

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

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CLINTON WARE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:09-cv-6809
	)	
CITY OF CHICAGO, and CHICAGO	)	
POLICE OFFICER J. PARKER,	)	
Star # 17669,	)	
	)	
Defendants.	)	

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**COMPLAINT**

NOW COMES the Plaintiff, CLINTON WARE (hereinafter “Ware”), by and through one of her attorneys, Jon F. Erickson, CIVIL RIGHTS CENTER, LLC, and complaining of the defendants, CITY OF CHICAGO and CHICAGO POLICE OFFICER J. PARKER, Star # 17669, states as follows:

**INTRODUCTION**

1. This action is brought pursuant to 42 U.S.C. § 1983 to address deprivations of Plaintiff’s rights under the Constitution of the United States.

**JURISDICTION**

2. The jurisdiction of this Court is invoked pursuant to the Civil Rights Act, 42 U.S.C., § 1983, and § 1985; the judicial code 28 U.S.C., § 1331 and 1343 (a); the Constitution of the United States; and pendent jurisdiction as provided under 28 U.S.C., § 1367(a), to hear and decide claims arising out of state law.

**PARTIES**

3. Plaintiff Clifton Ware resides in Evanston, Cook County, Illinois and is a United States citizen.
4. Defendant Parker is a present or former employee and agent of the Chicago Police Department. At all times relevant, Defendant Parker acted under color of law as a duly appointed Chicago Police Officer and within the scope of his employment.
5. Defendant City of Chicago is a municipal corporation organized under the laws of the State of Illinois. It is responsible for the policies, procedures, and practices implemented through its various agencies, agents, departments, and employees, and for injury occasioned thereby. It was or is the employer of the Defendant Fiorito.

#### **BACKGROUND**

6. On October 30, 2008, without any lawful basis, Defendant Parker initiated his emergency lights behind Plaintiff Clinton Ware's vehicle.
7. Plaintiff curbed his vehicle at 1800 South Lake Shore Drive in response to the flashing emergency lights.
8. Without any lawful basis, Defendant Parker seized the person and property of Plaintiff Ware.
9. Without any lawful basis, Defendant Parker charged Plaintiff Ware with violations of Illinois State law.
10. Defendant Parker created false and incomplete police reports related to the arrest, prosecution, and injuries of Plaintiff Ware.
11. The charges against Plaintiff have been disposed in a manner indicative of Plaintiff's innocence.

12. As a direct and proximate result of Defendant Parker's conduct, Plaintiff Ware was injured, including but not limited to his mind, body, and nervous system. Plaintiff has suffered and continues to suffer from the physical, emotional, and psychological injuries inflicted by Defendant Parker.
13. As a direct and proximate result of the extraordinary misconduct described above, Plaintiff suffered and continues to suffer from physical injuries, fear, paranoia, stress, anxiety, loss of her freedom, damage to her reputation, lost wages, loss of her driver's license, and other injuries.
14. Defendant Parker committed the wrong-doings described herein motivated by pecuniary gain.
15. Defendant Parker, as a matter of routine, violates the civil rights of citizens by performing unlawful arrests of citizens so that he can earn additional pay for court attendances.
16. Defendant City of Chicago encourages such unlawful arrests by aligning the pecuniary interests of police officers with the frequency of any arrests made, regardless of the arrests' validity.
17. Plaintiff was arrested as part of Defendant Parker's unlawful routine described above.
18. In 2005, six of the eight most prolific DUI writers statewide were midnight traffic enforcement officers in the City of Chicago. The most prolific was John Haleas, who wrote 374 DUI tickets in 2005 (he wrote 372 in 2004). In 2006, four of the seven most prolific DUI writers were midnight shift traffic enforcement officers in Chicago, again Haleas being the most prolific, closely followed by Officers

Timothy Walter (19th District traffic enforcement), Fiorito (23rd Dist. Traffic enforcement) and Mariellen Balcar (10th District traffic enforcement).

19. In 2007, Officer Haleas was indicted on multiple counts of perjury related to his numerous false arrests and malicious prosecutions.
20. The two most prolific DUI writers in 2007 were Officer Walter<sup>1</sup> (298 tickets) and Officer Fiorito (230 tickets). The eighth top writer of DUI's in 2007 was Officer Joe Parker the Defendant in this case.
21. Officer Fiorito was placed on administrative leave by the Chicago Police Department on October 6, 2009, pending investigations by the Internal Affairs Division and the Cook County State's Attorney.
22. Defendant Parker resigned his office as part of a deal to avoid criminal prosecution by the Cook County State's Attorney.
23. Further evidence of the silent approval of abuse by the city's most prolific DUI writers comes in the history of traffic enforcement video cameras. The Chicago Police Department initiated its pilot program to include video on traffic enforcement units in late 2005. But, from 2005 through 2007, and into 2008, none of the most prolific CPD DUI writers had video cameras in their squad cars. They all resisted being given a camera, and the CPD acquiesced to the DUI writers' resistance. It was not until March of 2009, and pressure from civil rights groups, that the CPD began forcing the more prolific DUI writers to use the video cameras.

