

EXHIBIT 9

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DAVID FLOYD, et al.,

08 Civ. 01034 (SAS)

Plaintiffs,

-against-

**DECLARATION OF
NICHOLAS PEART**

THE CITY OF NEW YORK, et al.,

Defendants.

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

NICHOLAS PEART, declares as follows pursuant to 28 U.S.C. § 1746:

1. I submit this affidavit in support of Plaintiffs’ motion for class certification. I am not a party to the above captioned matter.

2. I am a 23 year-old Black man who was raised in New York. I reside in Harlem at 125 West 144th Street Apartment #1B New York, New York 10030.

3. I am scheduled to graduate from the Borough of Manhattan Community College in December 2011 with an Associate of Arts degree in Liberal Arts.

4. I also work in the after school program as a junior staff member at Brotherhood/SisterSol (“BHSS”), a Harlem-based organization that provides comprehensive, holistic and long-term support services to youth ages eight to twenty-two.

5. BHSS has engaged in educational discussions and workshops with community

members about the New York City Police Department's ("NYPD") stop-and-frisk practices. Through these events we educate youth about their rights when stopped by a police officer, but also how to remain safe in their interactions with the police. During my participation in these events, I have heard young men and women tell numerous accounts of unfair stops and frisks by NYPD officers.

6. I have never been arrested or convicted of any crimes.

7. I have been illegally stopped-and-frisked by NYPD officers between five and ten occasions since I was about 16-years-old. I do not recall the details of each incident, but I have described a few of them below. I strongly believe that during each of these incidents, NYPD officers have violated my rights when they stopped, frisked, and searched me. The officers involved had no reason to stop me. I was not committing nor about to commit any crime; nor did I look suspicious. I believe the officers stopped me because of my race, specifically because I am Black. Based on my experiences and those of people I know, I believe that each of these incidents are part of a larger problem and system within the NYPD to stop-and-frisk Black and Brown people. Members of my community feel under siege by the NYPD instead of protected.

8. On Saturday, August 5, 2006 I was celebrating my 18th birthday with my cousin from Pennsylvania and a friend. We had already gone home to my sister's apartment on 96th and Amsterdam but we left again later to get something to eat at McDonalds but it was closed. On our way back, the three of us were sitting on a bench in the median of West 96th Street and Amsterdam Avenue. We witnessed a car accident. We had not been drinking or engaged in any illegal activity. Suddenly, three or four police cars appeared and numerous officers rushed out of their vehicles with guns drawn. The officers yelled at us to get on the ground. We immediately complied.

9. While laying face down on the ground, without my consent, one of the officers frisked me. After reviewing my identification, I was shocked when the officer sarcastically wished me a happy birthday. The officers who searched us found no weapons or contraband.

11. I felt humiliated and very upset by the incident. I felt violated by the police. I was forced to lie on the ground with a gun pointed towards me.

12. Another incident occurred during the daytime in the Spring of 2008. I had been visiting my grandmother who lives on East 49th Street in Flatbush, Brooklyn and left to go home. I was walking to the sidewalk on her driveway when a police car drove past. I reached the sidewalk and began walking down the block. The police car reversed and stopped near me. Approximately three officers exited the car and told me to stop and put my hands up against the garage door of my grandmother's neighbor. I was not committing a crime and was not planning to commit a crime.

13. Without my permission, one of the officers frisked me and reached into my pocket and removed at least my wallet to look at my identification. I only had my wallet, keys and cell phone in my pockets.

14. The officers wrote down something and returned my identification. The officers got back into their car and drove away. I was embarrassed and shocked. I had not been doing anything wrong but the police stopped, frisked and searched me.

15. *Another incident* occurred on a weekday evening during September 2010. I was walking home by myself from the gym. When I was about a block away from home, on West 144th Street between 7th and 8th Avenues, two uniformed officers on foot told me to come near. I immediately complied with the officers' instructions and as I approached them, they told me to turn around and put my hands up against the wall. Without my permission, one of the officers

frisked me, unzipped my jacket, and reached into my pockets. The officer who frisked me removed my wallet from my pocket.

16. I think one of the officers wrote something down on a pad and then returned my wallet. The officers did not find any weapons or other contraband.

17. *The most recent incident* occurred on a weekday evening around 11:00p.m. in May 2011. I left my apartment to go to the bodega nearby. There was an unmarked police car parked alongside the street.

18. Two officers jumped out of the car and told me to stop and put my hands up. I immediately complied and put my hands up against the church wall. Without my permission, they removed my cell phone from my hand and one of the officers frisked me and reached into my pockets, removing my wallet and keys. The officer looked through my wallet. The officer then handcuffed me and grabbed my sweatshirt at the chest and held it tightly.

19. I told the officers that I didn't understand what was going on. The officers asked if I had just come out of 129 West 144th Street. I told them I had not and explained that I lived in 125 West 144th St.

20. One of the officers asked which of the keys they had removed from my pocket opened my apartment door. Without asking permission, the officer then entered my building and attempted to enter my apartment using my keys.

21. My 18 year-old sister who was inside my apartment with two of our younger siblings became extremely frightened that the police were trying to enter our apartment. She attempted to call my mobile phone several times, but because I was handcuffed in the back of the police car and my mobile phone had been confiscated by the police, I could not answer.

22. Still handcuffed, one of the officers put me in the back of the police car. The

officer asked if I had any marijuana, and I replied that I did not. He removed and searched my shoes and patted down my socks. I asked one of the officers why they were searching me, and he told me someone in my building complained that a person they believed fit my description had been ringing their bell.

23. After the officer returned from inside my apartment building, they opened the door to the police car, told me to get out, and removed the handcuffs.

24. The officers got back inside the police car. I was calm, but frustrated and told the officers that what they did to me was wrong. The officers simply drove away. In total, the incident lasted approximately 20 minutes. The officers did not find any weapons or contraband.

25. Each of the stop-and-frisk incidents described above has been embarrassing and frightening. Since I turned 18, I have been afraid of being stop, searched, harassed, and having my rights violated by NYPD officers when I walk the streets of New York City. Regardless of what I am doing or where I am going, police may stop and frisk me. This is not a good policy and I think it should change.

26. I want this lawsuit to achieve real and lasting changes to the way the NYPD stops-and-frisks me, my friends and thousands of other New Yorkers of color without a true reason.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
November 3rd, 2011



NICHOLAS PEART