

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

LISA HOFSTRA,

Plaintiff,

v.

OFFICER RODRIGUEZ, Star and/or Beat
Number 1912 and the CITY OF CHICAGO.

Defendant(s).

No. 09 CV 5239

COMPLAINT AT LAW

NOW COMES the PLAINTIFF, by and through Horwitz, Richardson, & Baker LLC, and pursuant to this Complaint at Law, states the following against the above named Defendants, to wit OFFICER RODRIGUEZ, Star and/or Beat Number 1912 (hereinafter, the “DEFENDANT OFFICER”), and the CITY OF CHICAGO.

JURISDICTION

1. The jurisdiction of the court is invoked pursuant to the Civil Rights Act, 42 U.S.C. § 1983; the Judicial Code, 28 U.S.C. §1331 and §1343(a); the Constitution of the United States; and this Court’s supplementary jurisdiction powers.

PARTIES

2. PLAINTIFF is a resident of the State of Illinois and of the United States.
3. The DEFENDANT OFFICER was at all times relevant hereto employed by and acting on behalf of the CITY OF CHICAGO.
4. The CITY OF CHICAGO is a duly incorporated municipal corporation and is the employer and principal of the DEFENDANT OFFICER, as well as the other officers and/or

employees referred to in this Complaint. At all times material to this Complaint, the DEFENDANT OFFICER was acting under color of state law, ordinance and/or regulation, statutes, custom and usages of the CITY OF CHICAGO.

FACTS

5. On August 1, 2009, the PLAINTIFF was working as a nurse at Illinois Masonic Hospital, in Chicago, Illinois.

6. PLAINTIFF was working in the emergency room.

7. PLAINTIFF is an emergency room “charge nurse”.

8. A charge nurse, in this context, is a person who is in “charge” of the emergency room.

9. PLAINTIFF was working in that capacity on said date.

10. At approximately 4:00AM on said date, the PLAINTIFF came into contact with DEFENDANT OFFICER RODRIGUEZ, who she understands to be an officer associated with Beat 1912 and/or Star Number 1912¹.

11. While the PLAINTIFF was working in the emergency room at the above described time, DEFENDANT OFFICER RODRIGUEZ requested that PLAINTIFF perform a blood work up on an arrestee.

12. The purpose of the blood work up was to determine whether the arrestee had a particular blood alcohol level.

13. The purpose of determining the blood alcohol level was to determine whether the arrestee had been driving a vehicle while under the influence of alcohol.

14. The PLAINTIFF advised DEFENDANT OFFICER RODRIGUEZ that in order for the individual to receive a blood work up (also known as a DUI kit) the individual had to be admitted

¹ The Independent Review Authority is presently looking into this matter and has a log number of “1028778”.

as a patient in the hospital. The PLAINTIFF also advised the DEFENDANT OFFICER that this procedure is “protocol” for the hospital.

15. Upon learning that the PLAINTIFF would not perform the blood work up without the arrestee first having been admitted, DEFENDANT OFFICER RODRIGUEZ placed the PLAINTIFF in handcuffs.

16. The PLAINTIFF was placed in handcuffs in front of her co-workers.

17. The PLAINTIFF was then escorted into a police car.

18. When the PLAINTIFF was placed in handcuffs, she was not free to leave.

19. When the PLAINTIFF was placed in the police car, she was not free to leave.

20. When the handcuffs were placed on the Plaintiff, they were done so too tightly.

21. The DEFENDANT OFFICER knew that the handcuffs were placed on the PLAINTIFF too tightly.

22. The DEFENDANT OFFICER at no time needed to handcuff the PLAINTIFF. The placing of handcuffs on the PLAINTIFF was unnecessary.

23. The handcuffing of the PLAINTIFF was unnecessary in the first place due to the fact that there was no probable cause and/or legal basis to handcuff the PLAINTIFF.

24. The DEFENDANT OFFICER handcuffed the PLAINTIFF based on a whim and without any need to do so.

25. The DEFENDANT OFFICER did not employ the PLAINTIFF.

26. The DEFENDANT OFFICER was not in charge of the Plaintiff (in any known capacity).

27. The DEFENDANT OFFICER had no legal authority to order the PLAINTIFF to perform a DUI kit on the arrestee.

28. The DEFENDANT OFFICER had no legal authority to arrest the PLAINTIFF for not performing a DUI kit at the precise time and/or place to be determined by the DEFENDANT OFFICER.

29. The handcuffing caused physical pain to the PLAINTIFF for which she sought medical treatment.

30. The handcuffing of the PLAINTIFF caused physical pain which caused the PLAINTIFF emotional pain, discomfort, embarrassment.

31. The PLAINTIFF had not resisted arrest, threatened the DEFENDANT OFFICER, and was not a threat to the DEFENDANT OFFICER. This conduct violated the Fourth Amendment to the United States Constitution.

32. The DEFENDANT OFFICER arrested the PLAINTIFF notwithstanding the fact that on August 1, 2009 the PLAINTIFF had not committed an offense of any sort. This conduct violated the Fourth Amendment to the United States Constitution.

33. August 1, 2009, PLAINTIFF did not obstruct justice, resist arrest, batter and/or assault the DEFENDANT OFFICER.

34. The show of force initiated by the DEFENDANT OFFICER caused an unreasonable seizure to the PLAINTIFF.

35. The DEFENDANT OFFICER did not have probable cause to believe that criminal activity took place relative to the PLAINTIFF.

