

STANDARD

**United States District Court
Eastern District of Pennsylvania (Philadelphia)
CIVIL DOCKET FOR CASE #: 2:19-cv-00799-PD**

PITNEY v. CITY OF CHESTER et al
Assigned to: HONORABLE PAUL S. DIAMOND
Demand: \$500,000
Cause: 42:1983 Civil Rights Act

Date Filed: 02/25/2019
Jury Demand: Defendant
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

KENARD PITNEY
*INDIVIDUALLY AND ON BEHALF OF
A CLASS OF SIMILARLY SITUATED
INDIVIDUALS*

represented by **ALAN FELDMAN**
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V.

Defendant

CITY OF CHESTER

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Defendant

POLICE OFFICER WILLIAM J. MURPHY, III
 BADGE NUMBER 841 INDIVIDUALLY
 AND AS A POLICE OFFICER FOR THE
 CITY OF CHESTER
 TERMINATED: 08/01/2019

represented by **NICHOLAS A. CUMMINS**
 (See above for address)
 TERMINATED: 08/01/2019

Defendant

POLICE OFFICER JOHN DOE 1
 INDIVIDUALLY AND AS A POLICE
 OFFICER FOR THE CITY OF
 CHESTER

Defendant

POLICE OFFICER JOHN DOE 2
 INDIVIDUALLY AND AS A POLICE
 OFFICER FOR THE CITY OF
 CHESTER

Date Filed	#	Docket Text
02/25/2019	<u>1</u>	COMPLAINT against CITY OF CHESTER, JOHN DOE 1, JOHN DOE 2, WILLIAM J. MURPHY, III (Filing fee \$ 400 receipt number 0313-13371963.), filed by KENARD PITNEY. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Designation Form, # <u>3</u> Case Management Track Form)(GECKLE, PATRICK) (Entered: 02/25/2019)
02/25/2019		Summons Issued as to CITY OF CHESTER, WILLIAM J. MURPHY, III. Two Forwarded To: Counsel on 2/25/19 (jwl,) (Entered: 02/25/2019)
02/25/2019		DEMAND for Trial by Jury by KENARD PITNEY. (jwl,) (Entered: 02/25/2019)
04/17/2019	<u>2</u>	WAIVER OF SERVICE Returned Executed by KENARD PITNEY. CITY OF CHESTER waiver sent on 3/1/2019, answer due 4/30/2019; WILLIAM J. MURPHY, III waiver sent on 3/1/2019, answer due 4/30/2019. (Attachments: # <u>1</u> Certificate of Service for City of Chester, # <u>2</u> Certificate of Service for William J. Murphy)(GECKLE, PATRICK) (Entered: 04/17/2019)