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<sup>1</sup> This is the same Officer Walter that Judge Kennelly found not credible on five different points of testimony in the second motion to suppress held in US v. Thompson, 06 CR 440.

23. The false arrests and the assigning of the court dates to various different key dates were made possible both by certain city policies that allowed and encouraged overtime abuse and by a silent conspiracy between Parker and his supervisors. The city policies that allowed and encouraged the false arrests and overtime abuse include: 1) the agreement to provide overtime to officers making court appearances when not on their shift; 2) the failure to limit the amount of overtime an officer can apply for; 3) the removal of court sergeants from DUI court rooms; 4) the failure to limit the number of key dates an officer can have; 5) lack of oversight or any mechanism for identifying when officers are abusing the overtime system; 6) lack of oversight or any mechanism for identifying when officers are regularly engaging in false arrests.

### **COUNT I**

#### **False Imprisonment - 42 U.S.C. Section 1983**

25. Plaintiff realleges and reincorporates all previous paragraphs.
26. The actions of the Officer Defendant, described above, whereby defendant Parker knowingly arrested and imprisoned plaintiff without probable cause or any other justification, constituted deliberate indifference to plaintiffs' rights under the U.S. Constitution, thus violating the Fourteenth and Eighth Amendments to the United States Constitution.
27. As a proximate result of the above-detailed actions of defendant, plaintiff was injured, including severe physical injuries, pain, mental suffering, anguish, emotional injuries, lost wages, loss of her driver's license, and humiliation.

WHEREFORE, Plaintiff Clinton Ware demands judgment be entered in her favor and that she be awarded compensatory and punitive damages, reasonable attorney's fees, costs and expenses and such other and further relief that this Honorable Court deems just.

## **COUNT II**

### **Illegal Search and Seizures - 42 U.S.C. Section 1983**

28. Plaintiff realleges and reincorporates all previous paragraphs.
29. The searches and seizures of plaintiff's person and property, performed willfully and wantonly by the defendant, was in violation of plaintiff's right to be free of unreasonable searches and seizures under the Fourth Amendment to the Constitution of the United States and 42 U.S.C. Section 1983.
30. As a proximate result of the above-detailed actions of defendants, plaintiff was injured, including the deprivation of liberty and the taking of property. In addition, the violations proximately caused the plaintiff great mental anguish and humiliation, exposed Plaintiff to public scandal and disgrace, and caused her to incur various expenses, all to Plaintiff's damage.

WHEREFORE, Plaintiff Clinton Ware demands judgment be entered in her favor and that she be awarded compensatory and punitive damages, reasonable attorney's fees, costs and expenses and such other and further relief that this Honorable Court deems just.

## **COUNT III**

### **745 ILCS 10/9-102**

31. Plaintiff realleges and reincorporates all previous paragraphs.

32. Defendant City of Chicago is the employer of all police officer defendants.

33. The Officer Defendant committed the acts alleged above under color of law and in the scope of employment as an employee of the City of Chicago.

WHEREFORE, should any individual defendant officer be found liable on one or more of the claims set forth above, Plaintiff demands that, pursuant to 745 ILCS 10/9-102, the Defendant City of Chicago be found liable for any judgment plaintiff obtains against said defendant, as well as attorneys fees and costs awarded.

#### **COUNT IV**

##### **Malicious Prosecution — State Claim Against City and Officer**

34. Plaintiff realleges and reincorporates all previous paragraphs.

35. By the actions detailed above, the individual defendant knowingly sought to and did in fact maliciously prosecute plaintiff on false charges for which he knew there was no probable cause.

36. The City is sued in this Count pursuant to the doctrine of respondeat superior, in that defendant officer performed the actions complained of while on duty and in the employ of defendant City, and while acting within the scope of this employment.

37. As a direct and proximate result of the malicious prosecution, plaintiff was damaged, including the value of her lost liberty, attorneys' fees, lost work, exposure to public scandal and disgrace, damage to reputation, mental and emotional suffering, loss of driver's license, humiliation, and anguish.

WHEREFORE, Plaintiff Clinton Ware demands judgment be entered in her favor and that she be awarded compensatory and punitive damages, reasonable attorney's fees, costs and expenses and such other and further relief that this Honorable Court deems just.

### **COUNT V**

#### **Intentional Infliction of Emotional Distress Against City and Officer**

38. Plaintiff realleges and reincorporates all previous paragraphs.
39. The above-detailed conduct by Defendant Parker was extreme and outrageous, exceeding all bounds of human decency.
40. Defendant performed the acts detailed above with the intent of inflicting severe emotional distress on plaintiff or with knowledge of the high probability that the conduct would cause such distress.
41. As a direct and proximate result of this conduct, plaintiff did in fact suffer severe emotional distress, resulting in injury to her mind, body, and nervous system, including loss of sleep, mental anguish, nightmares, anxiety attacks, stress disorders and phobias.
42. As of the filing of this Complaint, plaintiff continues to suffer from the above described injuries caused by the extreme and outrageous conduct of the defendant officer.
43. The City is sued in this Count pursuant to the doctrine of respondeat superior, in that defendant officer performed the actions complained of while on duty and in the employ of defendant City, and while acting within the scope of this employment.

