



Sheriff's (Lack of) Liability Under Respondeat Superior, Elements of Malicious Prosecution, Abuse of Process, False Imprisonment and Libel Per Se Explained

In a lengthy and detailed decision the Fourth Department explained the negligence actions against the sheriff based on respondeat superior were properly dismissed, the action for malicious prosecution was properly dismissed (because the underlying criminal action was not dismissed on the merits and could be renewed), but the actions for abuse of process, false imprisonment, and libel per se should not have been dismissed. The decision is too lengthy to summarize here, but it includes detailed explanations of the sheriff's immunity from suit under respondeat superior and the elements of malicious prosecution, abuse of process, false imprisonment, and libel per se. The action stemmed from the allegation plaintiff was falsely accused of stealing a computer. [D'Amico v Correctional Med Care Inc, 2014 NY Slip Op -5737, 4th Dept 8-8-14](#)