04/18/2019	<u>3</u>	NOTICE of Appearance by NICHOLAS A. CUMMINS on behalf of CITY OF CHESTER, WILLIAM J. MURPHY, III with Jury Demand(CUMMINS, NICHOLAS) (Entered: 04/18/2019)
04/30/2019	<u>4</u>	ANSWER to Complaint with Affirmative Defenses by CITY OF CHESTER, WILLIAM J. MURPHY, III.(CUMMINS, NICHOLAS) (Entered: 04/30/2019)
05/01/2019	<u>5</u>	NOTICE of Hearing: A RULE 16 PRETRIAL PHONE CONFERENCE IS SET FOR 5/3/2019 AT 9:15 AM BEFORE HONORABLE ROBERT F. KELLY.(mr,) (Entered: 05/01/2019)
05/01/2019	<u>6</u>	STIPULATION AND ORDER THAT PLAINTIFF'S MONELL CLAIM AGAINST THE CITY OF CHESTER IS LIMITED ONLY TO THE ALLEGED POLICIES AND CUSTOMS OF THE CITY OF CHESTER WITH RESPECT TO THE STRIP SEARCHING OF DETAINEES. ALL OTHER GROUNDS FOR LIABILITY AGAINST THE CITY OF CHESTER ARE DISMISSED WITH PREJUDICE. PLAINTIFF'S CLAIM FOR PUNITIVE DAMAGES AGAINST THE CITY OF CHESTER IS DISMISSED WITH PREJUDICE. PLAINTIFF'S CLAIMS FOR MALICIOUS PROSECUTION AND PENNSYLVANIA STATE LAW AGAINST ALL INDIVIDUAL DEFENDANTS ARE DISMISSED WITH PREJUDICE. SIGNED BY HONORABLE ROBERT F. KELLY ON 5/1/2019. 5/1/2019 ENTERED AND COPIES E-MAILED.(sg,) (Entered: 05/01/2019)
05/03/2019	<u>7</u>	Minute Entry for proceedings held before HONORABLE ROBERT F. KELLY Telephone Conference held on 5/3/2019 (sg,) (Entered: 05/06/2019)
05/03/2019	<u>8</u>	SCHEDULING ORDER: DISCOVERY DUE BY 9/2/2019. DISPOSITIVE MOTIONS DUE BY 9/16/2019. ETC.. SIGNED BY HONORABLE ROBERT F. KELLY ON 5/3/2019. 5/6/2019 ENTERED AND COPIES E-MAILED.(sg,) (Entered: 05/06/2019)
08/01/2019	<u>9</u>	STIPULATION AND ORDER THAT ALL CLAIMS AGAINST DEFENDANT, POLICE OFFICER WILLIAM J. MURPHY, III ARE DISMISSED WITHOUT PREJUDICE.. SIGNED BY HONORABLE ROBERT F. KELLY ON 7/31/2019. 8/1/2019 ENTERED AND COPIES E-MAILED.(sg,) (Entered: 08/01/2019)
08/09/2019	<u>10</u>	Joint MOTION for Extension of Time to File <i>Dispositive Motions</i> filed by KENARD PITNEY.. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Certificate of Service)(GECKLE, PATRICK) (Entered: 08/09/2019)
08/12/2019	<u>11</u>	ORDERED THAT THE SCHEDULING ORDER IS AMENDED TO PROVIDE AS FOLLOWS, ALL DISCOVERY DUE BY 10/16/2019., DISPOSITIVE MOTIONS DUE BY 10/30/2019. ETC.. SIGNED BY HONORABLE ROBERT F. KELLY ON 8/12/2019. 8/13/2019 ENTERED AND COPIES E-MAILED.(sg,) (Entered: 08/13/2019)
10/03/2019	<u>12</u>	NOTICE of Appearance by EDWARD S. GOLDIS on behalf of KENARD PITNEY (GOLDIS, EDWARD) (Entered: 10/03/2019)
10/03/2019	<u>13</u>	NOTICE of Appearance by ALAN FELDMAN on behalf of KENARD PITNEY (FELDMAN, ALAN) (Entered: 10/03/2019)
10/03/2019	<u>14</u>	MOTION to Amend/Correct <i>FOR LEAVE TO AMEND THE COMPLAINT</i> filed by KENARD PITNEY.Memorandum. (Attachments: # <u>1</u> Exhibit "A" Amended Complaint, # <u>2</u> Proposed Order, # <u>3</u> Certificate of Service)(GECKLE, PATRICK) (Entered: 10/03/2019)
10/11/2019	<u>15</u>	MOTION for Extension of Time to File Response/Reply as to <u>14</u> MOTION to Amend/Correct <i>FOR LEAVE TO AMEND THE COMPLAINT</i> filed by CITY OF CHESTER.Certificate of Service.(CUMMINS, NICHOLAS) (Entered: 10/11/2019)
10/11/2019	<u>16</u>	ORDER THAT THIS CASE IS REASSIGNED FROM HONORABLE ROBERT F. KELLY TO HONORABLE PAUL S. DIAMOND FOR ALL FURTHER PROCEEDINGS. SIGNED BY CLERK OF COURT KATE BARKMAN, CLERK OF COURT ON 10/11/2019. 10/15/2019 ENTERED AND COPIES E-MAILED.(nd,) (Entered: 10/15/2019)

