LESSEN PLAN
Page 1 of 4

LESSON TITLE: Common Tort Liability Claims Against Police Officers in New York State (As Illustrated By the Case of Eiko v. The City of Rochester)

COURSE: Instructor Development School

DURATION: 50 Minutes

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METHOD OF
PRESENTATION: Lecture
INSTRUCTOR: Charles A. LoFaso

APPROVED BY: Rossi/Bialaszewski

INSTRUCTION
OBJECTIVES:

At the completion of this training module, each IDS participant, using only this material, will be able to state, orally or in writing:

1). The Black's Law Dictionary (5th Edition) definition of
   A) Civil Claim
   B) Tort

2). Two of the four elements of a false arrest claim under New York law.

3). Two of the four elements of a malicious prosecution claim under N.Y. law.

4). The elements of a civil assault and battery claim under N.Y. law.

5). The four phases of a civil lawsuit in New York.

6). In the case of Robin Eiko v. the City of Rochester, six factors which justified an arrest of Robin Eiko under Mental Hygiene Law Sec. 9.41

TRAINEE REF: Handout

INSTRUCTOR REFERENCES:
Black's Law Dictionary (5th Ed., West Publishing)
Civil Liability of N.Y. Law Enforcement Officers (Looseleaf Law Publications, 1997)
Merzon v. County of Suffolk, 767 F.Supp. 432 (EDNY 1991)
Consolidated Laws of New York State

TRAINING AIDS: Handout, Chalkboard, Trial Exhibit, Surveillance video of Robin Eiko (Intricate Investigative Service 1996)
I) Introduction
   • Why material is important
   • Instructor's background
   • Overview of objectives to be covered

II) Legal Framework
   • Objective 1: Black's Law Definition of
     A) Civil, B) Tort
     Lecture
   • Answer:
     • A) Relating to private rights and remedies
     • B) A wrong or injury, other than breach of contract,
       For which a court will provide a remedy in the form of
       An action for damages
   Handout

III. Common Tort Claims Against Police Officers
     Lecture, Handout
     A. False Arrest
     • Objective 2: Two of the four elements of a false
       Claim under New York law
     • Answer: 1) officer intended to confine the plaintiff
       2) plaintiff was conscious of the confinement
       3) plaintiff did not consent to the confinement
       4) confinement was not otherwise privileged
     B. Malicious prosecution
     • Objective 3: Two of the four elements of a malicious
       Prosecution claim under New York law
     • Answer: 1) officer commences or continues a criminal
       proceeding by the officer against the plaintiff
       2) the criminal proceeding terminates in favor of the plaintiff
       3) the proceeding was commenced without probable
          cause
       4) the criminal proceeding was commenced with actual
          malice
C). Assault and Battery

- Objective 4: State the elements of civil assault and battery
  Lecture, Handout
- Answer:
  - Assault is the intentional placing of another person in apprehension of imminent harmful or offensive contact
  - Battery is intentional body contact of a harmful or Offensive nature

IV). Phases of a Civil Lawsuit

- Objective 5: State the four phases of a civil lawsuit in New York
  Lecture, Handout
- Answer:
  - Pleadings
  - Discovery
  - Motions
  - Trial


A. Events of September 21, 1992
  Lecture, Handout
  Trial Exhibit
- Objective 6: State six factors that justified an Arrest of Robin Elko under Mental Hygiene Law 9.41
- Answer:
  - Fever of 104 degrees
  - Sweating profusely
  - Could not keep solid food down for two days
  - Disoriented, unsure of what day it was
  - Stiff neck
  - The presence of other people living in the apartment who could be exposed to him if he was contagious

B. The Lawsuit
  Lecture, Handout
C. Discovery
  Lecture, Handout
D. Motions
  Lecture, Handout
E. The Trial

F. The Trial...Again: October 19, 1997

G. The Verdict

IV. Summary/Review Objectives

Comprehension Check/Questions