends/holidays and Labor Day; compare New York General Construction Law20/25-a at reference7. [Federal Rule of Civil Procedure 6](#); [Federal statutory holidays](#)