10/11/2019	<u>17</u>	ORDERED THAT DEFENDANT'S MOTION FOR EXTENSION OF TIME TO RESPOND TO PLAINTIFF'S MOTION TO AMEND THE COMPLAINT IS GRANTED. THE CITY OF CHESTER SHALL FILE A RESPONSE TO THE MOTION TO AMEND NOT LATER THAN 10/31/2019. SIGNED BY HONORABLE ROBERT F. KELLY ON 10/11/2019.10/15/2019 ENTERED AND COPIES E-MAILED.(sg,) (Entered: 10/15/2019)
10/15/2019	<u>18</u>	STANDING ORDER OUTLINED HEREIN.SIGNED BY HONORABLE PAUL S. DIAMOND ON 10/15/2019. 10/15/2019 ENTERED AND COPIES E-MAILED.(rt) (Entered: 10/15/2019)
10/30/2019	<u>19</u>	MOTION for Summary Judgment filed by CITY OF CHESTER.Brief, Certificate of Service. (Attachments: # <u>1</u> Exhibit A-K, # <u>2</u> Exhibit L part 1, # <u>3</u> Exhibit L part 2, # <u>4</u> Exhibit L part 3, # <u>5</u> Exhibit M-N)(CUMMINS, NICHOLAS) (Entered: 10/30/2019)
10/31/2019	<u>20</u>	RESPONSE in Opposition re <u>14</u> MOTION to Amend/Correct <i>FOR LEAVE TO AMEND THE COMPLAINT</i> filed by CITY OF CHESTER. (CUMMINS, NICHOLAS) (Entered: 10/31/2019)
11/01/2019	<u>21</u>	MOTION for Leave to File <i>Brief in Excess of Page Limit</i> filed by CITY OF CHESTER.Certificate of Service.(CUMMINS, NICHOLAS) (Entered: 11/01/2019)
11/01/2019	<u>22</u>	ORDER UPON CONSIDERATION OF DEFENDANT'S MOTION FOR LEAVE TO EXCEED PAGE LIMIT (DOC. NO. <u>21</u>), IT IS HEREBY ORDERED THAT DEFENDANT'S MOTION IS GRANTED.SIGNED BY HONORABLE PAUL S. DIAMOND ON 11/1/2019. 11/1/2019 ENTERED AND COPIES E-MAILED.(rt) (Entered: 11/01/2019)
11/05/2019	<u>23</u>	CORRESPONDENCE FROM ALAN M. FELDMAN, ESQ., DATED 11/5/2019.(rt) (Entered: 11/05/2019)
11/05/2019	<u>24</u>	ORDER UPON CONSIDERATION OF THE PARTIES' JOINT LETTER REQUEST (DOC. NO. <u>23</u>), IT IS HEREBY ORDERED THAT, PURSUANT TO THE PARTIES' AGREEMENT, MY DECISION ON PLAINTIFF'S MOTION TO AMEND (DOC. NO. <u>14</u>) HIS COMPLAINT IS DEFERRED PENDING MY DECISION ON DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (DOC. NO. <u>19</u>).SIGNED BY HONORABLE PAUL S. DIAMOND ON 11/5/2019. 11/5/2019 ENTERED AND COPIES E-MAILED.(rt) (Entered: 11/05/2019)
11/07/2019	<u>25</u>	MOTION for Extension of Time to File Response/Reply as to <u>19</u> MOTION for Summary Judgment filed by KENARD PITNEY.. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Certificate of Service)(GECKLE, PATRICK) (Entered: 11/07/2019)
11/07/2019	<u>26</u>	ORDER UPON CONSIDERATION OF PLAINTIFF'S MOTION FOR EXTENSION OF TIME (DOC. NO. <u>25</u>) TO RESPOND TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (DOC. NO. <u>19</u>), IT IS HEREBY ORDERED THAT PLAINTIFF'S MOTION IS GRANTED. PLAINTIFF SHALL RESPOND TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT BY NOVEMBER 20, 2019 AT 5:00 P.M.SIGNED BY HONORABLE PAUL S. DIAMOND ON 11/7/2019. 11/7/2019 ENTERED AND COPIES E-MAILED.(rt) (Entered: 11/07/2019)
11/20/2019	<u>27</u>	RESPONSE to Statement of Undisputed Material Facts re <u>19</u> MOTION for Summary Judgment filed by KENARD PITNEY. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8, # <u>10</u> Exhibit 9, # <u>11</u> Exhibit 10, # <u>12</u> Certificate of Service)(GECKLE, PATRICK) Modified on 11/21/2019 (lisad,). (Entered: 11/20/2019)
11/22/2019	<u>28</u>	Plaintiff's Exhibit 1 (surveillance video) for Plaintiff's Response to Defendant's Motion to Summary Judgment. (Disk attached in envelope) (mbh,) (Entered: 11/25/2019)
11/25/2019	<u>29</u>	LETTER REQUEST FROM ALAN M. FELDMAN, ESQ., DATED 11/22/2019.SIGNED BY HONORABLE PAUL S. DIAMOND ON 11/25/2019. 11/25/2019 ENTERED AND COPIES E-MAILED.(rt) (Entered: 11/25/2019)
11/25/2019	<u>30</u>	ORDERED THAT PLAINTIFF'S REQUEST IS GRANTED. PLAINTIFF SHALL FILE ITS CORRECTED BRIEF FORTHWITH. SIGNED BY HONORABLE PAUL S. DIAMOND ON 11/25/2019. 11/26/2019 ENTERED AND COPIES