WHEREFORE, Plaintiff Clinton Ware demands judgment be entered in her favor and that she be awarded compensatory and punitive damages, reasonable attorney's fees, costs and expenses and such other and further relief that this Honorable Court deems just.

### **COUNT VI**

#### **False Arrest — State Claim Against City and Officers**

44. Plaintiff realleges and reincorporates all previous paragraphs.
45. By the actions detailed above, the individual defendant knowingly sought to and did in fact arrest Plaintiff on false charges for which they knew there was no probable cause; Plaintiff Clinton Ware was arrested without probable cause.
46. The City is sued in this Count pursuant to the doctrine of respondeat superior, in that defendant officer performed the actions complained of while on duty and in the employ of defendant City, and while acting within the scope of this employment.
47. As a direct and proximate result of the false arrest, Plaintiff was damaged, including the value of her lost liberty, attorneys fees, lost work, exposure to public scandal and disgrace, damage to her reputation, mental and emotional suffering, humiliation, anguish, loss of her driver's license, and extreme emotional distress.

WHEREFORE, Plaintiff Clinton Ware demands judgment be entered in her favor and that she be awarded compensatory and punitive damages, reasonable attorney's fees, costs and expenses and such other and further relief that this Honorable Court deems just.

### **COUNT VI**

#### **Monell Claim—By All Plaintiffs as Against City of Chicago**

48. Plaintiffs restate and reallege all previously pled paragraphs.
49. The actions of Haleas as alleged above and below were done pursuant to one or more de facto policies, practices and/or customs of the City of Chicago, Chicago Police Department, the CPD's Office of Professional Standards, and the CPD's Internal Affairs Division.
50. Among the de facto policies of the municipality and its agents were:
- a. The failure to properly investigate allegations of police misconduct.
  - b. The failure to have a system which monitors patterns of alleged police misconduct.
  - c. The failure to properly discipline sustained allegations of police misconduct.
  - d. The failure to properly maintain records of police misconduct and allegations of police misconduct, including the use of excessive force and false arrest.
  - e. The failure to properly hire, train, monitor, and/or supervise officers.
  - f. A de facto policy, practice, and custom of the police code of silence results in police officers refusing to report instances of police misconduct of which they are aware, including the use of excessive force and the maltreatment of persons, despite their obligation under Department regulations to do so. This conduct included police officers who remain silent or give false or misleading information during official investigations in order to protect themselves or fellow officers from internal discipline or retaliation, civil liability, or criminal prosecution.
  - g. The act of filing excessive Driving Under the Influence (DUI) charges for the purpose increasing their individual compensation.
  - h. The failure to properly verify the validity of DUI charges.
51. The aforementioned policies, practices, and customs, individually and collectively have been maintained and/or implemented with deliberate indifference by the Defendant City of Chicago, and its subsidiary departments, Office of Professional Standards, and Internal Affairs Division, and have encouraged the individual Defendants to commit the aforesaid wrongful acts

against plaintiffs, and therefore acted as a direct and proximate cause of the complained of Constitutional and other legal violations, and Plaintiff's injuries.

WHEREFORE, Plaintiffs request that judgment be entered in favor of Plaintiffs and against Defendant City of Chicago, and that the Plaintiffs be awarded compensatory damages, reasonable attorney's fees, costs, expenses and any other relief that this Honorable Court finds appropriate and just.

**PLAINTIFF DEMANDS TRIAL BY JURY.**

Respectfully Submitted,

CLINTON WARE

By One of His Attorneys:

/s Jon F. Erickson

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Jon F. Erickson  
Civil Rights Center, LLC  
4554 N. Broadway, Suite 325  
Chicago, IL 60640  
773.907.0940

CIVIL COVER SHEET

The civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a) PLAINTIFFS

CLINTON WARE

DEFENDANTS

CITY OF CHICAGO, and CHICAGO POLICE OFFICER J. PARKER, Star # 17669

(b) County of Residence of First Listed Plaintiff COOK (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant COOK (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number) CIVIL RIGHTS CENTER, LLC 773-907-0940 4554 N. BROADWAY, SUITE 325 CHICAGO, ILLINOIS 60640

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAX SUITS, BANKRUPTCY, OTHER STATUTES. Contains various legal categories and checkboxes.

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from another district (specify), 6 Multidistrict Litigation, 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)

Civil actions against D's for committing acts under the color of law and depriving P's rights secured by the U.S. Constitution

VII. PREVIOUS BANKRUPTCY MATTERS (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary)

VIII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

IX. This case is not a refiling of a previously dismissed action.

is a refiling of case number, previously dismissed by Judge

DATE 10/29/2009

SIGNATURE OF ATTORNEY OF RECORD

s/ JON F. ERICKSON