36. The responding Defendant is without knowledge as to a municipal law that the PLAINTIFF violated on August 1, 2009

37. The responding Defendant is without knowledge as to a federal law that the PLAINTIFF violated on August 1, 2009.

38. The responding Defendant is without knowledge as to a state law that the PLAINTIFF violated on August 1, 2009.

39. As a direct and proximate result of one or more of the aforesaid acts or omissions of the DEFENDANT OFFICER, PLAINTIFF was caused to suffer damages.

40. On or about August 1, 2009, the DEFENDANT OFFICER was on duty at all times relevant to this Complaint and was a duly appointed police officer for the CITY OF CHICAGO. The DEFENDANT OFFICER engaged in the conduct complained of, on said date, in the course and scope of employment and while on duty. This action is being brought with regard to the individual capacity of the DEFENDANT OFFICER.

COUNT I
Excessive Force Claim Pursuant to
42 U.S.C. § 1983 and the Fourth Amendment to the U.S. Constitution

41. PLAINTIFF re-alleges paragraphs 1 – 40 as though fully set forth herein.

42. The actions and/or the failure to intervene in the actions of the DEFENDANT OFFICER amounted to an excessive use of force onto the PLAINTIFF.

43. This conduct violated the Fourth Amendment of the United States Constitution.

44. The aforementioned actions of the DEFENDANT OFFICER were the direct and proximate cause of the constitutional violations set forth above.

WHEREFORE, PLAINTIFF demands compensatory damages from the DEFENDANT OFFICER. PLAINTIFF also demands punitive damages, costs and attorneys' fees against the DEFENDANT OFFICER and whatever additional relief this Court deems equitable and just.

COUNT II
False Arrest Claim Pursuant to
42 U.S.C. § 1983 and the Fourth Amendment to the U.S. Constitution

45. PLAINTIFF re-alleges paragraphs 1 – 40 as though fully set forth herein.

46. The actions of the DEFENDANT OFFICER caused the arrest of the PLAINTIFF without probable cause to believe that the PLAINTIFF had committed criminal activity.

47. Therefore, the conduct of the DEFENDANT OFFICER was in violation of the Fourth Amendment to the United States Constitution.

48. The aforementioned actions of the DEFENDANT OFFICER were the direct and proximate cause of the Constitutional violations set forth above.

WHEREFORE, PLAINTIFF demands compensatory damages from the DEFENDANT OFFICER. PLAINTIFF also demands punitive damages, costs and attorneys' fees against the DEFENDANT OFFICER and whatever additional relief this Court deems equitable and just.

COUNT III
False Arrest – State Law Claim

49. PLAINTIFF re-alleges paragraphs 1 – 40 as though fully set forth herein.

50. The DEFENDANT OFFICER arrested PLAINTIFF without probable cause to believe that PLAINTIFF committed criminal activity. The conduct of the DEFENDANT OFFICER was in violation of the Constitution to the State of Illinois as well as Illinois law.

51. The aforementioned actions of the DEFENDANT OFFICER were the direct and proximate cause of the violations set forth above.

WHEREFORE, PLAINTIFF demands compensatory damages from the DEFENDANT OFFICER. PLAINTIFF also demands punitive damages and costs against the DEFENDANT OFFICER and whatever additional relief this Court deems equitable and just.

COUNT IV
Battery – State Law Claim

52. PLAINTIFF re-alleges paragraphs 1 – 40 as though fully set forth herein.

53. The DEFENDANT OFFICER handcuffed the PLAINTIFF intentionally, without consent and without justification.

54. The PLAINTIFF suffered injury as a result.

55. The conduct of the DEFENDANT OFFICER was in violation of Illinois Law.

56. The aforementioned actions of the DEFENDANT OFFICER were the direct and proximate cause of the violations and injuries set forth above.

WHEREFORE, PLAINTIFF demands compensatory damages from the DEFENDANT OFFICER. PLAINTIFF also demands punitive damages and costs against the DEFENDANT OFFICER and whatever additional relief this Court deems equitable and just.

COUNT V
745 ILCS 10/9-102 Claim Against the CITY OF CHICAGO

57. PLAINTIFF re-alleges paragraphs 1 – 40 as though fully set forth herein.

58. Defendant CITY OF CHICAGO is the employer of the DEFENDANT OFFICER.

59. The DEFENDANT OFFICER, as alleged above, committed the acts under color of law and in the scope of employment of the CITY OF CHICAGO.

WHEREFORE, should the DEFENDANT OFFICER be found liable for any of the alleged counts in this cause, PLAINTIFF demands that, pursuant to 745 ILCS 10/9-102, the CITY OF CHICAGO pay PLAINTIFF any judgment obtained against the DEFENDANT OFFICER as a result of this Complaint.

COUNT VI
Supplementary Claim for *Respondeat Superior*

60. PLAINTIFF re-alleges paragraphs 1 – 40 as though fully set forth herein.

61. The aforesaid acts of the DEFENDANT OFFICER were in the scope of employment and therefore the Defendant CITY OF CHICAGO, as principal, is liable for the actions of its agent(s) under the doctrine of *respondeat superior*.

WHEREFORE should the DEFENDANT OFFICER be found liable for any state claims alleged herein, PLAINTIFF demands judgment against the CITY OF CHICAGO and such other additional relief, as this Court deems equitable and just.

JURY DEMAND

62. PLAINTIFF demands trial by jury.

Respectfully submitted,

s/ Blake Horwitz _____
Attorney for the Plaintiff

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