		E-MAILED.(sg,) (Entered: 11/26/2019)
11/26/2019	<u>31</u>	Amended RESPONSE to Statement of Undisputed Material Facts re <u>19</u> MOTION for Summary Judgment filed by KENARD PITNEY. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit, # <u>9</u> Exhibit, # <u>10</u> Exhibit, # <u>11</u> Exhibit)(FELDMAN, ALAN) Modified on 11/27/2019 (lisad,). (Entered: 11/26/2019)
11/27/2019	<u>32</u>	REPLY Brief in Support re <u>19</u> MOTION for Summary Judgment filed by CITY OF CHESTER. Certificate of Service. (CUMMINS, NICHOLAS) Modified on 12/2/2019 (lisad,). (Entered: 11/27/2019)
05/20/2020	<u>33</u>	MEMORANDUM AND/OR OPINION. SIGNED BY HONORABLE PAUL S. DIAMOND ON 5/20/2020. 5/21/2020 ENTERED AND COPIES E-MAILED.(sg,) (Entered: 05/21/2020)
05/20/2020	<u>34</u>	ORDERED THAT DEFENDANTS MOTION FOR SUMMARY JUDGMENT IS DENIED. IT IS FURTHER ORDERED THAT DEFENDANTS SHALL RESPOND TO PLAINTIFF'S MOTION FOR LEAVE TO AMEND THE COMPLAINT NO LATER THAN 5/28/2020. SIGNED BY HONORABLE PAUL S. DIAMOND ON 5/20/2020. 5/21/2020 ENTERED AND COPIES E-MAILED.(sg,) (Entered: 05/21/2020)
05/22/2020	<u>35</u>	CORRESPONDENCE FROM NICHOLAS A. CUMMINS, DATED MAY 22, 2020, by CITY OF CHESTER (rt) (Entered: 05/22/2020)
05/27/2020	<u>36</u>	ORDERED THAT PLAINTIFF'S MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT IS GRANTED. THE CLERK OF COURT SHALL DOCKET PLAINTIFFS AMENDED COMPLAINT. DEFENDANTS SHALL MOVE, ANSWER, OR OTHERWISE REPLY BY 6/9/2020. IT IS FURTHER ORDERED THAT CLASS CERTIFICATION MOTIONS ARE DUE 8/7/2020. A HEARING ON CLASS CERTIFICATION WILL BE HELD ON FRIDAY, 8/28/2020 AT 1 PM IN COURTROOM 14A. SIGNED BY HONORABLE PAUL S. DIAMOND ON 5/27/2020.5/27/2020 ENTERED AND COPIES E-MAILED.(sg,) (Entered: 05/27/2020)
05/27/2020	<u>37</u>	AMENDED COMPLAINT against CITY OF CHESTER, JOHN DOE 1, JOHN DOE 2, filed by KENARD PITNEY.(sg,) (Entered: 05/27/2020)
06/01/2020	<u>38</u>	NOTICE of Appearance by ANDREW KEVIN MITNICK on behalf of KENARD PITNEY with Certificate of Service(MITNICK, ANDREW) (Entered: 06/01/2020)
06/03/2020	<u>39</u>	MOTION to Amend/Correct <u>34</u> Order (Memorandum and/or Opinion),, Set Motion and R&R Deadlines/Hearings, <i>to Certify for Appeal</i> filed by CITY OF CHESTER.Brief, Certificate of Service.(CUMMINS, NICHOLAS) (Entered: 06/03/2020)
06/03/2020	<u>40</u>	ORDER THAT PLAINTIFF SHALL RESPOND TO DEFENDANT'S MOTION TO AMEND ORDER TO CERTIFY FOR APPEAL BY 6/8/20 AT 12:00 P.M.; ETC.. SIGNED BY HONORABLE PAUL S. DIAMOND ON 6/3/20. 6/4/20 ENTERED AND E-MAILED.(JL) (Entered: 06/04/2020)
06/04/2020	<u>41</u>	NOTICE of Appearance by DAVID J. MACMAIN on behalf of CITY OF CHESTER with Certificate of Service(MACMAIN, DAVID) (Entered: 06/04/2020)
06/04/2020	<u>42</u>	NOTICE of Appearance by BRIAN H. LEINHAUSER on behalf of CITY OF CHESTER with Certificate of Service(LEINHAUSER, BRIAN) (Entered: 06/04/2020)
06/08/2020	<u>43</u>	RESPONSE in Opposition re <u>39</u> MOTION to Amend/Correct <u>34</u> Order (Memorandum and/or Opinion),, Set Motion and R&R Deadlines/Hearings, <i>to Certify for Appeal</i> filed by KENARD PITNEY. (Attachments: # <u>1</u> Certificate of Service)(FELDMAN, ALAN) (Entered: 06/08/2020)
06/09/2020	<u>44</u>	STIPULATION TO PARTIAL DISMISSAL by CITY OF CHESTER, KENARD PITNEY. (sg,) (Entered: 06/09/2020)

06/09/2020	<u>45</u>	ORDER THAT DEFENDANT'S MOTION TO AMEND ORDER TO CERTIFY APPEAL (DOC. <u>39</u>) IS DENIED. SIGNED BY HONORABLE PAUL S. DIAMOND ON 6/9/2020.6/9/2020 ENTERED AND COPIES E-MAILED.(sg,) (Entered: 06/09/2020)
06/09/2020	<u>46</u>	ORDERED THAT THE PARTIES' PARTIAL STIPULATION TO DISMISS (DOC. <u>44</u>) IS APPROVED AND ADOPTED AS OUTLINED HEREIN. SIGNED BY HONORABLE PAUL S. DIAMOND ON 6/9/2020. 6/9/2020 ENTERED AND COPIES E-MAILED.(sg,) (Entered: 06/09/2020)
06/09/2020	<u>47</u>	ANSWER to <u>37</u> Amended Complaint by CITY OF CHESTER.(CUMMINS, NICHOLAS) (Entered: 06/09/2020)